



## GALLIA COUNTY GENERAL HEALTH DISTRICT

GLENN FISHER M.D.

HEALTH COMMISSIONER/MEDICAL DIRECTOR



**Public Health**

Prevent. Promote. Protect.

Gallia County  
Health Department

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\* Permissive

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\*\*\* Must provide or community partners must provide.

## **3701-3-28 Report of bite of dog or other mammal.**

(A) Whenever an individual is bitten by a dog or other non-human mammal, report of such bite shall be made within twenty-four hours to the health commissioner of the district in which such bite occurred. The report herein required shall be made by any health care provider, or by any licensed doctor of veterinary medicine with knowledge of the bite, or by the individual bitten.

(B) Local health districts are required to submit information regarding non-human mammalian bites occurring in their district to the Ohio department of health annually. This report for non-human mammalian bites occurring in the previous calendar year shall be submitted by March first.

Replaces: 3701-3-28

Five Year Review (FYR) Dates: 1/5/2018 and 01/05/2023

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.13](#), [3707.06](#), [3707.07](#)

Prior Effective Dates: 04/01/1964, 03/13/1980, 10/19/2003, 01/01/2009, 07/01/2014

**Prior History:** (Effective: 07/01/2014

R.C. [119.032](#) review dates: 07/01/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.13](#), [3701.14](#), [3707.06](#), [3707.07](#)

Prior Effective Dates: 4/1/64, 3/13/1980, 10/19/03, 1/1/09)

**3730.10 Adoption of rules - universal blood and body fluid precautions.**

(A) The director of health shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary for the implementation and enforcement of this chapter. The rules shall include all of the following:

- (1) Safety and sanitation standards and procedures to be followed to prevent the transmission of infectious diseases during the performance of tattooing and body piercing procedures;
- (2) Standards and procedures to be followed for appropriate disinfection and sterilization of all invasive equipment or parts of equipment used in tattooing procedures, body piercing procedures, and ear piercing procedures performed with an ear piercing gun;
- (3) Procedures for suspending and revoking approvals under section [3730.05](#) of the Revised Code.

(B) The rules adopted under division (A)(1) of this section shall establish universal blood and body fluid precautions to be used by any individual who performs tattooing or body piercing procedures. The precautions shall include all of the following:

- (1) The appropriate use of hand washing;
- (2) The handling and disposal of all needles and other sharp instruments used in tattooing or body piercing procedures;
- (3) The wearing and disposal of gloves and other protective garments and devices.

(C) The rules adopted under division (A) of this section may include standards and procedures to be followed by a business that offers tattooing or body piercing services to ensure that the individuals who perform tattooing or body piercing procedures for the business are adequately trained to perform the procedures properly.

Amended by 129th General Assembly File No.127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 10-14-1997 .

**3730.11 Municipalities and townships may prohibit establishment of businesses.**

Nothing in this chapter shall be interpreted as prohibiting municipal corporations, or townships that have adopted the limited self-government form of township government under Chapter 504. of the Revised Code, from adopting ordinances or resolutions that prohibit the establishment of businesses that offer tattooing or body piercing services.

Effective Date: 01-12-1998.

**3730.99 Penalty.**

(A) Whoever violates division (A), (B), or (C) of section [3730.02](#) or division (A) of section [3730.06](#) of the Revised Code is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates division (A) or (B) of section [3730.07](#) of the Revised Code is guilty of a misdemeanor of the first degree.

Effective Date: 01-01-2002.

## **Chapter 3701-9 Body Art (Tattoo and Body Piercing)**

### **3701-9-01 Definitions.**

As used in this chapter:

(A) "Aftercare" means verbal and written guidelines, specific to the body art procedure(s) performed, about caring for the body art and the surrounding area. These guidelines shall include, but not be limited to, information about physical restrictions, wound care, signs and symptoms of infection, and when to seek medical treatment, if necessary.

(B) "Antiseptic solution" means an agent that destroys pathogenic microorganisms on human skin or mucosa.

(C) "Approval" means written approval from the board of health indicating that the body art establishment has been inspected and meets all terms of this chapter.

(D) "Aseptic technique" means a set of specific practices and procedures performed under controlled conditions with the goal of minimizing contamination by pathogens.

(E) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health under section [3709.05](#) of the Revised Code.

(F) "Body art" means the practice of physical body adornment, including tattooing, permanent cosmetics and/or body piercing. This definition does not include practices that are considered medical procedures by the state medical board, performed with medical devices, that include but are not limited to biopsy or dermal punches and scalpels.

(G) "Body artist" means an individual, including an operator, who performs one or more of the following procedures:

- (1) Tattooing;
- (2) Permanent cosmetics;
- (3) Body piercing.

(H) "Body art establishment" means any place, whether temporary or permanent, stationary or mobile, where tattooing and/or body piercing is performed.

(I) "Body piercing" means the piercing of any part of the body by someone, other than a physician licensed under Chapter 4731. of the Revised Code, who utilizes a needle or other industry specific instrument for the purpose of inserting an object into the body for non-medical purposes; body piercing includes ear piercing except when the ear piercing procedure is performed on the earlobe with an ear piercing gun. Body piercing also includes surface anchors and surface piercing. This definition does not include practices that are considered medical procedures by the state medical board, performed with medical devices that include, but are not limited to, biopsy or dermal punches and scalpels.

(J) "Business" means any entity that provides body art services for compensation.

(K) "Custodian" has the same meaning as in section [2151.011](#) of the Revised Code.

(L) "Disinfectant" means a product, registered by the United States environmental protection agency, that kills or destroys nearly all disease-producing microorganisms, with the exception of bacterial spores.

(M) "Ear piercing gun" means a mechanical device that pierces the ear by forcing a disposable, single-use stud or solid needle through the earlobe.

(N) "Gloves" mean a medical-grade, disposable, single-use covering for the hands worn for protection against disease transmission.

(O) "Guardian" has the same meaning as in section [2111.01](#) of the Revised Code.

(P) "Hand washing" means the process of physically removing or reducing most microorganisms from the hands by thoroughly washing all surfaces of the hands and under fingernails with soap and warm running water for twenty seconds, rinsing hands well under running water and drying hands thoroughly with a clean single-use towel or mechanical hand dryer.

(Q) "Infectious waste" means waste as defined in section [3734.01](#) of the Revised Code.

(R) "Operator" means any person, firm, company, corporation or association that owns, controls, operates, conducts or manages a body art establishment. The operator may or may not be a body artist.

(S) "Patron" means a person requesting and receiving body art services or ear piercing services by an ear piercing gun.

(T) "Permanent cosmetics" means a tattoo, by someone other than a physician licensed under Chapter 4731. of the Revised Code, which includes but is not limited to eyebrows, eyelids, lips and other parts of the body for beauty marks, hair imitation, lash enhancement or areola repigmentation. This includes any procedures referred to as "permanent makeup," "microdermapigmentation," "micropigment implantation" or "dermagraphics" and for the purpose of these rules has the same meaning as "tattoo." This definition does not include practices that are considered medical procedures by the state medical board, performed with medical devices that include, but are not limited to, biopsy or dermal punches and scalpels.

(U) "Premises" means the physical location of a body art establishment.

(V) "Single use" means products or items that are intended for one-time, one-person use and are disposed of after use on any patron.

(W) "Sterilize or sterilization" means a process by which all forms of microbial life, including bacteria, viruses, spores, and fungi, are destroyed.

(X) "Standard precautions" means a set of minimum infection prevention guidelines and controls, published by the centers for disease control and prevention (CDC) that include:

- (1) Hand hygiene;
- (2) Use of protective equipment;
- (3) Safe needle practices;
- (4) Safe handling of potentially contaminated equipment or surfaces;
- (5) Respiratory hygiene/cough etiquette.

For the purposes of these rules "standard precautions" include "universal precautions" as used in section [3730.10](#) of the Revised Code.

(Y) "Surface anchor" means jewelry that is placed into the upper portion of the dermis, which has one point of entry, which also serves as the exit that exposes the jewelry stem to air.

(Z) "Surface piercing" means any piercing on the surface of the body, under the epidermis but not to subcutaneous tissue. The piercing canal is under the surface of the skin with exit and entry points perpendicular to the tissue.

(AA) "Tattoo" means any method utilizing needles or other industry specific instruments by someone other than a physician licensed under Chapter 4731. of the Revised Code, to permanently place designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of a person with ink, dye, pigment or any other substance resulting in an alteration of the appearance of the skin. This definition does not include practices that

are considered medical procedures by the state medical board, performed with medical devices that include, but are not limited to, biopsy or dermal punches and scalpels.

Replaces: 3701-9-01

Effective: 09/01/2014

R.C. [119.032](#) review dates: 09/01/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3730.10](#)

Rule Amplifies: 373.01, [3730.09](#)

Prior Effective Dates: 4/30/1998

### **3701-9-02 Board of health approval.**

(A) In accordance with section [3730.02](#) of the Revised Code, no person shall operate a business offering body art services without first obtaining approval of the board of health in the jurisdiction in which the business will operate.

(B) No person shall construct, install, provide, equip, or extensively alter a body art establishment until all plans and specifications for the facility layout, equipment and operation have been submitted to and accepted, in writing, by the board of health of the city or general health district in which the business is located. Plans and specifications shall clearly show the applicable provisions of the rules in this chapter can be met and shall include, but not be limited to, the following:

- (1) The total area to be used for the business;
- (2) Entrances and exits;
- (3) Number, location and types of plumbing fixtures, including all water supply facilities;
- (4) Lighting plan;
- (5) Floor plan, showing the general layout of the fixtures and equipment;
- (6) Listing of all equipment to be used, including the manufacturer and model numbers;
- (7) Written verification from the zoning authority and building department having jurisdiction that the building has been zoned and approved for the business use;
- (8) Written infection prevention and control plan that includes, but is not limited to, the following:
  - (a) Decontaminating and disinfecting environmental surfaces;
  - (b) Decontaminating, packaging, sterilizing, and storing reusable equipment and instruments;
  - (c) Protecting clean instruments and sterile instruments from contamination during storage;
  - (d) Ensuring that standard precautions and aseptic techniques are utilized during all body art procedures;
  - (e) Safe handling and disposal of needles;
  - (f) Aftercare guidelines.

(C) Persons seeking approval to operate a business offering body art services shall apply to the board of health of the city or general health district in which the business is located, on forms the board shall prescribe and provide. The applicant shall submit all applicable fees and information the board of health determines is necessary to process the application. Information requested by the board of health as part of the application process shall include, but not be limited to, the following:

- (1) The name, address, telephone number, business address, business telephone number, and occupation of the operator. If the operator is an association, corporation, or partnership, the address and telephone number of the entity and the name of every person who has an ownership interest of five per cent or more in the business;
  - (2) The name of each person or entity who has an ownership interest of five per cent or more in the business;
  - (3) Statement of attestation that the operator intends to comply with all requirements established by sections [3730.01](#) to [3730.11](#) of the Revised Code and the rules of this chapter; and
  - (4) A list of all body artists who have received adequate training and will be performing body art services in the body art establishment. ;
- (D) Every person who intends to open a new body art establishment shall apply for an approval at the time the plans and specifications are submitted to the board of health. Initial approvals granted on or after October first shall be effective from the date of issuance until December thirty-first of the following year, unless suspended or revoked under section [3730.05](#) of the Revised Code.
- (E) Every person who intends to renew an approval to operate or maintain a body art establishment shall apply to the board of health on or after November first of each year. Applications received or postmarked after December thirty-first shall be assessed a penalty as authorized by section [3709.09](#) of the Revised Code.
- (F) Approvals are not transferable and remain valid for one year, ending December thirty-first. Any change in address or change in ownership shall require the operator to apply for approval, with payment of all fees established by the board of health.
- (G) The operator shall provide evidence and documentation of all applicable fee payments, inspections and approvals required by this chapter of the Administrative Code and shall post the current approval in a conspicuous manner on the business premises.
- (H) Before an approval is initially issued and annually thereafter, or more often if necessary, the board of health shall conduct inspections of a body art business under section [3730.03](#) of the Revised Code. The board of health or an authorized representative shall have the authority to enter a body art business at any reasonable time to conduct inspections, and inspect procedures and conditions relating to the enforcement of sections [3730.02](#) to [3730.10](#) of the Revised Code and this chapter of the Administrative Code.
- (I) In accordance with section [3730.04](#) of the Revised Code, the operator shall give the board of health access to the business premises and to all records relevant to an inspection.
- (J) The board of health in the jurisdiction in which a body art business shall operate may approve such business for the purposes of operating on a time-limited basis, in conjunction with a specific event. Time-limited body art establishments may be permitted at such events as fairs, and other time-limited gatherings of people, if the board of health determines that the operator can substantially meet provisions contained in these rules. For the purpose of this approval, the following shall occur:
- (1) Businesses having current approval from a board of health shall apply for time-limited approval from the board of health in the jurisdiction in which a specific, time-limited event shall take place. The applicable board of health may accept the business's current approval as evidence of substantial compliance with provisions contained in these rules. While accepting the approval of another board of health, the board of health in the jurisdiction in which a body art business seeks time-limited approval shall conduct an inspection of the site in which the operator intends to conduct the time-limited business to ensure that local standards will be met.
  - (2) Businesses which do not have current approval from a board of health, or Ohio businesses in jurisdictions from which approval is not accepted by the board of health in which time-limited approval is being sought, shall apply for time-limited approval from the board of health in the jurisdiction in which a specific, time-limited event shall take place. The applicant shall submit all applicable fees and information the board of health determines necessary to process the application.



(a) Information requested shall assure the board of health being requested for time-limited approval that the business is capable of meeting the provisions of these rules.

(b) In addition to reviewing information submitted by the business, the board of health in the jurisdiction in which a body art business seeks time-limited approval shall conduct an inspection of the site in which the operator intends to conduct the time-limited business to ensure that local standards will be met. The board of health shall take into consideration the use of resources utilized to promulgate provisions of this paragraph when determining an appropriate fee.

(K) The board of health may, in accordance with rule [3701-9-09](#) of the Administrative Code, refuse to grant an approval or may suspend or revoke any approval issued to any person for failure to comply with the requirements of Chapter 3730. of the Revised Code or this chapter of the Administrative Code.

(L) Any person aggrieved by the board of health's denial of plans or refusal to grant an approval may, within thirty days following receipt of the board of health's notice, request a hearing on the matter. The hearing shall be held in accordance with rule [3701-9-09](#) of the Administrative Code and may be appealed in the manner provided in that rule.

(M) Operators of an approved business performing body art services, other than those utilizing an ear piercing gun, shall ensure that services are not performed outside the business premises, unless the board of health has provided approval for a time-limited operation.

Replaces: 3701-9-02

Effective: 09/01/2014

R.C. [119.032](#) review dates: 09/01/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3730.09](#), [3730.10](#)

Rule Amplifies: [3730.03](#), [3730.04](#)

Prior Effective Dates: 4/30/1998

### **3701-9-03 Fees.**

(A) Each board of health shall utilize the cost methodology specified in rule [3701-36-14](#) of the Administrative Code to calculate fees for providing services specified in section [3730.03](#) of the Revised Code. The calculated fees shall not exceed the cost of issuing approvals and inspecting body art establishments.

(B) All fees collected by the board of health shall be deposited into the health fund of the district that the board serves. The fees shall be used solely for the purpose of implementing and enforcing sections [3730.01](#) to [3730.11](#) of the Revised Code and the rules of this chapter.

(C) Each fee established by the board of health pursuant to section [3709.09](#) of the Revised Code shall be specified in accordance with the following categories:

- (1) Tattooing services;
- (2) Body piercing services;
- (3) Combined body art services;
- (4) Time-limited approval for a specific event.

(D) Fees authorized or charged at the rate determined under paragraph (A) of this rule are in lieu of all approval and inspection fees on or with respect to operation and ownership of a body art establishment within this state, except that the board of health may charge additional reasonable fees for the collection and bacteriological examination of any necessary water samples taken from such establishment.

Effective: 09/01/2014

R.C. [119.032](#) review dates: 02/05/2014 and 09/01/2019



Promulgated Under: [119.03](#)

Statutory Authority: [3730.10](#)

Rule Amplifies: [3730.09](#)

Prior Effective Dates: 4/30/1998, 10/12/09

### **3701-9-04 Safety and sanitation standards.**

The operator of a body art establishment shall ensure that the business complies with the following:

(A) The premises shall have an area of at least one hundred square feet. The floor space for each individual performing body art services shall have an area of at least thirty six square feet. These areas shall be adequately spaced, or separated from each other by fixed partitions. Complete privacy shall be available upon a patron's request.

(B) The entire procedure room and all equipment shall be maintained in a clean, sanitary condition and in good repair.

(C) A minimum of at least twenty foot-candles of artificial light at a distance of thirty inches above the floor shall be provided throughout the establishment. A minimum of forty foot-candles of light shall be provided at the level where the body art is being performed. Spotlighting may be used to achieve this required degree of illumination.

(D) All floors directly under equipment used for body art shall have an impervious, smooth, and washable surface.

(E) All tables and other equipment shall be constructed of easily cleanable material, with a smooth finish.

(F) Restroom facilities shall be made available to the body artists and patrons and shall be located within the establishment. The restroom shall be accessible at all times the body art establishment is open for operation. The restroom shall be equipped with a toilet, toilet paper installed in a holder, hand washing sink supplied with hot and cold running water, liquid or granulated soap and single-use towels or mechanical hand dryer. Equipment and supplies used for body art procedures or disinfection and sterilization procedures shall not be stored or utilized within the restroom.

(G) A hand washing sink, with hot and cold running water, liquid or granular soap, and single-use towels or mechanical hand dryer shall be located separate from the restroom and in close proximity of each body artist performing a procedure.

(H) There shall be no overhead or otherwise exposed sewerage lines so as to create a potential hazard to the sanitary environment of the business.

(I) Sufficient and appropriate receptacles shall be provided for the disposal of used gloves, dressings, and other trash. Each receptacle shall have a lid and be kept closed at all times while not in use.

(J) Animals shall not be permitted in the body art establishment. This requirement does not apply to patrol dogs accompanying security or police officers, guide dogs, or other support animals accompanying disabled persons.

(K) Unless medically necessary, no food or drink shall be consumed, contact lenses be handled, cosmetics be applied, personal grooming performed, personal vaporizing (including electronic cigarettes) devices be handled, or other similar activities be conducted in rooms used specifically for body art or sterilization procedures.

(L) All water supplies, waste water disposal systems, solid waste disposal, and infectious waste disposal shall meet requirements of the Ohio environmental protection agency, the Ohio department of health or the local health department, as appropriate.

(M) Persons performing body art services have received appropriate training, as evidenced by:

(1) Training to include the following:

(a) Records of completion of courses or seminars in body art offered by authorities recognized by the board of health as qualified to provide such instruction; or

(b) Written statements of attestation by individuals offering body art apprenticeships that the person has received sufficient training of adequate duration to completely perform body art services; or

(c) Other documentation acceptable to the board of health.

(2) Demonstrated knowledge of the principles of sterilization.

(3) Records of completion, courses or seminars provided by licensed physicians, registered nurses, organizations such as the American Red Cross, accredited learning institutions, appropriate governmental entities, real-time online providers or other authorities recognized by the board of health as being qualified to provide training in the following:

(a) First aid; and

(b) Standard precautions for preventing transmission of bloodborne and other infectious diseases.

(N) Within one year of the effective date of this rule, the operator of an existing and approved body art establishment shall submit, to the board of health for approval, a written infection prevention and control plan prepared in accordance with paragraph (B) (8) of rule [3701-9-02](#) of the Administrative Code. The plan shall be kept up to date and resubmitted to the board of health as necessary.

(O) Body artists shall not perform body art services if:

(1) They are impaired by any drugs or alcohol;

(2) They knowingly have, in a communicable stage, an infectious or contagious disease, parasitic infestation, exudative lesions or weeping dermatitis. They shall avoid contact with patrons and equipment until the condition is healed. Any cuts, sores or abrasions shall be adequately covered with a bandage.

(P) In accordance with section [3730.06](#) of the Revised Code, no person shall perform a body art procedure, or ear piercing procedure with an ear piercing gun on an individual who is under eighteen years of age, unless consent has been given by the individual's parent, guardian, or custodian in accordance with the following:

(1) A parent, guardian, or custodian of the individual under eighteen years of age signs a document provided by the business that explains the manner in which the procedure will be performed, the specific part of the body upon which the procedure will be performed, and the methods for proper care of the affected body part following the procedure; and

(2) A parent, guardian, or custodian of an individual under eighteen years of age appears in person at the business at the time the procedure is performed.

(3) No body art procedure shall be performed on the nipple, areola or genital area of any individual under the age of eighteen.

(Q) Prior to performing the procedure, the body artist shall inquire of a patron if they have conditions which could affect the healing process. Body art procedures shall not be performed on patrons that indicate the presence of such a condition without documentation from a licensed physician indicating acceptance of the patient for appropriate care following the procedure.

(R) Body art procedures shall be performed only on a healthy skin surface.

(S) Persons performing body art procedures shall observe standard precautions for preventing transmission of bloodborne and other infectious diseases in accordance with the following:

(1) Sterile instruments and aseptic techniques shall be used at all times during a procedure;

(2) Hand washing shall be performed before and after each procedure. Fingernails shall be kept short and clean;

(3) Clean, previously unused gloves shall be worn throughout the entire procedure, including setup and tear down. If the gloves are pierced, or torn, or if they become otherwise contaminated or compromised, hand

washing shall be performed and a new pair shall be put on immediately. If the body artist leaves the area during the procedure, gloves shall be removed before leaving, hand washing shall be performed and a new pair of gloves shall be put on when returning. Under no circumstances shall a single pair of gloves be used on more than one patron;

(4) Only sterilized, single use, disposable needles shall be used on a patron. All used needles and associated needle bars shall be properly disposed of immediately after the procedure;

(5) If shaving is necessary, single use disposable razors shall be used. Used razors shall be properly disposed of in an appropriate sharps container;

(6) All marking instruments shall be single use or be manufactured to sterilize by design;

(7) All products used to address the flow of blood or to absorb blood shall be single use and disposed of properly. No individual performing a body art procedure shall use styptic pencils, alum blocks or other solid styptics to address the flow of blood;

(8) After any body art service and prior to the next, all procedure areas shall be cleaned and disinfected with an approved disinfectant;

(9) All soaps, inks, dyes, pigments, ointments, and other products shall be dispensed and applied using an aseptic technique and in a manner to prevent contamination of the original container and its contents. Applicators shall be single use and disposed of properly;

(10) Any equipment intended for use that is not single use shall be disinfected and sterilized between patrons. Equipment that cannot be sterilized shall be disinfected between use; and

(11) All body artists shall follow appropriate hand washing techniques and wear gloves when involved in cleaning, disinfecting and sterilization procedures.

(T) Each patron shall be provided with verbal and written aftercare guidelines following any body art procedure.

(U) Body artists shall work with the board of health when a complaint of obvious infection is directly related to the body art procedure.

(V) The disposal of waste items including, but not limited to needles, razors and other supplies capable of causing lacerations or puncture wounds, generated through the provision of any body art procedure shall be disposed in accordance with Chapter 3745-27 of the Administrative Code.

(W) A record of each body art procedure shall be maintained for at least two years. The record shall include, but not be limited to, the following:

(1) The patron's name;

(2) The patron's address;

(3) The date of the service;

(4) Colors and manufacturer of all inks, dyes, or pigments used;

(5) Jewelry used, including size, material composition, and manufacturer; and

(6) Placement of the procedure.

In the event of the closing of the business, all records shall be made available to the board of health.

Replaces: 3701-9-04

Effective: 09/01/2014

R.C. [119.032](#) review dates: 09/01/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3730.10](#)

Rule Amplifies: [3730.06](#), [3730.07](#), [3730.08](#), [3730.09](#)

Prior Effective Dates: 4/30/1998

### **3701-9-05 Additional requirements for tattoo services.**

In addition to the requirements of rule [3701-9-04](#) of the Administrative Code, the operator shall ensure that the business and all persons performing tattooing procedures shall comply with the following:

(A) Prior to a procedure, the area of the patron's body to be tattooed, shall be thoroughly cleaned with soap and water, then prepared with an antiseptic solution that is applied with a clean single use gauze square, cotton ball or square, cotton swab or other clean, absorbent, disposable material.

(B) All products applied to the skin, including but not limited to stencils, shall be single use and disposable. Stencils shall be dispensed and applied on the area to be tattooed with a clean paper towel or an applicator in a manner to prevent contamination of the original container and its contents. Petroleum-based products shall not be used in conjunction with latex gloves.

(C) Only commercially manufactured inks, dyes, or pigments that are intended for tattooing shall be used. Powdered dyes shall be liquified as recommended by the manufacturer. Unless approved by the manufacturer, ink, dye or pigment colors shall not be adulterated by the body artist. Single use containers of inks, dyes or pigments shall be used for each patron and the body artist shall discard the container and remaining dye or ink upon completion of procedure. If non-disposable containers are used, they shall be sterilized before reuse. The body artist performing the procedure shall remove excess dye, pigment or ink from the skin with single-use gauze squares, cotton balls or squares, cotton swabs, or other clean, absorbent, disposable material.

(D) The body artist shall wash the completed tattoo with a single use gauze square, cotton ball or square or cotton swab, saturated with an appropriate antiseptic solution approved by the board of health. The tattooed area shall be allowed to dry, after which the body artist shall apply a sterile, non-occlusive, single use dressing secured with non-allergenic tape to the site. Non-medical use paper products including, but not limited to, napkins and tape for dressing shall not be used.

Replaces: 3701-9-05

Effective: 09/01/2014

R.C. [119.032](#) review dates: 09/01/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3730.10](#)

Rule Amplifies: [3730.09](#)

Prior Effective Dates: 4/30/1998

### **3701-9-06 Additional requirements for body piercing services.**

In addition to the requirements in rule [3701-9-04](#) of the Administrative Code, the operator shall ensure that the business and all persons performing body piercing services shall comply with the following provisions:

(A) Prior to a procedure, the area of the patron's body to be pierced shall be thoroughly cleaned with soap and water, then prepared with an antiseptic solution that is applied with a clean, absorbent disposable material. In the case of oral piercings, the patron shall be provided with alcohol-free, antiseptic mouthwash in a single use cup and shall ensure that the patron utilizes the mouthwash provided to thoroughly rinse the affected area. In the case of a lip, labret, or cheek piercing, procedures described in this paragraph for both skin and oral piercings shall be followed.

(B) Only sterilized jewelry made of ASTM F136 compliant titanium or ASTM F138 compliant steel, solid fourteen karat or eighteen karat white or yellow gold, niobium, or platinum, shall be placed in a new piercing. Mill certificates for jewelry shall be maintained at the body art establishment.

Replaces: 3701-9-06

Effective: 09/01/2014

R.C. [119.032](#) review dates: 09/01/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3730.10](#)

Rule Amplifies: [3730.09](#)

Prior Effective Dates: 4/30/1998

### **3701-9-07 Ear piercing gun standards.**

In addition to the requirements in paragraphs (M) and (N) of rule [3701-9-04](#) of the Administrative Code, the operator shall ensure that the business and all persons performing ear piercing services with a piercing gun comply with the following :

(A) Individuals providing ear piercing services with an ear piercing gun shall be trained in accordance with the manufacturer's specifications to properly use, clean, disinfect sterilize and store the ear piercing gun, in accordance with the rules of this chapter.

(B) The individual performing the procedure shall wear a clean, new pair of gloves for each piercing performed.

(C) The ear piercing gun shall be cleaned and disinfected between uses on each patron, by utilizing the following :

(1) If the piercing gun, other than that described in paragraph (C)(2) of this rule, utilizes disposable, single-use, sterilized studs to pierce the ear, after each use of the gun, the piercing gun shall be placed in an ultrasonic cleaner or scrubbed with an antibacterial detergent and brush to remove any foreign matter; or

(2) If the piercing gun is designed so that all parts of the gun that touch the patron's skin are disposable, such parts shall be removed from the gun and disposed of in an appropriate receptacle; and

(3) Following initial cleaning procedures appropriate for the type of ear piercing gun used, as described in paragraphs (C)(1) and (C)(2) of this rule, the ear piercing gun shall be thoroughly wiped down with an appropriate disinfectant in accordance with directions for use from the manufacturer of the disinfectant; and

(4) In the case of a visible exposure of the gun to blood, the individual performing the service shall immediately:

(a) Place the gun in a rigid, tightly closed container, before returning the gun to the manufacturer, in accordance with instructions provided by the manufacturer; or

(b) Sterilize the gun in accordance with rule [3701-9-08](#) of the Administrative Code; or

(c) Discard the gun in accordance with Chapter 3745-27 of the Administrative Code.

(D) The ear piercing gun shall be stored in a covered container or cabinet when not in use.

(E) Prior to performing an ear piercing procedure with an ear piercing gun, the individual offering the service shall inform all patrons requesting such services of the frequency and method utilized to disinfect and sterilize all equipment used in the ear piercing procedure and the extent to which the methods used destroy disease-producing microorganisms.

Effective: 09/01/2014

R.C. [119.032](#) review dates: 02/05/2014 and 09/01/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3730.10](#)

Rule Amplifies: [3730.09](#)

Prior Effective Dates: 6/13/1998

### **3701-9-08 Sterilization and disinfection procedures for body art services.**

The operator shall ensure that the business and all body artists comply with the following:

(A) All non-disposable instruments or equipment used for body art procedures shall be thoroughly cleaned and sterilized after each use on any patron in the following manner:

- (1) Soaked in an enzymatic pre-cleaner to remove all gross debris;
- (2) Rinsed and patted dry;
- (3) Disassembled or placed in the open position, if hinged;
- (4) Visually inspected to verify that they are clean and to identify any damage including, but not limited to, bends, cracks or pits, that would impair the sterilization process;
- (5) Thoroughly cleaned in tepid water and an appropriate detergent capable of breaking down blood, ink, dyes, pigments and other contaminants;
- (6) Fully submerged in a disinfectant to ensure contact with all surfaces for the amount of time specified in the manufacturer's instructions;
- (7) Rinsed and patted dry;
- (8) Placed in an ultrasonic cleaning unit filled with an appropriate solution specified in the manufacturer's instructions.
- (9) Rinsed and air dried;
- (10) Individually packed in sterilization pouches. Each pouch or its indicator shall be labeled with the date of processing;
- (11) Sterilized in a steam sterilizer.

All ultrasonic cleaning units, and steam sterilizers shall be used, cleaned and maintained in accordance with the manufacturer's current instructions. The sterilizer shall be maintained in proper working condition and records of any maintenance performed shall be kept for at least two years.

Alternate sterilizing procedures may be used when specifically approved by the board of health.

(B) Monitoring the function of all sterilizers in accordance with the following:

- (1) Sterilization pouches that have a process indicator which changes color upon proper steam sterilization;
- (2) A sterilization integrator placed in each load or a digital printout from the sterilizer of each load in accordance with the manufacturer's recommendations, indicating that minimum conditions existed; and
- (3) A biological indicator test that is taken and submitted to a lab for analysis on a weekly basis.

(C) Documentation that the sterilization indicators, integrators and biological indicator tests were performed shall be maintained and shall include, but is not limited to:

- (1) Date and time the sterilizer load was run or the biological test was performed;
- (2) The name of the person who ran the sterilization load or performed the test;
- (3) Results of the sterilization integrator or digital printout; and
- (4) A copy of the report that a biological indicator test was conducted by an independent laboratory.

All documentation records shall be maintained and readily available for each test performed for at least two years. This documentation may also be kept in each patron's file for all needles and instruments used on that patron.

(D) As of the effective date of this rule, all steam sterilizers in new body art establishments or replacement steam sterilizers in existing body art establishments, shall be designed to sterilize hollow instruments and shall be equipped with a mechanical drying cycle.

(E) When any wetness or moisture remains on or within the sterilization pouch, or if the sterilizer has malfunctioned, the instruments or equipment shall be considered contaminated and shall be re-packaged and re-sterilized in a functioning sterilizer prior to use.

(F) When the process indicator in the pouches and sterilization integrators or digital printout demonstrate that sterilization has been achieved, the sterilized instruments and equipment shall remain in the pouches and be placed into inventory until use.

(G) When the process indicator in the pouches and/or the sterilization integrator or digital printout demonstrate that sterilization has not been achieved, the sterilizer shall not be used until it is examined to determine the malfunction and repaired or replaced.

(H) After sterilization, all equipment and instruments used for body art shall remain in the sterilization pouch, handled with newly gloved hands and stored in a clean, dry, closed cabinet, drawer, or other container reserved for such instruments or equipment. Sterilized instruments or equipment shall not be used until reprocessed if the integrity of the pouch has been compromised, is wet or stained, or is otherwise contaminated.

(I) The expiration date for sterilized equipment or instruments is one year from the date of sterilization unless the integrity of the sterilization pouch is compromised.

Replaces: 3701-9-08

Effective: 09/01/2014

R.C. [119.032](#) review dates: 09/01/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3730.10](#)

Rule Amplifies: [3730.09](#)

Prior Effective Dates: 4/30/1998

### **3701-9-09 Denying, suspending and revoking approvals.**

(A) The board of health may deny, suspend, or revoke approval of a business offering body art services if the business made any material misrepresentation to the board, does not meet or no longer meets, or has a history of non-compliance with the requirements of sections [3730.01](#) to [3730.11](#) of the Revised Code and this chapter of the Administrative Code.

(B) In the case of a proposal to deny, suspend, or revoke approval of a business offering body art services, the board of health shall provide the business with written notice of the proposed action and the cause for the action. The notice shall describe the procedure for appealing the proposed denial, suspension, or revocation.

(1) The written notice shall be provided by certified mail, return receipt requested, or by hand delivery. If the notice is returned because of failure of delivery, the board of health shall either send the notice by regular mail to the business location listed on the application, or conspicuously post the notice at an entrance of the business. In either case, the notice shall be deemed to have been received on the date it was mailed or posted.

(2) The notice shall state that the business may obtain a hearing under this rule if a written request for a hearing is mailed or hand-delivered to the board of health's address specified in the notice, within fifteen days after the affected business receives or is deemed to have received the notice.

(3) Upon receiving a timely hearing request, the board of health shall schedule a hearing before the board or a hearing officer designated by the board of health. If the board of health provides a hearing officer, he or she shall be licensed to practice law in Ohio and shall not have participated in any manner in the decision to take the action against the operator.



(4) The board of health shall mail or hand-deliver notice of the date, time, and place of the hearing to the operator no less than ten days before the scheduled date. The board of health may additionally post the notice of hearing at the entrance of the business.

(5) The business and the board of health each shall have one opportunity to reschedule the hearing date upon specific request to the hearing officer, or if a hearing officer has not been designated, to the other party. Any other postponements of the hearing shall be by agreement of the board of health, the business, and the hearing officer, if one is designated.

(6) At the hearing, the business shall have the opportunity to present its case orally or in writing and to confront and cross-examine adverse witnesses. The business may be represented by its counsel, if desired, and may review the case record before the hearing. If the board of health has designated a hearing officer, a member of that board does not have to be present at the hearing.

(7) If the hearing is before a hearing officer, he or she shall prepare a written recommendation as to the validity of the board of health's action, which shall rest solely on the evidence presented at the hearing and the statutory and regulatory provisions governing the board of health's action. The hearing officer shall describe the basis for his or her recommendation, but need not prepare a full opinion or formal findings of fact and conclusions of law. The hearing officer shall mail by certified mail, return receipt requested, or hand-deliver the recommendation to the board of health and the operator. Either party may file objections to the recommendation provided that the objections are received by the board of health within five days of receiving a copy of the recommendation from the hearing officer.

(8) After reviewing any timely objections, the board of health may by motion take additional evidence or approve, modify, or disapprove the hearing officer's recommendation and shall enter an order in the record of its proceedings.

(9) If the board of health does not receive a timely request for hearing, the board may immediately enter an order as proposed in the notice.

(C) In the case of a suspension of approval for a violation presenting an immediate danger to the public health, the board of health shall provide the business with written notice of the action, the cause of the action, and the effective date of the action. The written notice shall specify the procedure for appealing the suspension and shall list the address to which a hearing request shall be sent or delivered. The business may appeal the suspension by mailing or hand-delivering a written request for hearing to the address specified in the notice. If a hearing is requested, it shall be heard not later than two business days after the request is received by the board of health. At the hearing, the business shall have the opportunity to present its case orally or in writing and to confront and cross-examine adverse witnesses. The business may be represented by its counsel, if desired, and may review the case record before the hearing. At the hearing, the board of health shall determine whether the immediate danger to the public health continues to exist.

(D) Any determination made or order entered by the board of health pursuant to this rule shall be made by a majority vote of the members of the board present at a meeting at which there is a quorum. If the board of health conducts the hearing, the board may immediately render a decision denying, suspending, or revoking approval, or render a decision removing or continuing an approval suspension. The determination or order may be considered and made at a meeting without publication or advertisement, and may become effective without such publication or advertisement, recording or certifying. An order is not effective until it is recorded in the board of health's record of its proceedings.

Effective: 09/01/2014

R.C. [119.032](#) review dates: 02/05/2014 and 09/01/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3730.10](#)

Rule Amplifies: [3730.05](#)

Prior Effective Dates: 4/30/1998

## **Chapter 3729: RECREATIONAL VEHICLE PARKS, RECREATION CAMPS, COMBINED AND TEMPORARY PARK-CAMPS**

### **3729.01 Definitions.**

As used in this chapter:

(A) "Camp operator" means the operator of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp.

(B) "Campsite user" means a person who enters into a campsite use agreement with a camp operator for the use of a campsite at a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp.

(C) "Combined park-camp" means any tract of land upon which a combination of five or more self-contained recreational vehicles or portable camping units are placed and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the park facilities. A tract of land that is subdivided for lease or other contract of the individual lots is a combined park-camp if a combination of five or more recreational vehicles or portable camping units are placed on it for recreation, vacation, or business purposes.

"Combined park-camp" does not include any tract of land used solely as a temporary park-camp or solely as a manufactured home park.

(D) "Dependent recreational vehicle" means a recreational vehicle other than a self-contained recreational vehicle. "Dependent recreational vehicle" includes a park model.

(E) "Development" means any artificial change to improved or unimproved real estate, including, without limitation, buildings or structures, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, and the construction, expansion, or substantial alteration of a recreational vehicle park, recreation camp, or combined park-camp, for which plan review is required under division (A) of section [3729.03](#) of the Revised Code. "Development" does not include the building, construction, erection, or manufacture of any building to which section [3781.06](#) of the Revised Code is applicable.

(F) "Director of health" means the director of health or the director's authorized representative.

(G) "Flood" or "flooding" means either of the following:

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from any of the following:

(a) The overflow of inland or tidal waters;

(b) The unusual and rapid accumulation or runoff of surface waters from any source;

(c) Mudslides that are proximately caused by flooding as defined in division (G)(1)(b) of this section and that are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining that is caused by waves or currents of water exceeding anticipated cyclical levels or that is suddenly caused by an unusually high water level in a natural body of water, and that is accompanied by a severe storm, by an unanticipated force of nature, such as a flash flood, by an abnormal tidal surge, or by some similarly unusual and unforeseeable event, that results in flooding as defined in division (G)(1)(a) of this section.

(H) "Flood plain" means the area adjoining any river, stream, watercourse, or lake that has been or may be covered by flood water.

(I) "Licensor" means either the board of health of a city or general health district, or the authority having the duties of a board of health in any city as authorized by section [3709.05](#) of the Revised Code, or the director of

health, when required under division (B) of section [3729.06](#) of the Revised Code. "Licensor" also means an authorized representative of any of those entities or of the director.

(J) "Manufactured home park" has the same meaning as in section [4781.01](#) of the Revised Code.

(K) "One-hundred-year flood" means a flood having a one per cent chance of being equaled or exceeded in any given year.

(L) "One-hundred-year flood plain" means that portion of a flood plain inundated by a one-hundred-year flood.

(M) "Operator" means the person who has responsible charge of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp and who is licensed under this chapter.

(N) "Park model" means a recreational vehicle that meets the American national standard institute standard A119.5(1988) for park trailers, is built on a single chassis, has a gross trailer area of not more than four hundred square feet when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for operation of installed features and appliances.

(O) "Person" has the same meaning as in section [1.59](#) of the Revised Code and also includes this state, any political subdivision of this state, and any other state or local body of this state.

(P) "Portable camping units" means dependent recreational vehicles, tents, portable sleeping equipment, and similar camping equipment used for travel, recreation, vacation, or business purposes.

(Q) "Recreation camp" means any tract of land upon which five or more portable camping units are placed and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of the camp. A tract of land that is subdivided for lease or other contract of the individual lots is a recreation camp if five or more portable camping units are placed on it for recreation, vacation, or business purposes.

"Recreation camp" does not include any tract of land used solely for the storage or display for sale of dependent recreational vehicles, solely as a temporary park-camp, or solely as a manufactured home park.

(R) "Recreational vehicle" has the same meaning as in section [4501.01](#) of the Revised Code.

(S) "Recreational vehicle park" means any tract of land used for parking five or more self-contained recreational vehicles and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the park facilities and any tract of land that is subdivided for lease or other contract of the individual lots for the express or implied purpose of placing self-contained recreational vehicles for recreation, vacation, or business purposes.

"Recreational vehicle park" does not include any tract of land used solely for the storage or display for sale of self-contained recreational vehicles, solely as a temporary park-camp, or solely as a manufactured home park.

(T) "Self-contained recreational vehicle" means a recreational vehicle that can operate independent of connections to sewer and water and has plumbing fixtures or appliances all of which are connected to sewage holding tanks located within the vehicle. "Self-contained recreational vehicle" includes a park model.

(U) "Substantially alter" means a change in the layout or design of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp, including, without limitation, the movement of utilities or changes in established streets, lots, or sites or in other facilities.

(V) "Temporary park-camp" means any tract of land used for a period not to exceed a total of twenty-one days per calendar year for the purpose of parking five or more recreational vehicles, dependent recreational vehicles, or portable camping units, or any combination thereof, for one or more periods of time that do not exceed seven consecutive days or parts thereof.

(W) "Tract" means a contiguous area of land that consists of one or more parcels, lots, or sites that have been separately surveyed regardless of whether the individual parcels, lots, or sites have been recorded and regardless of whether the one or more parcels, lots, or sites are under common or different ownership.

Amended by 129th General Assembly File No.127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 10-13-2004 .

**3729.02 Director of health to adopt rules for plan review, license issuance, and regulation generally.**

(A) The director of health , subject to Chapter 119. of the Revised Code, shall adopt rules of uniform application throughout the state governing the review of plans and issuance of licenses for and the location, layout, construction, drainage, sanitation, safety, and operation of recreational vehicle parks, recreation camps, and combined park-camps. The rules shall not apply to the construction, erection, or manufacture of any building to which section [3781.06](#) of the Revised Code is applicable.

(B) The director, subject to Chapter 119. of the Revised Code, shall adopt rules of uniform application throughout the state governing the review of plans and issuance of licenses for and the layout, sanitation, safety, and operation of temporary park-camps. The rules shall not apply to the construction, erection, or manufacture of any building to which section [3781.06](#) of the Revised Code is applicable.

Amended by 129th General Assembly File No.127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 10-13-2004 .

**3729.03 Development plans to be approved by director of health - inspection - fees.**

(A) No person shall cause development to occur within any portion of a recreational vehicle park, recreation camp, or combined park-camp until the plans for the development have been submitted to and reviewed and approved by the director of health. This division does not require that plans be submitted to the director for approval for the replacement of recreational vehicles or portable camping units on previously approved sites in a recreational vehicle park, recreation camp, or combined park-camp when no development is to occur in connection with the replacement. Within thirty days after receipt of the plans, all supporting documents and materials required to complete the review, and the applicable plan review fee established under division (D) of this section, the director shall approve or disapprove the plans.

(B) Any person aggrieved by the director's disapproval of a set of plans under division (A) of this section may request a hearing on the matter within thirty days after receipt of the director's notice of the disapproval. The hearing shall be held in accordance with Chapter 119. of the Revised Code. Thereafter, the disapproval may be appealed in the manner provided in section [119.12](#) of the Revised Code.

(C) The director shall establish a system by which development occurring within a recreational vehicle park, recreation camp, or combined park-camp is inspected or verified in accordance with rules adopted under division (A) of section [3729.02](#) of the Revised Code to ensure that the development complies with the plans approved under division (A) of this section.

(D) The director shall establish fees for reviewing plans under division (A) of this section and conducting inspections under division (C) of this section.

(E) The director shall charge the appropriate fees established under division (D) of this section for reviewing plans under division (A) of this section and conducting inspections under division (C) of this section. All such plan review and inspection fees received by the director shall be transmitted to the treasurer of state and shall be credited to the general operations fund created in section [3701.83](#) of the Revised Code. Moneys so credited to the fund shall be used only for the purpose of administering and enforcing this chapter and rules adopted under it.

(F) Plan approvals issued under this section do not constitute an exemption from the land use and building requirements of the political subdivision in which the recreational vehicle park, recreation camp, or combined park-camp is or is to be located.

Amended by 129th General Assembly File No.127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 10-13-2004 .

### **3729.04 Municipal or county permit for development.**

(A) No person shall cause development to occur within any portion of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp that is located within a one-hundred-year flood plain in a municipal corporation unless the person first obtains a permit therefor from the municipal corporation in accordance with the flood plain management ordinance of the municipal corporation.

(B) No person shall cause development to occur within any portion of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp that is located within a one-hundred-year flood plain in an unincorporated area unless the person first obtains a permit therefor from the board of county commissioners of the county in which the development is to occur in accordance with the flood plain management resolution of the county adopted under section [307.37](#) of the Revised Code.

(C) If development for which a permit is required under division (A) or (B) of this section is to occur on a site where a recreational vehicle or portable camping unit is or is to be located, the owner of the recreational vehicle or portable camping unit and the operator of the recreational vehicle park, recreation camp, or combined park-camp shall jointly obtain the permit. Each of the persons to whom a permit is jointly issued is responsible for compliance with the provisions of the approved permit that are applicable to that person.

If development for which a permit is required under division (A) or (B) of this section is to occur within a temporary park-camp on a site where a recreational vehicle or portable camping unit is or is to be located, the owner of the temporary park-camp shall obtain the permit.

(D) Fees established by a municipal corporation or county for the issuance of permits under division (A) or (B) of this section are not subject to regulation by the director of health .

Amended by 129th General Assembly File No.127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 10-13-2004 .

### **3729.05 Annual license required - inspection - proof of fire safety and code compliance.**

(A)

(1) Except as otherwise provided in this section, on or after the first day of April, but before the first day of May of each year, every person who intends to operate a recreational vehicle park, recreation camp, or combined park-camp shall procure a license to operate the park or camp from the licensor. If the applicable license fee prescribed under section [3729.07](#) of the Revised Code is not received by the licensor by the close of business on the last day of April, the applicant for the license shall pay a penalty equal to twenty-five per cent of the applicable license fee. The penalty shall accompany the license fee. If the last day of April is not a business day, the penalty attaches upon the close of business on the next business day.

(2) Every person who intends to operate a temporary park-camp shall obtain a license to operate the temporary park-camp from the licensor at any time before the person begins operation of the temporary park-camp during the calendar year.

(3) No recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp shall be maintained or operated in this state without a license. However, no person who neither intends to receive nor receives anything of value arising from the use of, or the sale of goods or services in connection with the use of, a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp is required to procure a license under this division. If any health hazard exists at such an unlicensed park, camp, or park-camp, the health hazard shall be corrected in a manner consistent with the appropriate rule adopted under division (A) or (B) of section [3729.02](#) of the Revised Code.

(4) No person who has received a license under division (A)(1) of this section, upon the sale or disposition of the recreational vehicle park, recreation camp, or combined park-camp, may have the license transferred to the new

operator. A person shall obtain a separate license to operate each recreational vehicle park, recreation camp, or combined park-camp. No license to operate a temporary park-camp shall be transferred. A person shall obtain a separate license for each temporary park-camp that the person intends to operate, and the license shall be valid for a period of not longer than seven consecutive days. A person who operates a temporary park-camp on a tract of land for more than twenty-one days or parts thereof in a calendar year shall obtain a license to operate a recreational vehicle park, recreation camp, or combined park-camp.

(B)

(1) Before a license is initially issued under division (A)(1) of this section and annually thereafter, or more often if necessary, the licensor shall cause each recreational vehicle park, recreation camp, or combined park-camp to be inspected to determine compliance with this chapter and rules adopted under it. A record shall be made of each inspection on a form prescribed by the director of health.

(2) When a license is initially issued under division (A)(2) of this section, and more often if necessary, the licensor shall cause each temporary park-camp to be inspected to determine compliance with this chapter and rules adopted under it during the period that the temporary park-camp is in operation. A record shall be made of each inspection on a form prescribed by the director.

(C) Each person applying for an initial license to operate a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp shall provide acceptable proof to the director, or to the licensor in the case of a temporary park-camp, that adequate fire protection will be provided and that applicable fire codes will be adhered to in the construction and operation of the park, camp, or park-camp.

(D) Any person that operates a county or state fair or any independent agricultural society organized pursuant to section [1711.02](#) of the Revised Code that operates a fair shall not be required to obtain a license under this chapter if recreational vehicles, portable camping units, or any combination of them are parked at the site of the fair only during the time of preparation for, operation of, and dismantling of the fair and if the recreational vehicles, portable camping units, or any combination of them belong to participants in the fair.

(E) The following entities that operate a fair and that hold a license issued under this chapter are not required to comply with the requirements normally imposed on a licensee under this chapter and rules adopted under it during the time of preparation for, operation of, and dismantling of the fair:

- (1) A county agricultural society organized pursuant to section [1711.01](#) of the Revised Code;
- (2) An independent agricultural society organized pursuant to section [1711.02](#) of the Revised Code;
- (3) The Ohio expositions commission.

(F) A motorsports park is exempt from the license requirements established in divisions (A)(1) and (2) of this section if the motorsports park does both of the following:

- (1) Holds at least one annual event sanctioned by the national association for stock car auto racing or the national hot rod association during a motor sports racing event;
- (2) Provides parking for recreational vehicles, dependent recreational vehicles, and portable camping units that belong to participants in that event.

The exemption established in this division applies to participant-only areas during the time of preparation for and operation of the event.

(G) A person subject to this chapter or rules adopted under it may apply to the director for a waiver or variance from a provision of this chapter or rules adopted under it. The director may grant a waiver or variance if the person demonstrates, to the satisfaction of the director, that the waiver or variance will not result in any adverse effect on the public health and safety. The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements and procedures governing the application for and granting of a waiver or variance under this division.



Amended by 130th General Assembly File No. TBD, HB 394, §1, eff. 3/19/2015.

Amended by 129th General Assembly File No. 141, HB 509, §1, eff. 9/28/2012.

Effective Date: 10-13-2004 .

### **3729.06 Annual survey of health district for compliance.**

(A) The director of health may survey annually each health district that is licensing recreational vehicle parks, recreation camps, combined park-camps, or temporary park-camps as provided in section [3729.05](#) of the Revised Code to determine whether the district is in substantial compliance with this chapter and rules adopted under it. Upon determination that there is substantial compliance, the director shall place the health district on an approved list. The director shall make a resurvey when in the director's opinion a resurvey is necessary and shall remove from the approved list any health district not substantially complying with this chapter and rules adopted under it.

(B) If, after a survey or resurvey is made as provided in this section, the director determines that a health district is not eligible to be placed on the approved list or to continue on the list, the director shall certify that fact to the board of health of the health district. The director shall administer and enforce this chapter and rules adopted under it in the health district until the director determines that the health district is eligible for placement on the approved list. Until the district is placed on or returned to the approved list, the director shall collect all fees payable to a board of health under section [3729.07](#) of the Revised Code and all such fees previously paid that have not been expended or encumbered for deposit in the state treasury to the credit of the campground licensing fund, which is hereby created for use by the director in the director's capacity as licensor. The director shall repay any balance remaining in the account to the district when the director places the district on the approved list.

Effective Date: 10-13-2004.

### **3729.07 Licensor may charge annual fee.**

The licensor of a recreational vehicle park, recreation camp, or combined park-camp may charge a fee for an annual license to operate such a park, camp, or park-camp. In the case of a temporary park-camp, the licensor may charge a fee for a license to operate the temporary park-camp for the period specified in division (A) of section [3729.05](#) of the Revised Code. The fees for both types of licenses shall be determined in accordance with section [3709.09](#) of the Revised Code and shall include the cost of licensing and all inspections.

Except for the fee for a temporary park-camp license, the fee also shall include any additional amount determined by rule of the director of health , which shall be collected and transmitted by the board of health to the director pursuant to section [3709.092](#) of the Revised Code and used only for the purpose of administering and enforcing this chapter and rules adopted under it. The portion of any fee retained by the board of health shall be paid into a special fund and used only for the purpose of administering and enforcing this chapter and rules adopted under it.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 10-13-2004 .

### **3729.08 License may be refused, suspended, or revoked for noncompliance.**

(A) The licensor of the health district in which a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp is or is to be located, in accordance with Chapter 119. of the Revised Code, may refuse to grant, may suspend, or may revoke any license granted to any person for failure to comply with this chapter or with any rule adopted by the director of health under section [3729.02](#) of the Revised Code.

(B) If a recreational vehicle park or combined park-camp operator is found to have used the park or park-camp as a chronic nuisance in violation of division (B) of section 3729.14 of the Revised Code, the licensor shall



immediately revoke any license held by the park or park-camp operator upon receipt of information provided by the local board of health in accordance with division (D) of that section.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 10-13-2004 .

### **3729.09 Rights coextensive with term of license.**

Upon a license being issued under sections [3729.05](#) to [3729.08](#) of the Revised Code, any operator has the right to rent or use each lot or camping space for the parking or placement of a recreational vehicle or portable camping facility to be used for human habitation without interruption for any period coextensive with any license or consecutive licenses issued under sections [3729.05](#) to [3729.08](#) of the Revised Code.

Effective Date: 10-13-2004.

### **3729.10 Fees under chapter in lieu of other fees - exception.**

Fees authorized or charged under sections [3729.03](#) and [3729.07](#) of the Revised Code are in lieu of all license and inspection fees on or with respect to the operation or ownership of recreational vehicle parks, combined park-camps, recreation camps, or temporary park-camps within this state, except that the licensor may charge additional reasonable fees for the collection and bacteriological examination of any necessary water samples taken from any such park, camp, or park-camp.

Effective Date: 10-13-2004.

### **3729.11 Enforcement of violations.**

(A) No person shall violate this chapter or rules adopted under it.

(B) The prosecuting attorney of a county, a city director of law, or the attorney general, upon complaint of the licensor or the director of health, shall prosecute to termination or bring an action for injunction against any person violating this chapter or rules adopted under it.

Effective Date: 10-13-2004.

### **3729.12 Campsite use agreement.**

Every campsite use agreement entered into between a camp operator and a campsite user shall be in writing, shall contain the name, address, and phone number of the campsite user, and shall designate the campsite that is the subject of the agreement. The campsite use agreement also shall contain a description of the procedure for removing property from the campsite if the campsite user fails to remove all property from the campsite as required by section [3729.13](#) of the Revised Code.

Effective Date: 10-13-2004.

### **3729.13 Expiration of campsite use agreement.**

(A) A campsite user who enters into a campsite use agreement with a camp operator for the use of a campsite at a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp, at the expiration of the campsite use period under the agreement, shall remove from the campsite all of the campsite user's property and all property any other person placed on the campsite with the permission of the campsite user. If the campsite user fails to remove all of that property from the campsite within the five-consecutive-day period after the expiration of that campsite use period, all of the following apply:

(1) The camp operator shall perform an inventory of the property that the campsite user did not remove from the campsite.

(2) The camp operator may send a letter to the campsite user informing the campsite user that the campsite user has abandoned the property on the campsite in violation of the campsite use agreement and that the camp operator will commence an action for the seizure of the property if the campsite user does not remove the property from the campsite within ten days after the date on which the letter is mailed.

(3) If the campsite user does not remove the property from the campsite within ten days after the date on which the letter described in division (A)(2) of this section is mailed, the camp operator may file an action for the seizure of the property that remains on the campsite in the municipal court or county court that has territorial jurisdiction over the park or camp. The complaint shall contain all of the following:

- (a) The name, address, and phone number of the campsite user that is in the campsite use agreement;
- (b) A description of the property that the campsite user has not removed from the campsite;
- (c) A demand that all of the property listed in the complaint be removed from the campsite within seven days after service of the complaint upon the campsite user;
- (d) A description of the procedure that will be followed if the campsite user does not remove the listed property within the seven-day period;
- (e) A statement that the campsite user shall pay to the clerk of the court the amount of the filing fees charged for the filing of the complaint, that the campsite user shall pay those fees prior to the campsite user's removal of the listed property from the campsite, and that if the campsite user fails to pay the amount of the filing fees the property may be sold to pay the filing fees.

(4) When the camp operator files an action under division (A)(3) of this section, the clerk of the court shall issue a summons and a copy of the complaint pursuant to the Rules of Civil Procedure to the campsite user at the address provided in the campsite use agreement.

(5) If the campsite user does not file an answer to the complaint filed under division (A)(3) of this section and remove all of the property listed in the complaint within seven days after service of the complaint upon the campsite user, the court shall do either of the following:

- (a) Issue an order authorizing the sheriff, another peace officer, or a bailiff to remove the property from the campsite and place it in storage;
- (b) Authorize the camp operator to seize the property and cause the issuance to the camp operator of a new certificate of title for the property if the property is a titled vehicle.

(6) Upon the removal and storage of the property, the sheriff, peace officer, bailiff, or camp operator shall conduct or cause to be conducted a search of the appropriate public records that relate to the property and shall make or cause to be made reasonably diligent inquiries for the purpose of identifying persons who have any right, title, or interest in any of the property. Then, the sheriff, peace officer, bailiff, or camp operator may commence proceedings for the sale of the property. The sheriff, peace officer, bailiff, or camp operator shall send by certified mail, return receipt requested, a written notice of the date, time, and place of the sale to each person who, because of the conduct of the search, the making of inquiries, or otherwise, the sheriff, peace officer, bailiff, or camp operator believes has any right, title, or interest in the property. The sheriff, peace officer, bailiff, or camp operator shall send the notice to the last known address of each of those persons.

(7) If the sheriff, peace officer, bailiff, or camp operator sells the property, the sheriff, peace officer, bailiff, or camp operator shall dispose of the proceeds of the sale in the following order:

- (a) The sheriff, peace officer, bailiff, or camp operator shall first pay the costs for any moving or any storage of the property, the costs of the sale, and any unpaid court costs assessed against the campsite user in the underlying action.
- (b) Following the payment required by division (A)(7)(a) of this section, the sheriff, peace officer, bailiff, or camp operator shall pay all other outstanding security interests, liens, or encumbrances on the property by priority of

filing or other priority.

(c) After complying with divisions (A)(7)(a) and (b) of this section, the sheriff, peace officer, bailiff, or camp operator shall transfer any remaining money to the owner of the property.

(8) If the sheriff, peace officer, bailiff, or camp operator does not conduct a sale of the property, the sheriff, peace officer, bailiff, or camp operator shall dispose of the property in the following manner:

(a) If the property is a motor vehicle or recreational vehicle, in accordance with the procedure in section [4513.61](#) or [4513.63](#) of the Revised Code;

(b) If the property is personal property, in accordance with the procedure in sections [2981.11](#) and [2981.12](#) of the Revised Code.

(B) Upon collection from the campsite user, the municipal court or county court shall reimburse the filing fees to the camp operator.

Effective Date: 10-13-2004; 07-01-2007.

### **3729.14 Operation of recreational vehicle park or combined park-camp as chronic nuisance prohibitetd.**

(A) As used in this section:

(1) "Chronic nuisance property" means a property on which three or more nuisance activities have occurred during any consecutive six-month period.

(2) "Deadly weapon" and "firearm" have the same meanings as in section [2923.11](#) of the Revised Code.

(3) "Nuisance activity" includes all of the following:

(a) A felony drug abuse offense as defined in section [2925.01](#) of the Revised Code;

(b) A felony sex offense as defined in section [2967.28](#) of the Revised Code;

(c) A felony offense of violence;

(d) A felony or a specification an element of which includes the possession or use of a deadly weapon, including an explosive or a firearm.

(4) "Offense of violence" has the same meaning as in section [2901.01](#) of the Revised Code.

(5) "Person associated with the property" includes a camp operator; camp employee; camp official; camp agent; campsite user; any other person licensed under Chapter 3729. of the Revised Code; any person occupying a campsite including a tenant or invitee; or any person present on the property of a recreational park camp or combined park-camp with the permission of the camp operator or other person licensed under Chapter 3729. of the Revised Code or the consent of any campsite user, tenant, or invitee.

(6) "Property" means the property of a recreational vehicle park or a combined park-camp, including all lots, buildings, or campsites, whether contained on one or multiple parcels of real property.

(B) No person shall use or operate a recreational vehicle park or combined park-camp as a chronic nuisance. No camp operator shall let a park or park-camp be so used, or knowingly permit a person who has entered into a campsite use agreement with the operator to engage in such conduct in the park or park-camp.

(C) If a local board of health of the health district in which a recreational vehicle park or combined park-camp is located finds that persons associated with the property of the park or park-camp have engaged in a nuisance activity on the park or park-camp property two or more times in any consecutive six-month period, the local board of health shall send notice to the camp operator specifying the conduct that constitutes the nuisance activity. The notice shall be sent to the camp operator by certified mail. The notice shall inform the operator that

if one or more nuisance activities occurs on the property within the consecutive six-month period beginning on the date of the first nuisance activity, the property will be declared a chronic nuisance as described in division (A) of this section and the camp operator's license will be revoked.

If subsequent to the mailing of the notice, the local board of health learns of an additional nuisance activity on the recreational vehicle park or combined park-camp property during a consecutive six-month period beginning on the date the notice was mailed to the park operator, the board shall immediately report to the licensing authority that the property is a chronic nuisance. Upon receipt of such information, the licensing authority shall revoke the camp operator's license in accordance with section [3729.08](#) of the Revised Code.

(D) This section does not limit any recourse permitted elsewhere in the Revised Code or at common law for conduct that violates this section.

Added by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

**[3729.15 to 3729.18 \[Repealed\].](#)**

Effective Date: 09-05-2001.

**[3729.21 to 3729.24 \[Repealed\].](#)**

Effective Date: 09-05-2001.

**[3729.26 \[Repealed\].](#)**

Effective Date: 09-05-2001.

**[3729.27 \[Repealed\].](#)**

Effective Date: 11-24-1995.

**[3729.29 \[Repealed\].](#)**

Effective Date: 09-05-2001.

**[3729.36 \[Repealed\].](#)**

Effective Date: 09-05-2001.

**[3729.40, 3729.41 \[Repealed\].](#)**

Effective Date: 09-05-2001.

**[3729.43 \[Repealed\].](#)**

Effective Date: 09-05-2001.

**[3729.45, 3729.46 \[Repealed\].](#)**

Effective Date: 09-05-2001.

**[3729.55 \[Repealed\].](#)**

Effective Date: 09-05-2001.

**[3729.61 \[Repealed\].](#)**

Effective Date: 09-05-2001.

**[3729.99 Penalty.](#)**

Whoever violates division (A) of section [3729.11](#) of the Revised Code is guilty of a misdemeanor of the fourth degree.

Effective Date: 10-13-2004.

## **Chapter 3717: RETAIL FOOD ESTABLISHMENTS; FOOD SERVICE OPERATIONS**

### **3717.01 Retail food establishments - food safety operations definitions.**

As used in this chapter:

(A) "Ohio uniform food safety code" means the food safety and related standards adopted under section [3717.05](#) of the Revised Code.

(B) "Food" means any raw, cooked, or processed edible substance used or intended for use in whole or in part for human consumption. "Food" includes ice, water or any other beverage, food ingredients, and chewing gum.

(C) "Retail food establishment" means a premises or part of a premises where food is stored, processed, prepared, manufactured, or otherwise held or handled for retail sale. Except when expressly provided otherwise, "retail food establishment" includes a mobile retail food establishment, seasonal retail food establishment, and temporary retail food establishment.

As used in this division:

(1) "Retail" means the sale of food to a person who is the ultimate consumer.

(2) "Prepared" means any action that affects a food, including receiving and maintaining it at the temperature at which it was received.

(D) "Seasonal retail food establishment" means a retail food establishment, other than a mobile retail food establishment, that is operated for not more than six months in a licensing period.

(E) "Temporary retail food establishment" means a retail food establishment that is operated at an event for not more than five consecutive days, except when operated for more than five consecutive days pursuant to division (E)(2) of section [3717.23](#) of the Revised Code.

(F) "Food service operation" means a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation. As used in this division, "served" means a response made to an order for one or more individual portions of food in a form that is edible without washing, cooking, or additional preparation and "prepared" means any action that affects a food other than receiving or maintaining it at the temperature at which it was received.

Except when expressly provided otherwise, "food service operation" includes a catering food service operation, food delivery sales operation, mobile food service operation, seasonal food service operation, temporary food service operation, and vending machine location.

(G) "Catering food service operation" means a food service operation where food is prepared for serving at a function or event held at an off-premises site, for a charge determined on a per-function or per-event basis.

(H) "Food delivery sales operation" means a food service operation from which individual portions of food are ordered by a customer, prepared at another food service operation or a retail food establishment, and delivered to the customer by a person other than an employee of the food service operation or retail food establishment that prepared the food.

(I) "Mobile food service operation" means a food service operation that is operated from a movable vehicle, portable structure, or watercraft and that routinely changes location, except that if the operation remains at any one location for more than forty consecutive days, the operation is no longer a mobile food service operation. "Mobile food service operation" includes a food service operation that does not remain at any one location for more than forty consecutive days and serves, in a manner consistent with division (F) of this section, only frozen desserts; beverages, nuts, popcorn, candy, or similar confections; bakery products identified in section [911.01](#) of the Revised Code; or any combination of those items.

(J) "Seasonal food service operation" means a food service operation, other than a mobile food service operation, that is operated for not more than six months in a licensing period.

(K) "Temporary food service operation" means a food service operation that is operated at an event for not more than five consecutive days, except when operated for more than five consecutive days pursuant to division (E)(2) of section [3717.43](#) of the Revised Code.

(L) "Vending machine location" means an area or room where one or more vending machines are installed and operated, except that if the machines within an area are separated by more than one hundred fifty feet, each area separated by that distance constitutes a separate vending machine location. As used in this division, "vending machine" means a self-service device that automatically dispenses on the insertion of currency, tokens, or similar means a predetermined unit serving of food, either in bulk or in package, without having to be replenished after each use.

(M) "Board of health" means a board of health of a city or general health district or the authority having the duties of a board of health under section [3709.05](#) of the Revised Code.

(N) "Government entity" means this state, a political subdivision of this state, another state, or a political subdivision or other local government body of another state.

(O) "Licensor" means one of the following:

(1) A board of health approved under section [3717.11](#) of the Revised Code;

(2) The director of agriculture acting pursuant to section [3717.11](#) of the Revised Code with respect to the licensing of retail food establishments;

(3) The director of health acting pursuant to section [3717.11](#) of the Revised Code with respect to the licensing of food service operations.

(P) "Licensing period" means the first day of March to the last day of February of the next succeeding year.

(Q) "Mobile retail food establishment" means a retail food establishment that is operated from a movable vehicle or other portable structure, and that routinely changes location, except that if the establishment operates from any one location for more than forty consecutive days, the establishment is no longer a mobile retail food establishment.

(R) "Unprocessed," when used with respect to fruits and vegetables, means that the fruits and vegetables are not processed beyond merely rough trimming and rinsing.

(S) "Cottage food production operation" has the same meaning as in division (A)(19) of section [3715.01](#) of the Revised Code.



Amended by 129th General Assembly File No.127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 11-21-2001 .

### **3717.02 Retail food safety advisory council.**

(A) There is hereby created the retail food safety advisory council. The council shall consist of the director of agriculture or a person the director designates to serve on the director's behalf, the director of health or a person the director designates to serve on the director's behalf, and twelve additional members appointed jointly by the director of agriculture and the director of health, as follows:

- (1) Three persons representing the interests of retail food establishments;
- (2) Three persons representing the interests of food service operations;
- (3) Four persons representing boards of health or the health departments operated by boards of health;
- (4) One person representing the academic community who is knowledgeable in food science or food technology;
- (5) One person representing the general public who is not employed by this state or any of its political subdivisions and has no pecuniary interest in a retail food establishment or food service operation.

(B) In making appointments to the council, the director of agriculture and director of health shall jointly consult with statewide trade and professional organizations that represent the interests of retail food establishments and food service operations. The organizations may nominate persons to be considered for appointment as council members.

(C) Of the initial appointments made to the council, five shall be for terms ending three years after appointment, four shall be for terms ending two years after appointment, and three shall be for terms ending one year after appointment. Thereafter, terms of office shall be three years. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed.

Vacancies shall be filled in the manner provided for original appointments. A member appointed to fill a vacancy occurring before the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office after the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(D) A member may be removed from office for failing to attend two consecutive council meetings without showing good cause for the absences. Removal from office requires joint action by the director of agriculture and director of health.

(E) The director of agriculture or the person the director designates to serve on the director's behalf, and the director of health or the person the director designates to serve on the director's behalf, shall serve as the council's co-chairpersons without voting rights. A two-thirds majority vote of the council's voting members is necessary for the council to act on any matter.

(F) Members shall be reimbursed for actual and necessary expenses incurred in performing duties as members. The expenses shall be shared equally by the department of agriculture and the department of health. Both departments shall provide administrative support to the council.

(G) The retail food safety advisory council is not subject to sections [101.82](#) to [101.87](#) of the Revised Code.

Effective Date: 03-22-2001.

### **3717.021 [Repealed].**

Effective Date: 10-21-1997.

### **3717.03 Council meetings - duties.**

(A) The retail food safety advisory council shall meet as necessary to fulfill its duties, which include all the following:

- (1) Making recommendations for the Ohio uniform food safety code;
- (2) Examining specific food safety issues raised by the director of agriculture or director of health and making recommendations regarding those issues;
- (3) Mediating unresolved issues among state agencies about the interpretation of rules adopted under this chapter and making recommendations regarding the issues;
- (4) Reviewing all comments on and requests for interpretation of the Ohio uniform food safety code, as submitted by any holder of a license issued under this chapter or any other person or government entity;
- (5) Making recommendations to the director of agriculture and director of health for use in issuing joint letters of opinion pursuant to section [3717.041](#) of the Revised Code;
- (6) Making recommendations to the director of agriculture and director of health with respect to improving the food safety awareness of consumers and their confidence in the state's food supply;
- (7) Making recommendations to the director of agriculture and director of health regarding the licensing categories and inspection frequencies to be used in regulating retail food establishments and food service operations;
- (8) Making recommendations to the director of health with respect to the program for certification of individuals in food protection and approval of courses in food protection.

(B) The council shall hold a meeting at the request of the director of agriculture, at the request of the director of health, or on written request of three or more voting members of the council.

(C) In fulfilling its duties under division (A)(4) of this section, the council shall accept comments and requests regardless of whether they are made publicly or anonymously. For purposes of accepting comments and requests at times other than council meetings, the council shall maintain and publicize a mailing address.

Effective Date: 11-21-2001.

#### **3717.04 Rules regarding retail food establishments and food service operations.**

The director of agriculture and the director of health have the exclusive power in this state to adopt rules regarding retail food establishments and food service operations. The rules adopted under this chapter shall be applied uniformly throughout this state.

All rules adopted under this chapter shall be adopted in accordance with Chapter 119. of the Revised Code. Subject to the approval of the joint committee on agency rule review, portions of the rules may be adopted by referencing all or any part of any federal regulations pertaining to food safety.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 11-03-1999 .

#### **3717.041 Joint letter of opinion from directors of agriculture and health.**

To assist in the uniform application of the rules adopted under this chapter, the director of agriculture and director of health shall jointly issue a letter of opinion when issuance of a letter of opinion is recommended by the retail food safety advisory council under section [3717.03](#) of the Revised Code. A letter of opinion shall be issued not later than sixty days after the date the recommendation is received from the council.

Each letter of opinion shall provide a detailed interpretation of the rules that are the subject of the retail food safety advisory council's recommendation. Unless rules are adopted under this chapter that override the interpretation expressed in a letter of opinion, the interpretation shall be binding and applied uniformly throughout this state.

Effective Date: 11-21-2001.

#### **3717.05 Uniform food safety code.**

(A) The director of agriculture and the director of health shall adopt rules establishing standards for safe food handling and sanitation in retail food establishments and food service operations. The rules shall be compiled as the Ohio uniform food safety code, which shall be used by the licensors of retail food establishments and food service operations in ensuring the safe handling of food in this state. All scientific provisions of the Ohio uniform food safety code that are relevant to both retail food establishments and food service operations shall be adopted by the director of agriculture and the director of health with each other's concurrence.

The Ohio uniform food safety code shall include the following:

- (1) Criteria for sanitation in retail food establishments and food service operations;
- (2) Criteria for equipment in retail food establishments and food service operations;
- (3) Criteria for reviewing the facility layout and equipment specifications of retail food establishments and food service operations;
- (4) A definition of "potentially hazardous" as it pertains to food in retail food establishments and to food in food service operations;

(5) Criteria to be used in evaluating the primary business of a person or government entity for purposes of determining whether the person or entity should be licensed as a retail food establishment or food service operation.

(B)

(1) Except as provided in divisions (B)(2) and (3) of this section, if a model food code is established by the United States food and drug administration, the Ohio uniform food safety code shall be based on the most current version of the food and drug administration's model food code. If the food and drug administration adopts, modifies, or rescinds a provision in the model food code, not later than twelve months after the administration's action, the director of agriculture and director of health shall adopt, amend, or rescind provisions in the Ohio uniform food safety code to ensure that it continues to conform with the model food code.

(2) The Ohio uniform food safety code may contain or omit provisions that do not correspond to the food and drug administration's model food code if the director of agriculture or the director of health, with each other's concurrence, determines either of the following:

(a) That rules can be adopted under this chapter that provide protection at least as effective as that which would be provided by basing the rules on the model food code;

(b) That local conditions warrant the adoption of standards that are different from the model food code.

(3) The Ohio uniform food safety code shall contain the rules adopted under section 3717.14 of the Revised Code notwithstanding the content of the United States food and drug administration's model food code.

Amended by 132nd General Assembly File No. TBD, HB 263, §1, eff. 10/29/2018.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 11-21-2001 .

### **3717.06 Agriculture and health department liaisons to be knowledgeable in food safety and foodborne illnesses.**

The director of agriculture shall create within the department of agriculture a position to be filled by an individual knowledgeable in food safety and the epidemiology of foodborne illness. The director of health shall create within the department of health a position to be filled by an individual knowledgeable in food safety rules concerning food service operations and the epidemiology of foodborne illness. The individuals appointed to these positions shall serve as liaisons between the departments. They shall also serve as the departments' liaisons with other state agencies, boards of health, representatives of retail and other food establishments, representatives of food service operations, and the federal government.

Effective Date: 11-03-1999.

### **3717.07 Uniform methodologies for calculating costs of licensing.**

(A) For purposes of establishing a licensing fee under sections [3717.25](#) and [3717.45](#) of the Revised Code, the director of agriculture and the director of health shall adopt rules establishing uniform

methodologies for use in calculating the costs of licensing retail food establishments in the categories specified by the director of agriculture and the costs of licensing food service operations in the categories specified by the director of health. In adopting the rules, the director of agriculture and the director of health shall consider any recommendations received from advisory boards or other entities representing the interests of retail food establishments and food service operations.

(B) The rules shall include provisions that do all of the following:

- (1) Provide for calculations to be made according to fiscal years rather than licensing periods;
- (2) Limit the direct costs that may be attributed to the use of sanitarians by establishing appropriate statewide averages that may not be exceeded;
- (3) Limit the indirect costs that may be included in the calculation of fees to an amount that does not exceed thirty per cent of the cost of the licensing program;
- (4) Provide for a proportionate reduction in the fees to be charged if a licensor included anticipated costs in the immediately preceding calculation of licensing fees and the total amount of the anticipated costs was not incurred;
- (5) Provide for a proportionate reduction in the fees to be charged if it is discovered through an audit by the auditor of state or through any other means that the licensor has charged or is charging a licensing fee that exceeds the amount that should have been charged;
- (6) Provide for a twenty per cent reduction in the fees to be charged when the reduction is imposed as a penalty under division (C) of section [3717.071](#) of the Revised Code;
- (7) With regard to any fees charged for licensing vending machine locations, the rules shall prohibit a licensor from increasing fees by a percentage of increase over the previous year's fee that exceeds the percentage of increase in the consumer price index for all urban consumers (United States city average, all items), prepared by the United States department of labor, bureau of labor statistics, for the immediately preceding calendar year.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 11-21-2001 .

### **[3717.071 Forms for calculating licensing fees.](#)**

(A) The director of agriculture and director of health shall prescribe forms for use in calculating the licensing fees that may be charged under sections [3717.25](#) and [3717.45](#) of the Revised Code. Each licensor that charges licensing fees shall use the forms in calculating its costs according to the uniform methodologies established in rules adopted under section [3717.07](#) of the Revised Code.

(B)

(1) If the licensor is a board of health, the board shall submit the form to the director of agriculture in the case of fees being charged for retail food establishment licenses, and to the director of health in the case of fees being charged for food service operation licenses. The board shall submit the form to

the appropriate director not later than the first day of the fiscal year in which the fees will apply. A form that is mailed to the director shall be considered to have been submitted on its postmark date.

(2) On receipt of a form from a board of health, the director of agriculture or director of health shall review the form to determine if the board has calculated its fees in accordance with the uniform methodologies. The director may request that the auditor of state conduct an audit of the board to determine if the fees it established are appropriate. The audit is in addition to the annual or biennial audit conducted pursuant to division (A) of section [117.11](#) of the Revised Code, and the cost of the audit is the responsibility of the board of health. If at any time the director of agriculture or director of health has reasonable cause to believe that a different audit of a board of health is in the public interest, the director may request that the auditor of state conduct the audit. If the audit is conducted, the cost of the audit is the responsibility of the board of health.

(C)

(1) If a board of health fails to submit the forms as required under division (B)(1) of this section and the failure has occurred not more than twice in the immediately preceding five-year period, the board is subject to the following penalties:

(a) If the form is late by one but not more than five working days, a fine of fifty dollars for each working day the form is late;

(b) If the form is late by six working days but not more than ten working days, a fine of one hundred dollars for each working day the form is late;

(c) If the form is late by more than ten working days, the board shall reduce by twenty per cent the fees it charges under section [3717.25](#) or [3717.45](#) of the Revised Code during the next succeeding fiscal year.

(2) If a board fails to submit the forms and the failure has occurred more than twice in the immediately preceding five-year period, the board shall reduce by twenty per cent the fees it charges under section [3717.25](#) or [3717.45](#) of the Revised Code during the next succeeding fiscal year.

(3) A board of health that is required to pay a fine or reduce its licensing fees shall not include any part of the cost of the penalty in the fees it charges under section [3717.25](#) or [3717.45](#) of the Revised Code or the fees it charges in operating any other licensing program.

Effective Date: 11-21-2001.

### **[3717.08 Director to promote food safety awareness and education.](#)**

(A) The director of agriculture and director of health shall strive to increase consumer confidence in the state's food supply by promoting food safety awareness and education. The efforts of the director of agriculture and director of health shall be made, when appropriate and available, through partnerships with representatives of retail food establishments, representatives of food service operations, and representatives of the academic community, including OSU extension .

(B) As part of their promotion of food safety awareness, the director of agriculture and the director of health shall do the following:

(1) Develop training programs regarding the Ohio uniform food safety code. The directors may offer the training programs separately but shall coordinate the content of the programs to the greatest

extent practicable. The training programs shall be made available to the employees of the department of agriculture, employees of the department of health, representatives of boards of health and the health officials employed by the boards, representatives of retail food establishments, and representatives of food service operations.

(2) Co-sponsor a biennial statewide food safety conference. Additional statewide food safety conferences may be held as considered appropriate by the director of agriculture and director of health.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 11-03-1999 .

### **3717.09 Certification in food protection.**

In accordance with rules adopted under section [3717.51](#) of the Revised Code, the director of health shall approve courses of study for certification in food protection as it pertains to retail food establishments and as it pertains to food service operations. The director shall certify individuals in food protection who successfully complete a course of study approved under this section and meet all other certification requirements specified in rules adopted under section [3717.51](#) of the Revised Code.

Effective Date: 11-03-1999.

### **3717.10 [Repealed].**

Effective Date: 10-21-1997.

### **3717.11 Board of health surveys.**

(A) Each board of health shall be surveyed for the purpose of determining whether the board is qualified and has the capacity to administer and enforce this chapter and the rules adopted under it and to abide by the Ohio uniform food safety code. If the board licenses or proposes to license retail food establishments, the survey shall be conducted by the director of agriculture. If the board licenses or proposes to license food service operations, the survey shall be conducted by the director of health.

Each board shall be surveyed by each director at least once every three years. Surveys shall be conducted in accordance with rules adopted under sections [3717.33](#) and [3717.52](#) of the Revised Code, as applicable. The directors shall schedule and conduct their surveys in a manner that minimizes, to the extent practicable, intrusion on and inconvenience to the board.

If a survey demonstrates that the board is qualified and has the requisite capacity, the director conducting the survey shall approve the board as the licenser of retail food establishments or food service operations, whichever is being considered, for the district the board serves. If a survey demonstrates that a board is not qualified or does not have the requisite capacity, the director conducting the survey shall not approve the board as a licenser, or shall revoke the director's approval, whichever is appropriate. The board may appeal the decision to deny or revoke approval to the director taking the action. The appeal shall be conducted in accordance with rules adopted under section [3717.33](#) or [3717.52](#) of the Revised Code, as applicable.

If approval is denied or revoked, the director taking the action shall designate an alternative licenser for the health district served by the board. The alternative licenser shall be a board of health that is



qualified and has the requisite capacity to serve as alternative licensor, except that if a qualified and capable board is not available from a health district within reasonable proximity, the director that denied or revoked the board's approval shall act as the alternative licensor.

(B) When the approval of a board is revoked, all valid licenses issued by that board for retail food establishments or food service operations, whichever have been affected, shall be treated as though issued by the alternative licensor. The licenses shall remain valid until scheduled to expire unless earlier suspended or revoked by the alternative licensor.

(C) All fees charged under section [3717.25](#) or [3717.45](#) of the Revised Code that have not been expended by a board that has had its approval revoked shall be transferred to the alternative licensor. A board of health acting as alternative licensor shall deposit the fees into a special fund it establishes for receipt of funds pertaining to the district for which it is acting as licensor. If the director of agriculture is acting as licensor, the director shall deposit the fees in the food safety fund created in section [915.24](#) of the Revised Code. If the director of health is acting as licensor, the director shall deposit the fees in the general operations fund created in section [3701.83](#) of the Revised Code. All subsequent fees charged in the district by the alternative licensor shall be deposited in the same manner. Moneys deposited under this division shall be used solely for the administration and enforcement of this chapter and the rules adopted under it in the district for which the alternative licensor is acting as licensor.

(D)

(1) A board that has had its approval to act as a licensor revoked may submit a request to the director who revoked the approval to be reinstated as a licensor. The request shall be in writing and shall specify the corrective measures the board has taken and a proposed plan of action to remedy any remaining causes of the revocation. The director may reinstate the board as a licensor if all of the following occur:

(a) The board pays or arranges to pay the alternative licensor or director, as applicable, for costs incurred in acting as licensor for the district and in transferring responsibility for the district to the board, if those costs exceed the moneys available under division (C) of this section for the district;

(b) The board corrects all causes of the revocation;

(c) The alternative licensor consents to the reinstatement.

(2) The reinstatement of a board as a licensor shall be conducted in accordance with procedures established in rules adopted under this chapter by the director who revoked the approval.

Effective Date: 11-21-2001.

### **[3717.111 Board of health may withdraw as licensor.](#)**

(A) A board of health acting as a licensor of retail food establishments or food service operations may withdraw from serving as licensor of either or both. Before withdrawing as licensor, the board shall provide written notice of its intent to withdraw. If the withdrawal applies to the licensing of retail food establishments, the board shall provide the notice to the director of agriculture. If the withdrawal applies to the licensing of food service operations, the board shall provide the notice to the director of health. On receipt of the notice, the responsible director shall designate an alternative licensor for the health district served by the board. The alternative licensor shall be a board of health that is qualified

and has the requisite capacity to serve as alternative licensor, except that if a qualified and capable board is not available from a health district within reasonable proximity, the director of agriculture or director of health, as appropriate, shall act as the alternative licensor.

(B) When a board withdraws as licensor, all valid licenses issued by that board for retail food establishments or food service operations, whichever have been affected, shall be treated as though issued by the alternative licensor. The licenses shall remain valid until scheduled to expire unless earlier suspended or revoked by the alternative licensor.

(C) All fees charged under section [3717.25](#) or [3717.45](#) of the Revised Code that have not been expended by a board that has withdrawn as licensor shall be transferred to the alternative licensor. A board of health acting as alternative licensor shall deposit the fees into a special fund it establishes for receipt of funds pertaining to the district for which it is acting as licensor. If the director of agriculture is acting as licensor, the director shall deposit the fees in the food safety fund created in section [915.24](#) of the Revised Code. If the director of health is acting as licensor, the director shall deposit the fees in the general operations fund created in section [3701.83](#) of the Revised Code. All subsequent fees charged in the district by the alternative licensor shall be deposited in the same manner. Moneys deposited under this division shall be used solely for the administration and enforcement of this chapter and the rules adopted under it in the district for which the alternative licensor is acting as licensor.

Effective Date: 11-21-2001.

#### **[3717.12 Jurisdiction change - licenses to remain valid.](#)**

If all or part of the territory within a health district becomes subject to the jurisdiction of a different board of health, all valid retail food establishment or food service operation licenses issued by the original board of health shall be treated as though issued by the board of health with jurisdiction over the territory and shall remain valid until scheduled to expire unless earlier suspended or revoked by the board under this chapter.

Effective Date: 11-03-1999.

#### **[3717.13 Contracts to conduct inspections and assist licensor by performing routine services.](#)**

A licensor may employ or enter into contracts with qualified persons and government entities to conduct inspections and to assist the licensor by performing routine services in the administration and enforcement of this chapter and the rules adopted under it.

Effective Date: 11-03-1999.

#### **[3717.14 Dogs in outdoor dining areas.](#)**

(A)

(1) A retail food establishment or food service operation may allow a person to bring a dog in an outdoor dining area of the establishment or operation in accordance with this section. However, if the dog is a service animal, no establishment or operation shall refuse to allow the dog in the outdoor dining area unless such refusal is authorized under federal and state laws governing service animals.

(2) The director of agriculture and the director of health shall adopt rules allowing dogs in an outdoor dining area of a retail food establishment or food service operation. The rules shall include authorization for the directors to prohibit dogs in an outdoor dining area of an establishment or operation during a public health emergency.

(B) If an establishment or operation allows a person to bring a dog in an outdoor dining area of the establishment or operation, the establishment or operation shall do all of the following:

(1) Adopt a policy that requires patrons to control their dog, whether with a leash or otherwise, while the dog is in the outdoor dining area. The establishment or operation shall enforce the policy adopted under division (B)(1) of this section.

(2) Not allow the person to take the dog into the outdoor dining area through any of the establishment's or operation's indoor areas;

(3) Comply with both of the following:

(a) All sanitation standards established in the Ohio uniform food safety code other than those standards that prohibit dogs in an outdoor dining area of an establishment or operation;

(b) Any other standard established under this chapter.

(C) No person shall bring a dog in an outdoor dining area of an establishment or operation if the dog is not properly vaccinated in accordance with all state and local laws.

(D) As used in this section, "service animal" means any dog that is individually trained for the benefit of an individual with a disability to do work or perform tasks that are directly related to the individual's disability.

Added by 132nd General Assembly File No. TBD, HB 263, §1, eff. 10/29/2018.

### **3717.15 [Repealed].**

Effective Date: 06-20-1994.

### **3717.16 to 3717.18 [Repealed].**

Effective Date: 10-21-1997.

### **3717.19 [Repealed].**

Effective Date: 06-20-1994.

### **3717.20 [Repealed].**

Effective Date: 10-21-1997.

### **3717.21 License required for retail food establishments - separate licenses.**

Except as provided in section [3717.22](#) of the Revised Code, no person or government entity shall operate a retail food establishment without a license. A separate license is required for each retail food establishment that a person or government entity operates.

No person or government entity shall fail to comply with any other requirement of this chapter applicable to retail food establishments.

Effective Date: 02-01-2001.

### **3717.22 Excluded operations and entities.**

(A) The following are not retail food establishments:

(1) A food service operation licensed under this chapter, including a food service operation that provides the services of a retail food establishment pursuant to an endorsement issued under section [3717.44](#) of the Revised Code;

(2) An entity exempt under divisions (B)(1) to (9) or (11) to (13) of section [3717.42](#) of the Revised Code from the requirement to be licensed as a food service operation and an entity exempt under division (B)(10) of that section if the entity is regulated by the department of agriculture as a food processing establishment under section [3715.021](#) of the Revised Code;

(3) A business or that portion of a business that is regulated by the federal government or the department of agriculture as a food manufacturing or food processing business, including a business or that portion of a business regulated by the department of agriculture under Chapter 911., 913., 915., 917., 918., or 925. of the Revised Code.

(B) All of the following are exempt from the requirement to be licensed as a retail food establishment:

(1) An establishment with commercially prepackaged foods that are not potentially hazardous and contained in displays, the total space of which equals less than two hundred cubic feet;

(2) A person at a farmers market that is registered with the director of agriculture pursuant to section [3717.221](#) of the Revised Code that offers for sale only one or more of the following:

(a) Fresh unprocessed fruits or vegetables;

(b) Products of a cottage food production operation;

(c) Maple syrup, sorghum, honey, apple syrup, or apple butter that is produced by a maple syrup or sorghum producer, beekeeper, or apple syrup or apple butter processor described in division (A) of section [3715.021](#) of the Revised Code;

(d) Wine as authorized under section [4303.2010](#) of the Revised Code;

(e) Commercially prepackaged food that is not potentially hazardous, on the condition that the food is contained in displays, the total space of which equals less than one hundred cubic feet on the premises where the person conducts business at the farmers market.

(3) A person who offers for sale at a roadside stand only fresh fruits and fresh vegetables that are unprocessed;

(4) A nonprofit organization exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, that raises funds by selling foods and that, if required to be licensed, would be classified as risk level one in accordance with rules establishing licensing categories for retail food establishments adopted under section [3717.33](#) of the Revised Code, if the sales occur inside a building and are for not more than seven

consecutive days or more than fifty-two separate days during a licensing period. This exemption extends to any individual or group raising all of its funds during the time periods specified in division (B)(4) of this section for the benefit of the nonprofit organization by selling foods under the same conditions.

(5) An establishment that offers food contained in displays of less than five hundred square feet, and if required to be licensed would be classified as risk level one pursuant to rules establishing licensing categories for retail food establishments adopted under section [3717.33](#) of the Revised Code, on the condition that the establishment offers the food for sale at retail not more than six months in each calendar year;

(6) A cottage food production operation, on the condition that the operation offers its products directly to the consumer from the site where the products are produced;

(7) A maple syrup and sorghum processor , beekeeper, or apple syrup and apple butter processor described in division (A) of section [3715.021](#) of the Revised Code, on the condition that the processor or beekeeper offers only maple syrup, sorghum, honey, apple syrup, or apple butter directly to the consumer from the site where those products are processed;

(8) A person who annually maintains five hundred or fewer birds, on the condition that the person offers the eggs from those birds directly to the consumer from the location where the eggs are produced or at a farm product auction to which division (B)(11) of this section applies;

(9) A person who annually raises and slaughters one thousand or fewer chickens, on the condition that the person offers dressed chickens directly to the consumer from the location where the chickens are raised and slaughtered or at a farm product auction to which division (B)(11) of this section applies;

(10) A person who raises, slaughters, and processes the meat of nonamenable species described in divisions (A) and (B) of section [918.12](#) of the Revised Code, on the condition that the person offers the meat directly to the consumer from the location where the meat is processed or at a farm product auction to which division (B)(11) of this section applies;

(11) A farm product auction, on the condition that it is registered with the director pursuant to section [3717.221](#) of the Revised Code that offers for sale at the farm product auction only one or more of the following:

(a) The products described in divisions (B)(8) to (10) of this section that are produced, raised, slaughtered, or processed, as appropriate, by persons described in divisions (B)(8) to (10) of this section;

(b) Fresh unprocessed fruits or vegetables;

(c) Products of a cottage food production operation;

(d) Maple syrup, sorghum, honey, apple syrup, or apple butter that is produced by a maple syrup or sorghum producer , beekeeper, or apple syrup or apple butter processor described in division (A) of section [3715.021](#) of the Revised Code.

(12) An establishment that, with respect to offering food for sale, offers only alcoholic beverages or prepackaged beverages that are not potentially hazardous;

(13) An establishment that, with respect to offering food for sale, offers only alcoholic beverages, prepackaged beverages that are not potentially hazardous, or commercially prepackaged food that is not potentially hazardous, on the condition that the commercially prepackaged food is contained in displays, the total space of which equals less than two hundred cubic feet on the premises of the establishment;

(14) An establishment that, with respect to offering food for sale, offers only fountain beverages that are not potentially hazardous;

(15) A person who offers for sale only one or more of the following foods at a festival or celebration, on the condition that the festival or celebration is organized by a political subdivision of the state and lasts for a period not longer than seven consecutive days:

(a) Fresh unprocessed fruits or vegetables;

(b) Products of a cottage food production operation;

(c) Maple syrup, sorghum, honey, apple syrup, or apple butter if produced by a maple syrup or sorghum processor, beekeeper, or apple syrup or apple butter processor as described in division (A) of section [3715.021](#) of the Revised Code;

(d) Commercially prepackaged food that is not potentially hazardous, on the condition that the food is contained in displays, the total space of which equals less than one hundred cubic feet;

(e) Fruit butter produced at the festival or celebration and sold from the production site.

(16) A farm market on the condition that it is registered with the director pursuant to section [3717.221](#) of the Revised Code that offers for sale at the farm market only one or more of the following:

(a) Fresh unprocessed fruits or vegetables;

(b) Products of a cottage food production operation;

(c) Maple syrup, sorghum, honey, apple syrup, or apple butter that is produced by a maple syrup or sorghum producer, beekeeper, or apple syrup or apple butter processor described in division (A) of section [3715.021](#) of the Revised Code;

(d) Commercially prepackaged food that is not potentially hazardous, on the condition that the food is contained in displays, the total space of which equals less than one hundred cubic feet on the premises where the person conducts business at the farm market;

(e) Cider and other juices manufactured on site at the farm market;

(f) The products or items described in divisions (B)(8) to (10) of this section, on the condition that those products or items were produced by the person offering to sell them, and further conditioned that, with respect to eggs offered, the person offering to sell them annually maintains five hundred or fewer birds, and with respect to dressed chickens offered, the person annually raises and slaughters one thousand or fewer chickens.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Amended by 131st General Assembly File No. TBD, HB 178, §1, eff. 9/14/2016.

Amended by 129th General Assembly File No.42, HB 229, §1, eff. 10/17/2011.

Effective Date: 11-21-2001 .

**3717.221 Voluntary registration of farm market, farmers market, or farm product auction.**

(A) Any of the following may register with the director of agriculture:

- (1) A farm market, which is a location where a producer offers fruits, vegetables, and other items for sale;
- (2) A farmers market, which is a location where producers congregate to offer fruits, vegetables, and other items for sale;
- (3) A farm product auction, which is a location where agricultural products, including food products, are offered for sale at auction.

(B) The director shall inspect each farm market, farmers market, and farm product auction that registers under this section. Inspections shall occur at a frequency considered appropriate by the director and shall be conducted in accordance with sanitation standards established in rules adopted under this section.

(C) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to administer this section.

Effective Date: 11-21-2001.

**3717.23 Applying for license or renewal of license.**

(A) Each person or government entity seeking a retail food establishment license or the renewal of a license shall apply to the appropriate licensor on a form provided by the licensor. A licensor shall use a form prescribed and furnished to the licensor by the director of agriculture or a form prescribed by the licensor that has been approved by the director. The applicant shall include with the application all information necessary for the licensor to process the application, as requested by the licensor.

An application for a retail food establishment license, other than an application for a mobile retail food establishment license, shall be submitted to the licensor for the health district in which the retail food establishment is located. An application for a mobile retail food establishment license shall be submitted to the licensor for the health district in which the applicant's business headquarters are located, or, if the headquarters are located outside this state, to the licensor for the district where the applicant will first operate in this state.

(B) The licensor shall review all applications received. The licensor shall issue a license for a new retail food establishment when the applicant submits a complete application and the licensor determines that the applicant meets all other requirements of this chapter and the rules adopted under it for receiving the license. The licensor shall issue a renewed license on receipt of a complete renewal application.

The licensor shall issue licenses for retail food establishments on forms prescribed and furnished by the director of agriculture. If the license is for a mobile retail food establishment, the licensor shall post the establishment's layout, equipment, and items to be sold on the back of the license.



A mobile retail food establishment license issued by one licensor shall be recognized by all other licensors in this state.

(C)

(1) A retail food establishment license expires at the end of the licensing period for which the license is issued, except as follows:

(a) A license issued to a new retail food establishment after the first day of December does not expire until the end of the licensing period next succeeding issuance of the license.

(b) A temporary retail food establishment license expires at the end of the period for which it is issued.

(2) All retail food establishment licenses remain valid until scheduled to expire unless earlier suspended or revoked under section [3717.29](#) or [3717.30](#) of the Revised Code.

(D) A retail food establishment license may be renewed, except that a temporary retail food establishment license is not renewable. A person or government entity seeking license renewal shall submit an application for renewal to the licensor not later than the first day of March, except in the case of a mobile or seasonal retail food establishment, when the renewal application shall be submitted before commencing operation in a new licensing period. A licensor may renew a license prior to the first day of March or the first day of operation in a new licensing period, but not before the first day of February immediately preceding the licensing period for which the license is being renewed.

If a person or government entity does not file a renewal application with the licensor postmarked on or before the first day of March or, in the case of a mobile or seasonal retail food establishment, the first day of operation in a new licensing period, the licensor shall assess a penalty if the licensor charges a license renewal fee. The amount of the penalty shall be twenty-five per cent of the fee charged for renewing the license. If an applicant is subject to a penalty, the licensor shall not renew the license until the applicant pays the penalty.

(E)

(1) A licensor may issue not more than ten temporary retail food establishment licenses per licensing period to the same person or government entity to operate at different events within the licensor's jurisdiction. For each particular event, a licensor may issue only one temporary retail food establishment license to the same person or government entity.

(2) A licensor may issue a temporary retail food establishment license to operate for more than five consecutive days if both of the following apply:

(a) The establishment will be operated at an event organized by a county agricultural society or independent agricultural society organized under Chapter 1711. of the Revised Code.

(b) The person who will receive the license is a resident of the county or one of the counties for which the agricultural society was organized.

(3) A person may be granted only one temporary retail food establishment license per licensing period pursuant to division (E)(2) of this section.

(F) The licensor may place restrictions or conditions on a retail food establishment license, based on the equipment or facilities of the establishment, limiting the types of food that may be stored,

processed, prepared, manufactured, or otherwise held or handled for retail sale. Limitations pertaining to a mobile retail food establishment shall be posted on the back of the license.

(G) The person or government entity holding a license for a retail food establishment shall display the license for that retail food establishment at all times at the licensed location.

(H) With the assistance of the department of agriculture, the licensor, to the extent practicable, shall computerize the process for licensing retail food establishments.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 11-21-2001 .

### **3717.24 License endorsement to provide food service operation services.**

(A) The person or government entity holding a license for a retail food establishment may provide the services of a food service operation within the retail food establishment without obtaining a food service operation license if the person or entity has received from the licensor of retail food establishments an endorsement to provide the services of a food service operation.

(B) When the activities of a retail food establishment and a food service operation are carried on within the same facility by the same person or government entity, the determination of whether the person or entity must be licensed as a retail food establishment or food service operation shall be made according to the primary business of the person or entity. If the primary business is that of a retail food establishment, the person or entity shall be licensed as a retail food establishment operation with an endorsement from the licensor issued under this section to provide the services of a food service operation. If the primary business is that of a food service operation, the person or entity shall be licensed as a food service operation and is subject to the endorsement provisions of section [3717.44](#) of the Revised Code.

The licensor of retail food establishments and food service operations for the area in which a facility is located shall make the determination of whether the primary business carried on within a facility is that of a retail food establishment or food service operation. If the licensor of retail food establishments for the area is not the same as the licensor of food service operations, the determination shall be made jointly by both licensors. Each determination shall be made according to criteria specified in the Ohio uniform food safety code.

(C) A request to have a retail food establishment license include an endorsement may be submitted with an application for issuance or renewal of a retail food establishment or may be submitted separately. Procedures for making separate requests shall be the same as the license application procedures established under section [3717.23](#) of the Revised Code.

An endorsement may be suspended or revoked in the same manner as a license may be suspended or revoked under section [3717.29](#) or [3717.30](#) of the Revised Code. The suspension or revocation of an endorsement does not affect the retail food establishment license that includes the endorsement. If the retail food establishment license is suspended or revoked, the endorsement included on the license is also suspended or revoked.

(D) If a food service operation is operated within a retail food establishment by a person or government entity other than the person or entity holding the license to operate the retail food

establishment, the food service operation may not be operated under an endorsement issued under this section. The operation shall be licensed as a separate food service operation.

Effective Date: 02-01-2001.

### **3717.25 Fees.**

(A) A licensor may charge fees for issuing and renewing retail food establishment licenses. Any licensing fee charged shall be used solely for the administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to retail food establishments.

Any licensing fee charged under this section shall be based on the licensor's costs of regulating retail food establishments, as determined according to the uniform methodologies established under section [3717.07](#) of the Revised Code. If the licensor is a board of health, a fee may be disapproved by the district advisory council in the case of a general health district or the legislative authority of the city in the case of a city health district. A disapproved fee shall not be charged by the board of health.

Except when a licensing fee is established as an emergency measure, the licensor shall hold a public hearing regarding the proposed fee. At least twenty days prior to holding a public hearing, the licensor shall give written notice of the hearing to each person or government entity holding a retail food establishment license that may be affected by the proposed fee. The notice shall be mailed to the last known address of the licensee and shall specify the date, time, and place of the hearing and the amount of the proposed fee. On request, the licensor shall provide the completed uniform methodology used in the calculation of the licensor's costs and the proposed fee.

(B) In addition to licensing fees, a licensor may charge fees for any of the following:

(1) Review of facility layout and equipment specifications pertaining to retail food establishments, other than mobile and temporary retail food establishments;

(2) Any necessary collection and bacteriological examination of samples from retail food establishments or similar services specified in rules adopted under this chapter by the director of agriculture;

(3) Attendance at a course of study offered by the licensor in food protection as it pertains to retail food establishments, if the course is approved under section [3717.09](#) of the Revised Code.

(C)

(1) The director may determine by rule an amount to be collected from applicants for retail food establishment licenses for use by the director in administering and enforcing the provisions of this chapter and the rules adopted under it applicable to retail food establishments. Licensors shall collect the amount prior to issuing an applicant's new or renewed license. If a licensing fee is charged under this section, the licensor shall collect the amount at the same time the fee is collected. Licensors are not required to provide notice or hold public hearings regarding amounts to be collected .

(2) A licensor shall certify the amount collected under division (C)(1) of this section and transmit the amount to the treasurer of state according to the following schedule:

(a) For amounts received by the licensor on or after the first day of January but not later than the thirty-first day of March, transmit the amounts not later than the fifteenth day of May;

(b) For amounts received by the licensor on or after the first day of April but not later than the thirtieth day of June, transmit the amounts not later than the fifteenth day of August;

(c) For amounts received by the licensor on or after the first day of July but not later than the thirtieth day of September, transmit the amounts not later than the fifteenth day of November;

(d) For amounts received by the licensor on or after the first day of October but not later than the thirty-first day of December, transmit the amounts not later than the fifteenth day of February of the following year.

(3) All amounts received under division (C)(2) of this section shall be deposited into the food safety fund created in section [915.24](#) of the Revised Code. The director shall use the amounts solely for the administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to retail food establishments.

(4) When adopting rules regarding the amounts collected under division (C)(1) of this section, the director shall make available during the rule making process the current and projected expenses of administering and enforcing the provisions of this chapter and the rules adopted under it applicable to retail food establishments and the total of all amounts that have been deposited in the food safety fund pursuant to division (C)(3) of this section.

Amended by 128th General Assembly File No.9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 11-21-2001 .

### **3717.26 Transfer of license.**

(A) A licensor may transfer a retail food establishment license under either of the following circumstances:

(1) The sale or disposition of the retail food establishment;

(2) The relocation of the retail food establishment.

(B) A person or government entity may request to receive a retail food establishment license by transfer. A licensor may transfer a license only on determining that the person or government entity requesting the transfer is in compliance with the provisions of this chapter and the rules adopted under it applicable to retail food establishments. In the case of the sale or disposition of a retail food establishment, the licensor may transfer a license only if the licensee consents to the transfer. A licensor may not transfer a license more than once in a licensing period. A license for a temporary retail food establishment is not transferable.

Effective Date: 11-03-1999.

### **3717.27 Inspections.**

(A) All inspections of retail food establishments conducted by a licensor under this chapter shall be conducted according to the procedures and schedule of frequency specified in rules adopted under section [3717.33](#) of the Revised Code. An inspection may be performed only by an individual registered as a sanitarian or sanitarian-in-training under Chapter 4736. of the Revised Code. Each inspection shall be recorded on a form prescribed and furnished by the director of agriculture or a form approved by the director that has been prescribed by a board of health acting as licensor. With the assistance of the

director, a board acting as licensor, to the extent practicable, shall computerize the inspection process and standardize the manner in which its inspections are conducted.

(B) A person or government entity holding a retail food establishment license shall permit the licensor to inspect the retail food establishment for purposes of determining compliance with this chapter and the rules adopted under it or investigating a complaint concerning the establishment. On request of the licensor, the license holder shall permit the licensor to examine the records of the retail food establishment to obtain information about the purchase, receipt, or use of food, supplies, and equipment.

A licensor may inspect any mobile retail food establishment being operated within the licensor's district. If an inspection of a mobile retail food establishment is conducted by a licensor other than the licensor that issued the license for the establishment, a report of the inspection shall be sent to the issuing licensor. The issuing licensor may use the inspection report to suspend or revoke the license under section [3717.29](#) or [3717.30](#) of the Revised Code.

(C) An inspection may include the following:

- (1) An investigation to determine the identity and source of a particular food;
- (2) Removal from use of any equipment, utensils, hand tools, or parts of facilities found to be maintained in a condition that presents a clear and present danger to the public health.

Effective Date: 11-21-2001.

### **3717.28 Confidentiality of information.**

Trade secrets and other forms of information that under this chapter are required to be furnished to or are procured by a licensor of retail food establishments shall be for the exclusive use and information of the licensor in the discharge of the licensor's official duties. The information shall not be open to the public or used in any action or proceeding in any court. If the licensor is a board of health, the board may share the information with the director of agriculture and director of health if the licensor is the director of agriculture, the director may share the information with the director of health.

The licensor shall maintain the confidentiality of the information, except that the information may be consolidated in statistical tables and published by the licensor in statistical form for the use and information of state and local agencies and the public, if the statistics do not disclose details about a particular person or government entity that provided information to the licensor. An individual employed by the licensor or assisting the licensor in the administration of the retail food establishment licensing requirements of this chapter shall not willfully divulge any information that is confidential under this section to any person or government entity other than the licensor or the individual's superior.

Effective Date: 11-03-1999.

### **3717.29 Board of health may suspend or revoke retail food establishment license.**

(A) This section applies when the licensor of retail food establishments is a board of health.

(B) A board of health may suspend or revoke a retail food establishment license on determining that the license holder is in violation of any requirement of this chapter or the rules adopted under it

applicable to retail food establishments, including a violation evidenced by documented failure to maintain sanitary conditions within the establishment.

(C)

(1) Except in the case of a violation that presents a clear and present danger to the public health, before initiating action to suspend or revoke a retail food establishment license, the board shall give the license holder written notice specifying each violation and a reasonable time within which the license holder must correct each violation to avoid suspension or revocation of the license. The board may extend the time specified in the notice for correcting a violation if the license holder is making a good faith effort to correct it.

If the license holder fails to correct the violation in the time granted by the board, the board may initiate action to suspend or revoke the retail food establishment license by giving the license holder written notice of the proposed suspension or revocation. The board shall include in the notice a description of the procedure for appealing the proposed suspension or revocation. The license holder may appeal the proposed suspension or revocation by giving written notice to the board. The license holder shall specify in the notice whether a hearing is requested. The appeal shall be conducted in accordance with division (C)(3) of this section.

A health commissioner or other person employed by the board, if the health commissioner or person is authorized by the board to take the action, may take any action that the board may take under division (C)(1) of this section.

(2) If a board initiates actions to revoke or, except in the case of a violation that presents a clear and present danger to the public health, to suspend a retail food establishment license, the board shall determine whether to revoke or suspend the license by a majority vote of the board members who are present at a meeting at which there is a quorum.

If the board decides to revoke or suspend the license, the board shall issue a formal written order revoking or suspending the license.

(3) An appeal made under division (C)(1) of this section shall be conducted in accordance with procedures established in rules adopted by the director of agriculture under section [3717.33](#) of the Revised Code. If a license holder requests a hearing, the board shall hold the hearing before issuing an order under division (C)(2) of this section but may hold the hearing at the same meeting at which issuance of the order is considered.

(D)

(1) On determining that a license holder is in violation of any requirement of this chapter or the rules adopted under it applicable to retail food establishments and that the violation presents a clear and present danger to the public health, the board may suspend the retail food establishment license without giving written notice or affording the license holder the opportunity to correct the violation. If the license holder is operating a mobile retail food establishment, either the licensor that issued the license or the licensor for the health district in which the establishment is being operated may suspend the license.

A suspension under division (D)(1) of this section takes effect immediately and remains in effect until the board rescinds the suspension. When a mobile retail food establishment license is suspended under this division, the licensor that suspended the license shall hold the license until the suspension is lifted

and the licensor receives from the license holder written notice of the next location at which the license holder proposes to operate the retail food establishment.

After suspending a license under division (D)(1) of this section, the licensor shall give the license holder written notice of the procedure for appealing the suspension. The license holder may appeal the suspension by giving written notice to the board and specifying in the notice whether a hearing is requested. The appeal shall be conducted in accordance with division (D)(2) of this section.

A health commissioner, if authorized by the board to take the action, may take any action that may be taken by the board under division (D)(1) of this section. A health commissioner who suspends a license under this authority, on determining that there is no longer a clear and present danger to the public health, may rescind the suspension without consulting the board.

(2) If the license holder appeals a suspension under division (D)(1) of this section, the board shall determine whether the clear and present danger to the public health continues to exist by majority vote of the board members who are present at a meeting at which there is a quorum.

If the board determines that there is no longer a clear and present danger to the public health, the board shall rescind the suspension. If the board determines that the clear and present danger continues to exist, the board shall issue an order continuing the suspension.

(3) An appeal requested under division (D)(1) of this section shall be conducted in accordance with procedures established in rules adopted by the director of agriculture under section [3717.33](#) of the Revised Code. If the license holder requests a hearing, the board shall hold the hearing not later than two business days after the board receives the request. The board shall hold the hearing before issuing an order under division (D)(2) of this section but may conduct the hearing at the same meeting at which issuance of the order is considered. In the case of a suspension of a mobile retail food establishment, the appeal shall be made to the licensor that suspended the license.

(E) A license holder may appeal an order issued under division (C) or (D) of this section to the common pleas court of the county in which the licensor is located.

Effective Date: 11-21-2001.

### **[3717.30 Director of agriculture may suspend or revoke retail food establishment license.](#)**

(A) This section applies when the licensor of retail food establishments is the director of agriculture.

(B) The director of agriculture may suspend or revoke a retail food establishment license on determining that a license holder is in violation of the provisions of this chapter or the rules adopted under it pertaining to retail food establishments, including a violation evidenced by documented failure to maintain sanitary conditions within the establishment. Except as provided in division (C)(9) of this section, the suspension or revocation of a license is not effective until the license holder is given written notice of the violation, a reasonable amount of time to correct the violation, and an opportunity for a hearing.

(C) All actions and proceedings undertaken pursuant to this section shall comply with Chapter 119. of the Revised Code, except as follows:

- (1) The location of any adjudicatory hearing that the license holder requests shall be the director's offices in Licking county.
- (2) The director shall notify a license holder by certified mail or personal delivery that the license holder is conditionally entitled to a hearing. The director shall specify in the notice that, in order to obtain a hearing, the license holder must request the hearing not later than ten days after the date of receipt of the notice.
- (3) If the license holder requests a hearing, the date set for the hearing shall be not later than ten days after the date on which the director receives the request, unless the director and the license holder agree otherwise.
- (4) The director shall not postpone or continue an adjudication hearing without the consent of the license holder. If the license holder requests a postponement or continuation of an adjudication hearing, the director shall not grant it unless the license holder demonstrates that an extreme hardship will be incurred in holding the adjudication hearing on that hearing date. If the director grants a postponement or continuation on the grounds of extreme hardship, the record shall document the nature and cause of the extreme hardship.
- (5) In lieu of having a hearing and upon the license holder's written request to the director, the license holder may submit to the director, not later than the date of the hearing set pursuant to division (C)(3) of this section, documents, papers, and other written evidence to support the license holder's claim.
- (6) If the director appoints a referee or examiner to conduct the hearing, the following apply:
  - (a) A copy of the written adjudication report and recommendations of the referee or examiner shall be served by certified mail upon the director and the license holder not later than three business days following the conclusion of the hearing.
  - (b) Not later than three business days after receipt of the report and recommendations, the license holder may file with the director written objections to the report and recommendations.
  - (c) The director shall consider the objections submitted by the license holder before approving, modifying, or disapproving the report and recommendations. The director shall serve the director's order upon the license holder by certified mail not later than six business days after receiving the report and recommendations.
- (7) If the director conducts the hearing, the director shall serve the director's decision by certified mail upon the license holder not later than three business days following the close of the hearing.
- (8) If no hearing is held, the director shall issue an order by certified mail to the license holder not later than three business days following the last date possible for a hearing, based on the record that is available.
- (9) If the director determines that an emergency exists that presents a clear and present danger to the public health, the director may suspend a license, effective without a hearing. Thereafter, without delay, the director shall afford the license holder an opportunity for hearing. On determining that there is no longer a clear and present danger to the public health, the director may rescind the suspension without a hearing.

Effective Date: 11-03-1999.



### **3717.31 Prosecution and other remedies when board of health is licensor.**

(A) This section applies when the licensor of retail food establishments is a board of health.

As used in this section, "prosecutor" has the same meaning as in section [2935.01](#) of the Revised Code.

(B) At the request of the board of health, the prosecutor with jurisdiction in the area where a person allegedly has violated section [3717.21](#) of the Revised Code shall commence a criminal prosecution against the person.

At the request of a board of health, the director of agriculture shall provide enforcement support to assist in the prosecution of a person who is not in compliance with the provisions of this chapter and the rules adopted under it applicable to retail food establishments. Requests shall be made and assistance shall be provided in accordance with rules adopted by the director of agriculture under section [3717.33](#) of the Revised Code.

(C) At the request of the board of health, the prosecutor with jurisdiction in the area where a person or government entity allegedly has failed to comply with a requirement of this chapter or the rules adopted under it applicable to retail food establishments shall commence in common pleas court an action requesting the issuance of a temporary restraining order or a preliminary or permanent injunction or a mandamus action regarding the act of noncompliance. The court may grant the appropriate relief if it is shown that the respondent failed to comply with the requirement.

Notwithstanding the penalties established in section [2705.05](#) of the Revised Code, a person or government entity found to be in contempt of court for failing to comply with a restraining order, injunction, or writ of mandamus issued pursuant to this division shall be fined not more than one thousand dollars for each offense. Each day the noncompliance continues is a separate offense.

(D) Fifty per cent of all fines collected under this section shall be deposited in an appropriate fund created for the board's use in administering the provisions of this chapter and the rules adopted under it applicable to retail food establishments. The remaining fifty per cent shall be credited to the general fund of the political subdivision in which the case is prosecuted.

(E) The remedies available under this section are in addition to any other remedies available under the law.

Effective Date: 11-03-1999.

### **3717.32 Injunction.**

(A) This section applies when the licensor of retail food establishments is the director of agriculture.

(B) In addition to other remedies provided by law and irrespective of whether an adequate remedy at law exists, the director of agriculture may apply to the court of common pleas for a temporary or permanent injunction or other appropriate relief concerning the violation of a provision of this chapter or the rules adopted under it pertaining to retail food establishments. Application shall be made to the court in the county in which the violation occurs.

Notwithstanding the penalties established in section [2705.05](#) of the Revised Code, a person or government entity found to be in contempt of court for failing to comply with an injunction or other relief issued pursuant to this division shall be fined not more than one thousand dollars. Each day the noncompliance continues is a separate offense.

(C) Fifty per cent of all fines collected under this section shall be deposited into the state treasury to the credit of the food safety fund created in section [915.24](#) of the Revised Code. The remaining fifty per cent shall be credited to the general fund of the political subdivision in which the case is prosecuted.

Effective Date: 11-03-1999.

### **3717.33 Rules.**

Pursuant to section [3717.04](#) of the Revised Code, the director of agriculture shall adopt rules regarding the following:

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

(B) Standards for collection of food samples from retail food establishments for purposes of identifying adulteration and misbranding;

(C) Records to be generated and maintained by licensed retail food establishments;

(D) Appeals of proposed suspensions and revocations of retail food establishment licenses and appeals of suspensions of licenses issued for violations presenting a clear and present danger to the public health;

(E) Standards and procedures, including a schedule of frequency, for conducting inspections of retail food establishments;

(F) Standards and procedures for determining during an inspection whether articles should be removed from use because of a clear and present danger to the public health;

(G) Standards and procedures for conducting investigations of complaints pertaining to retail food establishments;

(H) Surveys conducted by the director to determine whether boards of health are qualified and have the capacity to administer and enforce the provisions of this chapter and the rules adopted under it applicable to retail food establishments and to abide by the Ohio uniform food safety code;

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

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

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

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

Effective Date: 11-03-1999.

**3717.34, 3717.35 [Repealed].**

Effective Date: 10-21-1997.

**3717.36 [Repealed].**

Effective Date: 06-10-1968.

**3717.37 [Repealed].**

Effective Date: 10-21-1997.

**3717.38, 3717.39 [Repealed].**

Effective Date: 06-20-1994.

**3717.40 [Repealed].**

Effective Date: 10-21-1997.

**3717.41 License required for food service operation - separate licenses.**

Except as provided in section [3717.42](#) of the Revised Code, no person or government entity shall operate a food service operation without a license. A separate license is required for each food service operation a person or government entity operates.

No person or government entity shall fail to comply with any other requirement of this chapter applicable to food service operations.

Effective Date: 11-03-1999.

**3717.42 Exclusions - exemptions from license requirement.**

(A) The following are not food service operations:

(1) A retail food establishment licensed under this chapter, including a retail food establishment that provides the services of a food service operation pursuant to an endorsement issued under section [3717.24](#) of the Revised Code;

(2) An entity exempt from the requirement to be licensed as a retail food establishment under division (B) of section [3717.22](#) of the Revised Code;

(3) A business or that portion of a business that is regulated by the federal government or the department of agriculture as a food manufacturing or food processing business, including a business or that portion of a business regulated by the department of agriculture under Chapter 911., 913., 915., 917., 918., or 925. of the Revised Code.

(B) All of the following are exempt from the requirement to be licensed as a food service operation:

(1) A private home in which individuals related by blood, marriage, or law reside and in which the food that is prepared or served is intended only for those individuals and their nonpaying guests;

- (2) A private home operated as a bed-and-breakfast that prepares and offers food to guests, if the home is owner-occupied, the number of available guest bedrooms does not exceed six, breakfast is the only meal offered, and the number of guests served does not exceed sixteen;
- (3) A stand operated on the premises of a private home by one or more children under the age of twelve, if the food served is not potentially hazardous;
- (4) A residential facility that accommodates not more than sixteen residents; is licensed, certified, registered, or otherwise regulated by the federal government or by the state or a political subdivision of the state; and prepares food for or serves food to only the residents of the facility, the staff of the facility, and any nonpaying guests of residents or staff;
- (5) A church, school, fraternal or veterans' organization, volunteer fire organization, or volunteer emergency medical service organization preparing or serving food intended for individual portion service on its premises for not more than seven consecutive days or not more than fifty-two separate days during a licensing period. This exemption extends to any individual or group raising all of its funds during the time periods specified in division (B)(5) of this section for the benefit of the church, school, or organization by preparing or serving food intended for individual portion service under the same conditions.
- (6) A common carrier that prepares or serves food, if the carrier is regulated by the federal government;
- (7) A food service operation serving thirteen or fewer individuals daily;
- (8) A type A or type B family day-care home, as defined in section [5104.01](#) of the Revised Code, that prepares or serves food for the children receiving day-care;
- (9) A vending machine location where the only foods dispensed are foods from one or both of the following categories:
- (a) Prepackaged foods that are not potentially hazardous;
  - (b) Nuts, panned or wrapped bulk chewing gum, or panned or wrapped bulk candies.
- (10) A place servicing the vending machines at a vending machine location described in division (B)(9) of this section;
- (11) A commissary servicing vending machines that dispense only milk, milk products, or frozen desserts that are under a state or federal inspection and analysis program;
- (12) A "controlled location vending machine location," which means a vending machine location at which all of the following apply:
- (a) The vending machines dispense only foods that are not potentially hazardous;
  - (b) The machines are designed to be filled and maintained in a sanitary manner by untrained persons;
  - (c) Minimal protection is necessary to ensure against contamination of food and equipment.
- (13) A private home that prepares and offers food to guests, if the home is owner-occupied, meals are served on the premises of that home, the number of meals served does not exceed one hundred

fifteen per week, and the home displays a notice in a place conspicuous to all of its guests informing them that the home is not required to be licensed as a food service operation;

(14) An individual who prepares full meals or meal components, such as pies or baked goods, in the individual's home to be served off the premises of that home, if the number of meals or meal components prepared for that purpose does not exceed twenty in a seven-day period.

Effective Date: 09-26-2003.

**3717.43 Application for license or renewal required - temporary license - limitations, display.**

(A) Each person or government entity requesting a food service operation license or the renewal of a license shall apply to the appropriate licensor on a form provided by the licensor. Licensors shall use a form prescribed and furnished to the licensor by the director of health or a form prescribed by the licensor that has been approved by the director. The applicant shall include with the application all information necessary for the licensor to process the application, as requested by the licensor.

An application for a food service operation license, other than an application for a mobile or catering food service operation license, shall be submitted to the licensor for the health district in which the food service operation is located. An application for a mobile food service operation license shall be submitted to the licensor for the health district in which the applicant's business headquarters are located, or, if the headquarters are located outside this state, to the licensor for the district where the applicant will first operate in this state. An application for a catering food service operation license shall be submitted to the licensor for the district where the applicant's base of operation is located.

(B) The licensor shall review all applications received. The licensor shall issue a license for a new food service operation when the applicant submits a complete application and the licensor determines that the applicant meets all other requirements of this chapter and the rules adopted under it for receiving the license. The licensor shall issue a renewed license on receipt of a complete renewal application.

The licensor shall issue licenses for food service operations on forms prescribed and furnished by the director of health. If the license is for a mobile food service operation, the licensor shall post the operation's layout, equipment, and menu on the back of the license.

A mobile or catering food service operation license issued by one licensor shall be recognized by all other licensors in this state.

(C)

(1) A food service operation license expires at the end of the licensing period for which the license is issued, except as follows:

(a) A license issued to a new food service operation after the first day of December shall not expire until the end of the licensing period next succeeding issuance of the license.

(b) A temporary food service operation license expires at the end of the period for which it is issued.

(2) All food service operation licenses remain valid until they are scheduled to expire unless earlier suspended or revoked under section [3717.49](#) of the Revised Code.

(D) A food service operation license may be renewed, except that a temporary food service operation license is not renewable. A person or government entity seeking license renewal shall submit an application for renewal to the licensor not later than the first day of March, except that in the case of a mobile or seasonal food service operation the renewal application shall be submitted before commencing operation in a new licensing period. A licensor may renew a license prior to the first day of March or the first day of operation in a new licensing period, but not before the first day of February immediately preceding the licensing period for which the license is being renewed.

If a renewal application is not filed with the licensor or postmarked on or before the first day of March or, in the case of a mobile or seasonal food service operation, the first day of operation in a new licensing period, the licensor shall assess a penalty if the licensor charges a license renewal fee. The amount of the penalty shall be twenty-five per cent of the renewal fee , . If an applicant is subject to a penalty, the licensor shall not renew the license until the applicant pays the penalty.

(E)

(1) A licensor may issue not more than ten temporary food service operation licenses per licensing period to the same person or government entity to operate at different events within the licensor's jurisdiction. For each particular event, a licensor may issue only one temporary food service operation license to the same person or government entity.

(2) A licensor may issue a temporary food service operation license to operate for more than five consecutive days if both of the following apply:

(a) The operation will be operated at an event organized by a county agricultural society or independent agricultural society organized under Chapter 1711. of the Revised Code;

(b) The person who will receive the license is a resident of the county or one of the counties for which the agricultural society was organized.

(3) A person may be granted only one temporary food service operation license per licensing period pursuant to division (E)(2) of this section.

(F) The licensor may place restrictions or conditions on a food service operation license limiting the types of food that may be prepared or served by the food service operation based on the equipment or facilities of the food service operation. Limitations pertaining to a mobile or catering food service operation shall be posted on the back of the license.

(G) The person or government entity holding a license for a food service operation shall display the license for that food service operation at all times at the licensed location. A person or government entity holding a catering food service operation license shall also maintain a copy of the license at each catered event.

(H) With the assistance of the department of health, the licensor, to the extent practicable, shall computerize the process for licensing food service operations.

Amended by 128th General Assembly File No.9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 11-21-2001 .

#### **3717.44 Endorsement to provide services of retail food establishment - determination of license required.**

(A) The person or government entity holding a license for a food service operation may provide the services of a retail food establishment within the food service operation without obtaining a retail food establishment license if the person or entity has received from the licensor of food service operations an endorsement to provide the services of a retail food establishment.

(B) When the activities of a food service operation and a retail food establishment are carried on within the same facility by the same person or government entity, the determination of whether the person or entity must be licensed as a food service operation or retail food establishment shall be made according to the primary business of the person or entity. If the primary business is that of a food service operation, the person or entity shall be licensed as a food service operation with an endorsement from the licensor issued under this section to provide the services of a retail food establishment. If the primary business is that of a retail food establishment, the person or entity shall be licensed as a retail food establishment and is subject to the endorsement provisions of section [3717.24](#) of the Revised Code.

The licensor of food service operations and retail food establishments for the area in which a facility is located shall make the determination of whether the primary business carried on within a facility is that of a food service operation or retail food establishment. If the licensor of food service operations for the area is not the same as the licensor of retail food establishments, the determination shall be made jointly by both licensors. Each determination shall be made according to criteria specified in the Ohio uniform food safety code.

(C) A request to have a food service operation license include an endorsement may be submitted with an application for issuance or renewal of a food service operation license or may be submitted separately. Procedures for making separate requests shall be the same as the license application procedures established under section [3717.43](#) of the Revised Code.

An endorsement may be suspended or revoked in the same manner as a license may be suspended or revoked under section [3717.48](#) of the Revised Code. The suspension or revocation of an endorsement does not affect the food service operation license that includes the endorsement. If the food service operation license is suspended or revoked, the endorsement included on the license is also suspended or revoked.

(D) If a retail food establishment is operated within a food service operation by a person or government entity other than the person or entity holding the license to operate the food service operation, the retail food establishment may not be operated under an endorsement. The establishment shall be licensed as a separate retail food establishment.

Effective Date: 02-01-2001.

#### **3717.45 Fees.**

(A) A licensor may charge fees for issuing and renewing food service operation licenses. Any licensing fee charged shall be used solely for the administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to food service operations.

Any licensing fee charged under this section shall be based on the licensor's costs of regulating food service operations, as determined according to the uniform methodologies established under section

[3717.07](#) of the Revised Code. If the licensor is a board of health, a fee may be disapproved by the district advisory council in the case of a general health district or the legislative authority of the city in the case of a city health district. A disapproved fee shall not be charged by the board of health.

Except when a licensing fee is established as an emergency measure, the licensor shall hold a public hearing regarding the proposed fee. At least twenty days prior to holding a public hearing, the licensor shall give written notice of the hearing to each person or government entity holding a food service operation license that may be affected by the proposed fee. The notice shall be mailed to the last known address of the licensee and shall specify the date, time, and place of the hearing and the amount of the proposed fee. On request, the licensor shall provide the completed uniform methodology used in the calculation of the licensor's costs and the proposed fee.

(B) In addition to licensing fees, a licensor may charge fees for the following:

- (1) Review of facility layout and equipment specifications pertaining to food service operations, other than mobile and temporary food service operations, or similar reviews conducted for vending machine locations;
- (2) Any necessary collection and bacteriological examination of samples from food service operations, or similar services specified in rules adopted under this chapter by the director of health ;
- (3) Attendance at a course of study offered by the licensor in food protection as it pertains to food service operations, if the course is approved under section [3717.09](#) of the Revised Code.

(C)

(1) The director may determine by rule an amount to be collected from applicants for food service operation licenses for use in administering and enforcing the provisions of this chapter and the rules adopted under it applicable to food service operations. Licensors shall collect the amount prior to issuing an applicant's new or renewed license. If a licensing fee is charged under this section, the licensor shall collect the amount at the same time the fee is collected. Licensors are not required to provide notice or hold public hearings regarding amounts to be collected.

(2) A licensor shall certify the amount collected under division (C)(1) of this section and transmit the amount to the treasurer of state according to the following schedule:

- (a) For amounts received by the licensor on or after the first day of January but not later than the thirty-first day of March, transmit the amounts not later than the fifteenth day of May;
- (b) For amounts received by the licensor on or after the first day of April but not later than the thirtieth day of June, transmit the amounts not later than the fifteenth day of August;
- (c) For amounts received by the licensor on or after the first day of July but not later than the thirtieth day of September, transmit the amounts not later than the fifteenth day of November;
- (d) For amounts received by the licensor on or after the first day of October but not later than the thirty-first day of December, transmit the amounts not later than the fifteenth day of February of the following year.

(3) All amounts received under division (C)(2) of this section shall be deposited into the general operations fund created in section [3701.83](#) of the Revised Code. The director shall use the amounts



solely for the administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to food service operations.

Amended by 129th General Assembly File No.127, HB 487, §101.01, eff. 9/10/2012.

Amended by 128th General Assembly File No.9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 11-03-1999 .

#### **3717.46 Transfer of license.**

(A) A food service operation license may be transferred by the licensor under either of the following circumstances:

- (1) The sale or disposition of the food service operation;
- (2) The relocation of the food service operation.

(B) A person or government entity may request to receive a food service operation license by transfer. A licensor may transfer a license only on determining that the person or government entity requesting the transfer is in compliance with the provisions of this chapter and the rules adopted under it applicable to food service operations. In the case of the sale or disposition of a food service operation, the license may not be transferred unless the licensee consents to the transfer. A license shall not be transferred more than once in a licensing period. Temporary food service operation licenses are not transferable.

Effective Date: 11-03-1999.

#### **3717.47 Inspections.**

(A) All inspections of food service operations conducted by a licensor under this chapter shall be conducted according to the procedures and schedule of frequency specified in rules adopted under section [3717.51](#) of the Revised Code. An inspection may be performed only by an individual registered as a sanitarian or sanitarian-in-training under Chapter 4736. of the Revised Code. Each inspection shall be recorded on a form prescribed and furnished by the director of health or a form approved by the director that has been prescribed by a board of health acting as licensor. With the assistance of the director, a board acting as licensor, to the extent practicable, shall computerize the inspection process and shall standardize the manner in which its inspections are conducted.

(B) A person or government entity holding a food service operation license shall permit the licensor to inspect the food service operation for purposes of determining compliance with this chapter and the rules adopted under it or investigating a complaint regarding foodborne disease. On request of the licensor, the license holder shall permit the licensor to examine the records of the food service operation to obtain information about the purchase, receipt, or use of food, supplies, and equipment.

A licensor may inspect any mobile food service operation or catering food service operation being operated within the licensor's district. If an inspection of a mobile or catering food service operation is conducted by a licensor other than the licensor that issued the license for the operation, a report of the inspection shall be sent to the issuing licensor. The issuing licensor may use the inspection report to suspend or revoke the license under section [3717.49](#) of the Revised Code.

(C) An inspection may include an investigation to determine the identity and source of a particular food.

Effective Date: 11-03-1999.

#### **3717.48 Confidentiality of information.**

Trade secrets and other forms of information that, under this chapter, are required to be furnished to or are procured by a licensor of food service operations shall be for the exclusive use and information of the licensor in the discharge of the licensor's official duties. The information shall not be open to the public or used in any action or proceeding in any court. If the licensor is a board of health, the board may share the information with the director of health and director of agriculture. If the licensor is the director of health, the director may share the information with the director of agriculture.

The licensor shall maintain the confidentiality of the information, except that the information may be consolidated in statistical tables and published by the licensor in statistical form for the use and information of state and local agencies and the public, if the statistics do not disclose details about a particular person or government entity that provided information to the licensor. An individual employed by the licensor or assisting the licensor in the administration of the food service operation licensing requirements of this chapter shall not willfully divulge any information that is confidential under this section to any person or government entity other than the licensor or the individual's superior.

Effective Date: 11-03-1999.

#### **3717.49 Licensor may suspend or revoke food service operation license.**

(A) A licensor may suspend or revoke a food service operation license on determining that the license holder is in violation of any requirement of this chapter or the rules adopted under it applicable to food service operations, including a violation evidenced by the documented failure to maintain sanitary conditions within the operation.

(B)

(1) Except in the case of a violation that presents an immediate danger to the public health, prior to initiating action to suspend or revoke a food service operation license, the licensor shall give the license holder written notice specifying each violation and a reasonable time within which each violation must be corrected to avoid suspension or revocation of the license. The licensor may extend the time specified in the notice for correcting a violation if the license holder is making a good faith effort to correct it.

If the license holder fails to correct the violation in the time granted by the licensor, the licensor may initiate action to suspend or revoke the food service operation license by giving the license holder written notice of the proposed suspension or revocation. The licensor shall include in the notice a description of the procedure for appealing the proposed suspension or revocation. The license holder may appeal the proposed suspension or revocation by giving written notice to the licensor. The license holder shall specify in the notice whether a hearing is requested. The appeal shall be conducted in accordance with division (B)(3) of this section.

Any action that may be taken by a licensor under division (B)(1) of this section may be taken by a health commissioner or other person employed by the licensor if the person or health commissioner is authorized by the licensor to take the action.

(2)

(a) If actions are initiated to revoke or, except in the case of a violation that presents an immediate danger to the public health, to suspend a food service operation license, the licensor shall determine whether to revoke or suspend the license as follows:

(i) If the licensor is a board of health, by a majority vote of the members of the board present at a meeting at which there is a quorum;

(ii) If the director of health is acting as the licensor, by decision of the director.

(b) If the licensor determines to revoke or suspend the license, the licensor shall issue an order revoking or suspending the license.

(3) An appeal made under division (B)(1) of this section shall be conducted in accordance with procedures established in rules adopted by the director of health under section [3717.52](#) of the Revised Code. If a hearing is requested, it shall be held prior to the issuance of an order under division (B)(2) of this section, but may be conducted at the meeting at which issuance of the order is considered.

(C)

(1) On determining that a license holder is in violation of any requirement of this chapter or the rules adopted under it applicable to food service operations and that the violation presents an immediate danger to the public health, the licensor may suspend the food service operation license without giving written notice or affording the license holder the opportunity to correct the violation. If the license holder is operating a mobile or catering food service operation, either the licensor that issued the license or the licensor for the health district in which the operation is being operated may suspend the license.

A suspension under division (C)(1) of this section takes effect immediately and remains in effect until the licensor lifts the suspension. When a mobile food service operation license is suspended under this division, the licensor that suspended the license shall hold the license until the suspension is lifted and the licensor receives from the license holder written notice of the next location at which the license holder proposes to operate the food service operation.

After suspending a license under division (C) (1) of this section, the licensor shall give the license holder written notice of the procedure for appealing the suspension. The license holder may appeal the suspension by giving written notice to the licensor and specifying in the notice whether a hearing is requested. The appeal shall be conducted in accordance with division (C)(2) of this section.

Any action that may be taken by a licensor under division (C)(1) of this section may be taken by a health commissioner if the health commissioner is authorized by the licensor to take the action. A health commissioner who suspends a license under this authority may, on determining that there is no longer an immediate danger to the public health, lift the suspension without consulting the licensor.

(2)

(a) If the license holder appeals a suspension under division (C)(1) of this section, the licensor shall determine whether the immediate danger to the public health continues to exist as follows:

(i) If the licensor is a board of health, by majority vote of the members of the board present at a meeting at which there is a quorum;

(ii) If the director of health is acting as the licensor, by decision of the director.

(b) If the licensor determines that there is no longer an immediate danger to the public health, the licensor shall lift the suspension. If the licensor determines that the immediate danger continues to exist, the licensor shall issue an order continuing the suspension.

(3) An appeal requested under division (C)(1) of this section shall be conducted in accordance with procedures established in rules adopted by the director of health under section [3717.52](#) of the Revised Code. If a hearing is requested, it shall be held not later than two business days after the request is received by the licensor. The hearing shall be held prior to the issuance of an order under division (C)(2) of this section, but may be conducted at the meeting at which issuance of the order is considered. In the case of a suspension of a mobile or catering food service operation license, the appeal shall be made to the licensor that suspended the license.

(D) A license holder may appeal an order issued under division (B) or (C) of this section as follows:

(1) If the order was issued by a board of health, to the common pleas court of the county in which the licensor is located;

(2) If the order was issued by the director of health, to the Franklin county court of common pleas.

Effective Date: 11-03-1999.

### **3717.50 Prosecution and other remedies for violations.**

(A) As used in this section, "prosecutor" has the same meaning as in section [2935.01](#) of the Revised Code.

(B) At the request of the licensor, when a person allegedly has violated section [3717.41](#) of the Revised Code, a criminal prosecution shall be commenced against the person. If the licensor is the director of health, the prosecution shall be commenced by the attorney general. If the licensor is a board of health, the prosecution shall be commenced by the prosecutor with jurisdiction in the area where the alleged violation occurred.

At the request of a board of health acting as licensor, the director of health shall provide enforcement support to assist in the prosecution of a person who is not in compliance with the provisions of this chapter and the rules adopted under it applicable to food service operations. Requests shall be made and assistance shall be provided in accordance with rules adopted by the director of health under section [3717.52](#) of the Revised Code.

(C) At the request of the licensor, the attorney general or the prosecutor with jurisdiction in the area where a person or government entity allegedly has failed to comply with a requirement of this chapter or the rules adopted under it applicable to food service operations shall commence in common pleas court an action requesting the issuance of a temporary restraining order or a preliminary or permanent injunction or a mandamus action regarding the act of noncompliance. The court may grant the appropriate relief if it is shown that the respondent failed to comply with the requirement.

Notwithstanding the penalties established in section [2705.05](#) of the Revised Code, a person or government entity found to be in contempt of court for failing to comply with a restraining order, injunction, or writ of mandamus issued pursuant to this division shall be fined not more than one thousand dollars for each offense. Each day the noncompliance continues is a separate offense.

(D) Of the fines collected under this section, if the licensor is a board of health, fifty per cent shall be deposited in an appropriate fund created for the board's use in administering the provisions of this chapter and the rules adopted under it applicable to food service operations; if the licensor is the director of health, fifty per cent shall be deposited in the general operations fund created under section [3701.83](#) of the Revised Code. The remaining fifty per cent shall be credited to the general fund of the political subdivision in which the case is prosecuted.

(E) The remedies available under this section are in addition to any other remedies available under the law.

Effective Date: 11-03-1999.

### **3717.51 Director of health to adopt rules.**

Pursuant to section [3717.04](#) of the Revised Code, the director of health shall adopt rules regarding food service operations, as follows:

(A) Licensing categories for food service operations and licensing requirements for each category;

(B) Standards and procedures, including a schedule of frequency, for conducting inspections of food service operations;

(C) Standards and procedures for conducting investigations of complaints pertaining to food service operations;

(D) Procedures to be used by the director of health in approving courses of study for persons seeking certification in food protection, standards that must be met to receive and maintain the director's approval, and procedures for withdrawing the director's approval of a course if the standards for approval are no longer being met;

(E) Standards for the provision of assistance to choking victims;

(F) Any other matter the director considers relevant to the administration and enforcement of the provisions of this chapter applicable to food service operations.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 11-03-1999 .

### **3717.52 Director of health to adopt rules.**

Pursuant to section [3717.04](#) of the Revised Code, the director of health shall adopt rules establishing procedures for the following:

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

(B) Surveys conducted by the director to determine whether boards of health are qualified and have the capacity to administer and enforce the provisions of this chapter and the rules adopted under it applicable to food service operations and to abide by the Ohio uniform food safety code;

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

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

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

Effective Date: 11-03-1999.

### **3717.53 Provision of food nutrition information and consumer incentive items.**

(A) As used in this section:

(1) "Food nutrition information" includes, but is not limited to, the caloric, fat, carbohydrate, cholesterol, fiber, sugar, potassium, protein, vitamin, mineral, allergen, and sodium content of food. "Food nutrition information" also includes the designation of food as healthy or unhealthy.

(2) "Political subdivision" and "local legislation" have the same meanings as in section 905.503 of the Revised Code.

(3) "Consumer incentive item" means any licensed media character, toy, game, trading card, contest, point accumulation, club membership, admission ticket, token, code or password for digital access, coupon, voucher, incentive, crayons, coloring placemat, or other premium, prize, or consumer product that is associated with a meal served by or acquired from a food service operation.

(B) The director of agriculture has sole and exclusive authority in this state to regulate the provision of food nutrition information and consumer incentive items at food service operations. The director may adopt rules for that purpose in accordance with Chapter 119. of the Revised Code, including rules that establish a schedule of civil penalties for violations of this section and rules adopted under it. Subject to the approval of the joint committee on agency rule review, portions of the rules may be adopted by referencing all or any part of any federal regulations pertaining to the provision of food nutrition information and consumer incentive items.

The regulation of the provision of food nutrition information and consumer incentive items at food service operations and how food service operations are characterized are matters of general statewide interest that require statewide regulation, and rules adopted under this section constitute a comprehensive plan with respect to all aspects of the regulation of the provision of food nutrition information and consumer incentive items at food service operations in this state. Rules adopted under this section shall be applied uniformly throughout this state.

(C) No political subdivision shall do any of the following:

(1) Enact, adopt, or continue in effect local legislation relating to the provision or nonprovision of food nutrition information or consumer incentive items at food service operations;

- (2) Condition a license, a permit, or regulatory approval on the provision or nonprovision of food nutrition information or consumer incentive items at food service operations;
- (3) Ban, prohibit, or otherwise restrict food at food service operations based on the food nutrition information or on the provision or nonprovision of consumer incentive items;
- (4) Condition a license, a permit, or regulatory approval for a food service operation on the existence or nonexistence of food-based health disparities;
- (5) Where food service operations are permitted to operate, ban, prohibit, or otherwise restrict a food service operation based on the existence or nonexistence of food-based health disparities as recognized by the department of health, the national institute of health, or the centers for disease control.

Amended by 130th General Assembly File No. TBD, SB 150, §1, eff. 8/21/2014.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 2007 HB217 03-24-2008

**3717.54, 3717.55 [Repealed].**

Effective Date: 10-21-1997.

**3717.61 to 3717.69 [Repealed].**

Effective Date: 10-21-1997.

**3717.99 Penalty.**

Whoever violates section [3717.21](#) or [3717.41](#) of the Revised Code is guilty of a misdemeanor of the third degree on a first offense; for a second offense or subsequent offense, such person is guilty of a misdemeanor of the second degree. Each day the violation continues is a separate offense.

Effective Date: 11-03-1999.

## **Chapter 3707: BOARD OF HEALTH**

### **3707.01 Powers of board - abatement of nuisances.**

The board of health of a city or general health district shall abate and remove all nuisances within its jurisdiction. It may, by order, compel the owners, agents, assignees, occupants, or tenants of any lot, property, building, or structure to abate and remove any nuisance therein, and prosecute such persons for neglect or refusal to obey such orders. Except in cities having a building department, or otherwise exercising the power to regulate the erection of buildings, the board may regulate the location, construction, and repair of water closets, privies, cesspools, sinks, plumbing, and drains. In cities having such departments or exercising such power, the legislative authority, by ordinance, shall prescribe such rules and regulations as are approved by the board and shall provide for their enforcement.

The board may regulate the location, construction, and repair of yards, pens, and stables, and the use, emptying, and cleaning of such yards, pens, and stables and of water closets, privies, cesspools, sinks, plumbing, drains, or other places where offensive or dangerous substances or liquids are or may accumulate.

When a building, erection, excavation, premises, business, pursuit, matter, or thing, or the sewerage, drainage, plumbing, or ventilation thereof is, in the opinion of the board, in a condition dangerous to life or health, and when a building or structure is occupied or rented for living or business purposes and sanitary plumbing and sewerage are feasible and necessary, but neglected or refused, the board may declare it a public nuisance and order it to be removed, abated, suspended, altered, or otherwise improved or purified by the owner, agent, or other person having control thereof or responsible for such condition, and may prosecute him for the refusal or neglect to obey such order. The board may, by its officers and employees, remove, abate, suspend, alter, or otherwise improve or purify such nuisance and certify the costs and expense thereof to the county auditor, to be assessed against the property and thereby made a lien upon it and collected as other taxes.

Effective Date: 10-01-1953.

### **3707.011 Railroad rights-of-way to be kept free of dangerous refuse.**

(A) As used in this section, "railroad company" means a suburban railroad company or an interurban railroad company, as those terms are defined in section [4905.03](#) of the Revised Code.

(B) A railroad company shall maintain railroad rights-of-way that it owns or controls and that are located within a city and within unincorporated areas of townships surrounded by the city in such condition as to keep them free of refuse of any kind or quantity reasonably expected to be dangerous to life or health, including at least garbage, bottles or other containers, and paper. Failure to so maintain such rights-of-way is a nuisance subject to this chapter.

(C) A railroad company may bring a civil action to recover its costs in complying with this section, including attorney's fees, from the persons or entities responsible for depositing refuse on the rights-of-way.

Effective Date: 11-28-1991.



### **3707.02 Proceedings when order of board is neglected or disregarded.**

When an order of the board of health of a city or general health district, made pursuant to section [3707.01](#) of the Revised Code, is neglected or disregarded, in whole or in part, the board may elect to cause the arrest and prosecution of all persons offending, or to perform, by its officers and employees, what the offending parties should have done. If the latter course is chosen, before the execution of the order is begun, the board shall cause a citation to issue and be served upon the persons responsible, if residing within the jurisdiction of the board, but if not, such citation shall be mailed to such persons by registered letter, if the address is known or can be found by ordinary diligence. If the address cannot be found, the board shall cause the citation to be left upon the premises, in charge of any person residing thereon, otherwise it shall be posted conspicuously thereon. The citation shall briefly recite the cause of complaint, and require the owner or other persons responsible to appear before the board at a time and place stated, or as soon thereafter as a hearing can be had, and show cause why the board should not proceed and furnish the material and labor necessary and remove the cause of complaint.

If the persons cited appear, they shall be fully apprised of the cause of complaint and given a fair hearing. The board shall then make such order as it deems proper, and if material or labor is necessary to satisfy the order, and the persons cited promise, within a definite and reasonable time, to furnish them, the board shall grant such time. If no promise is made, or kept, the board shall furnish the material and labor, cause the work to be done, and certify the cost and expense to the county auditor. If the material and labor are itemized and the statement is accompanied by the certificate of the president of the board, attested by the clerk, reciting the order of the board and that the amount is correct, the auditor has no discretion, but shall place such sum against the property upon which the material and labor were expended, which shall, from the date of entry, be a lien upon the property and be paid as other taxes are paid.

Effective Date: 10-01-1953.

### **3707.021 Injunctive relief.**

When an order of the board of health of a city or general health district, made pursuant to section [3707.01](#) of the Revised Code, is not complied with in whole or in part, the board may petition the court of common pleas for an injunction requiring all persons to whom such order of the board is directed to comply with such order. The court of the county in which the offense is alleged to be occurring may grant such injunctive relief as the equities of the case require.

Effective Date: 10-02-1969.

### **3707.03 Correction of nuisance or unsanitary conditions on school property.**

The board of health of a city or general health district shall abate all nuisances and may remove or correct all conditions detrimental to health or well-being found upon school property by serving an order upon the board of education, school board, or other person responsible for such property, for the abatement of such nuisance or condition within a reasonable but fixed time. The board of health may appoint such number of inspectors of schools and school buildings as is necessary to properly carry out this section.

Effective Date: 10-01-1953.

### **3707.04 Quarantine regulations.**

In time of epidemic or threatened epidemic, or when a dangerous communicable disease is unusually prevalent, the board of health of a city or general health district, after a personal investigation by its members or executive officer to establish the facts in the case, and not otherwise, may impose a quarantine on vessels, railroads, or other public or private vehicles conveying persons, baggage, or freight, or used for such purpose. The board may make and enforce such rules and regulations as are wise and necessary for the protection of the health of the people of the community or state, but the running of any train or car on any steam or electric railroad, or of steamboats, vessels, or other public conveyances shall not be prohibited.

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

Effective Date: 10-01-1953.

#### **3707.05 Board must secure approval of department of health in certain cases.**

The board of health of a city or general health district shall not close public highways or prohibit travel thereon, interfere with public officers not afflicted with or directly exposed to a contagious or infectious disease, in the discharge of their official duties, or establish a quarantine of one municipal corporation or township against another municipal corporation or township, as such, without permission first obtained from the department of health and under regulations established by the department.

Effective Date: 10-01-1953.

#### **3707.06 Notice to be given of prevalence of infectious diseases.**

(A) Each physician or other person called to attend a person suffering from cholera, plague, yellow fever, typhus fever, diphtheria, typhoid fever, or any other disease dangerous to the public health, or required by the department of health to be reported, shall report to the health commissioner within whose jurisdiction the sick person is found the name, age, sex, and color of the patient, and the house and place in which the sick person may be found. In like manner, the owner or agent of the owner of a building in which a person resides who has any of the listed diseases, or in which are the remains of a person having died of any of the listed diseases, and the head of the family, immediately after becoming aware of the fact, shall give notice thereof to the health commissioner.

(B) No person shall fail to comply with the reporting requirements of division (A) of this section.

(C) Information reported under this section that is protected health information pursuant to section [3701.17](#) of the Revised Code shall be released only in accordance with that section. Information that does not identify an individual may be released in summary, statistical, or aggregate form.

Effective Date: 02-12-2004.

#### **3707.07 Complaint concerning prevalence of disease - inspection by health commissioner.**

When complaint is made or a reasonable belief exists that an infectious or contagious disease prevails in a house or other locality which has not been reported as provided in section [3707.06](#) of the Revised Code, the board of health of a city or general health district shall cause such house or locality to be inspected by its health commissioner, and on discovering that such disease exists, the board may send

the person diseased to a hospital or other place provided for such person, or may restrain him and others exposed within such house or locality from intercourse with other persons, and prohibit ingress and egress to or from such premises.

Effective Date: 10-01-1953.

#### **3707.08 Isolation of persons exposed to communicable disease - placarding of premises.**

When a person known to have been exposed to a communicable disease declared quarantinable by the board of health of a city or general health district or the department of health is reported within its jurisdiction, the board shall at once restrict such person to his place of residence or other suitable place, prohibit entrance to or exit from such place without the board's written permission in such manner as to prevent effective contact with individuals not so exposed, and enforce such restrictive measures as are prescribed by the department.

When a person has, or is suspected of having, a communicable disease for which isolation is required by the board or the department, the board shall at once cause such person to be separated from susceptible persons in such places and under such circumstances as will prevent the conveyance of the infectious agents to susceptible persons, prohibit entrance to or exit from such places without the board's written permission, and enforce such restrictive measures as are prescribed by the department.

When persons have, or are exposed to, a communicable disease for which placarding of premises is required by the board or the department the board shall at once place in a conspicuous position on the premises where such a person is isolated or quarantined a placard having printed on it, in large letters, the name of the disease. No person shall remove, mar, deface, or destroy such placard, which shall remain in place until after the persons restricted have been released from isolation or quarantine.

Physicians attending a person affected with a communicable disease shall use such precautionary measures to prevent its spread as are required by the board or the department.

No person isolated or quarantined by a board shall leave the premises to which he has been restricted without the written permission of such board until released from isolation or quarantine by it in accordance with the rules and regulations of the department.

Effective Date: 10-01-1953.

#### **3707.09 Board may employ quarantine guards.**

The board of health of a city or general health district may employ as many persons as are necessary to execute its orders and properly guard any house or place containing any person affected with or exposed to a communicable disease declared quarantinable by the board or the department of health. The persons employed shall be sworn in as quarantine guards, shall have police powers, and may use all necessary means to enforce sections [3707.01](#) to [3707.53](#), inclusive, of the Revised Code, for the prevention of contagious or infectious disease, or the orders of any board made in pursuance thereof.

Effective Date: 10-01-1953.

#### **3707.10 Disinfection of house in which there has been a contagious disease.**

When a person affected with yellow fever, typhus fever, or diphtheria has recovered and is no longer liable to communicate the disease to others, or has died, the attending physician shall furnish a certificate of the recovery or death to the board of health of the city or general health district. As soon thereafter as the board considers it advisable, its health commissioner shall thoroughly disinfect and purify the house and contents of the house in which the affected person has been ill or has died, in accordance with the rules adopted by the department of health.

Effective Date: 04-09-1981.

### **3707.11 [Repealed].**

Effective Date: 10-10-2000.

### **3707.12 Destruction of infected property.**

The board of health of a city or general health district may destroy any infected clothing, bedding, or other article that cannot be made safe by disinfection, and shall furnish to the owner of the articles a receipt, of which the board shall keep a complete and accurate copy, for articles so destroyed. The receipt shall show the number, character, condition, and estimated value of the articles destroyed. When a building, hut, or other structure has become infected with a dangerous communicable disease, and cannot, in the opinion of the board, be made safe by disinfection, the board may have the building, hut, or other structure appraised and destroyed.

Effective Date: 04-09-1981.

### **3707.13 Compensation for property destroyed.**

The legislative authority of the municipal corporation, upon the presentation of the original receipt or written statement of the appraisers for articles or houses destroyed pursuant to section [3707.12](#) of the Revised Code, shall pay to the owner thereof, or other person authorized by him to receive such payment, the estimated value of such destroyed articles, or such sum as the legislative authority deems just compensation therefor. If the owner is not satisfied with the amount so allowed he may sue for the value of such destroyed articles.

Effective Date: 10-01-1953.

### **3707.14 Maintenance of persons confined in quarantined house.**

When a house or other place is quarantined because of contagious diseases, the board of health of the city or general health district shall provide, for all persons confined in such house or place, food, fuel, and all other necessities of life, including medical attendance, medicine, and nurses when necessary. The expenses so incurred, except those for disinfection, quarantine, or other measures strictly for the protection of the public health, when properly certified by the president and clerk of the board, or health commissioner if there is no board, shall be paid by the persons quarantined, when able to make such payment, and when not, by the municipal corporation or township in which quarantined.

Effective Date: 10-01-1953.

### **3707.15 Employer of illegal alien with contagious or infectious disease to pay expense caused by disease.**

As used in this section, "alien" means an individual who is not a citizen of the United States.

Any person that employs an alien who is not legally present in the United States and has a contagious or infectious disease contracted before or during employment shall pay to the municipal corporation, township, or county in which the alien is employed any expense caused by the contagious or infectious disease. An employer is not subject to this section if the employer demonstrates that the alien was employed in compliance with the requirements of section 101(a) of the "Immigration Reform and Control Act of 1986," 100 Stat. 3360, 8 U.S.C.A. 1324a, as amended, unless there is evidence that the employer complied with the act knowing that the alien is not legally present in the United States.

Effective Date: 06-17-1999.

#### **3707.16 Attendance at gatherings by quarantined person prohibited.**

No person isolated or quarantined for a communicable disease declared by the board of health of a city or general health district or the department of health to require isolation or quarantine shall attend any public, private, or parochial school or college, Sunday school, church, or any other public gathering, until released from isolation or quarantine by the board. All school principals, Sunday school superintendents, or other persons in charge of such schools or other gatherings shall exclude any such person until he presents a written permit of the board to attend.

Effective Date: 10-01-1953.

#### **3707.17 Quarantine in place other than that of legal settlement.**

When a person with a contagious disease, quarantined in a county by a city or general health district, has a legal settlement in a municipal corporation or township within the same county but other than that in which quarantined, or has a legal settlement in another county of the state, and such person is unable to pay the expenses of the service provided under section [3707.14](#) of the Revised Code, the city or general health district rendering such service shall notify in writing the proper officials of the municipal corporation or township of legal settlement or the board of county commissioners of the county of legal settlement if such legal settlement is in another county that such services are being rendered. Such notice shall be sent within three days if the fact of nonresidence is disclosed upon the beginning of such service or admission to a hospital or other institution of quarantine, or within three days after the discovery of such fact if it is not so disclosed. Within twenty days after the discharge of such quarantined person, the health commissioner of the city or general health district shall send a notice of such discharge and a sworn statement of the expenses, either actual or at the established rate of the hospital or other institution of quarantine, to the proper officials of the municipal corporation or township of legal settlement or the board of county commissioners of the county of legal settlement if such legal settlement is in another county. Thereupon the municipal corporation or township of legal settlement or county of legal settlement if such legal settlement is in another county shall be liable to the city or general health district rendering such service, and shall pay for it within thirty days after date of the sworn statement of expenses. If the notice of the rendering of such service, required to be sent by the health commissioner, is not sent within three days after the disclosure by the person quarantined or the discovery of such nonresidence, the municipal corporation or township of legal settlement or the county of legal settlement if such legal settlement is in another county shall be liable only after receipt of such notice.

This section does not prevent the removal of such quarantined person by the municipal corporation, township, or county of legal settlement, at its expense, but such removal shall not relieve the municipal corporation, township, or county of legal settlement for the expenses previously incurred by the city or general health district in which such person has been quarantined. Any such person who

does not, upon discharge, pay the expenses of such quarantine shall be deemed indigent insofar as the city or general health district is concerned. The municipal corporation, township, or county of legal settlement is hereby subrogated to all the rights of the city or general health district in which such service was rendered.

Effective Date: 10-01-1953.

#### **3707.18 Expense of quarantining county public institution.**

The expenses for quarantining a county home or other county public institution shall be paid by the county when properly certified by the president and clerk of the board of health, or health commissioner where there is no board, of the city or general health district in which such institution is located.

Effective Date: 10-01-1953.

#### **3707.19 Disposal of body of person who died of communicable disease.**

The body of a person who has died of a communicable disease declared by the department of health to require immediate disposal for the protection of others shall be buried or cremated within twenty-four hours after death. No public or church funeral shall be held in connection with the burial of such person, and the body shall not be taken into any church, chapel, or other public place. Only adult members of the immediate family of the deceased and such other persons as are actually necessary may be present at the burial or cremation.

Effective Date: 10-01-1953.

#### **3707.20 Admission of person suffering from a contagious or infectious disease to certain institutions.**

No person, who is suffering from a contagious or infectious disease, or who has been exposed to a contagious or infectious disease, may be sent or admitted to a prison; jail; workhouse; infirmary; children's home; state hospital or institution for the blind, the mentally ill, or persons with intellectual disabilities; school for the blind or deaf; or other state or county benevolent institution without first making known the facts concerning the illness or exposure to the superintendent or other person in charge thereof. When a dangerous, contagious, or infectious disease is in a jail or prison and a prisoner in the jail or prison exposed to the disease is sentenced to a state correctional institution, the prisoner shall be confined and isolated in the jail or prison or other proper place, upon the order of the proper court, for any time that is necessary to establish the fact that the prisoner has not contracted the disease.

Amended by 131st General Assembly File No. TBD, HB 158, §1, eff. 10/12/2016.

Effective Date: 10-06-1994 .

#### **3707.21 Disease in public institution - temporary building.**

When cholera, yellow fever, diphtheria, scarlet fever, or other dangerous, contagious, or infectious disease appears in any state, county, or municipal benevolent or correctional institution, the superintendent or manager of the institution shall at once isolate the persons so affected and enforce

sections [3707.01](#) to [3707.53](#) of the Revised Code, for the prevention of contagious diseases, and the rules and orders of the department of health to that effect.

The trustees or managers of any benevolent or correctional institution may erect any necessary temporary building for the reception of the affected persons or for the detention of persons exposed to the listed diseases and may remove the persons to, and confine them in, the building.

Effective Date: 10-06-1994.

#### **3707.22 Removal of affected or exposed persons from public institution to hospital.**

The trustees or managers of any institution mentioned in section [3707.21](#) of the Revised Code may contract for the care, treatment, or detention of any persons affected with or exposed to any disease mentioned in such section with any corporation having a hospital or other proper place for the isolation or care of persons suffering from or exposed to contagious disease, and may remove such persons to such hospital or place. In the case of persons detained in an institution as punishment for a crime, an order for such removal shall be obtained from the court which imposed the punishment. In an order for such removal, the court may require such provisions to be made for safely guarding the prisoner while in such hospital or place as it deems necessary.

Effective Date: 10-01-1953.

#### **3707.23 Examination of common carriers by board during quarantine.**

When a quarantine is declared, all railroads, steamboats, or other common carriers, and the owners, consignees, or assignees of any railroad, steamboat, or other vehicle used for the transportation of passengers, baggage, or freight, shall submit to any rules or regulations imposed and any examination required by a board of health of a city or general health district or health commissioner. They shall submit to any examination required by the health authorities respecting any circumstances or event touching the health of the crew, operatives, or passengers and the sanitary condition of the baggage and freight.

Effective Date: 10-01-1953.

#### **3707.24 Prohibition against unfounded statements in examination.**

No owner, consignee, assignee, or other person interested in any manner set forth in section [3707.23](#) of the Revised Code shall make an unfounded statement or declaration respecting the points under the examination provided by such section.

Effective Date: 10-01-1953.

#### **3707.25 Application of quarantine rules to persons and goods on vehicles of transportation.**

Rules and regulations passed by a board of health of a city or general health district or health commissioner shall apply to all persons, goods, or effects arriving by railroad, steamboat, or other vehicle of transportation, after quarantine is declared.

Effective Date: 10-01-1953.



**3707.26 Board shall inspect schools and may close them.**

Semiannually, and more often, if in its judgment necessary, the board of health of a city or general health district shall inspect the sanitary condition of all schools and school buildings within its jurisdiction, and may disinfect any school building. During an epidemic or threatened epidemic, or when a dangerous communicable disease is unusually prevalent, the board may close any school and prohibit public gatherings for such time as is necessary.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 10-01-1953; 03-21-2006

**3707.27 Board may offer vaccination free or at reasonable charge - fee payable to state.**

The board of health of a city or general health district may take measures, supply agents, and afford inducements and facilities for gratuitous vaccination, or may make reasonable charges for such vaccination. Where a city or general health district provides vaccinations using a vaccine provided by the Ohio department of health, the city or general health district shall pay fifty cents for each such vaccination which shall be payable to the treasurer of state and shall be credited to the general revenue fund.

Effective Date: 11-15-1981.

**3707.28 Expenses of board - levy.**

When expenses are incurred by a board of health under sections [3707.01](#) to [3707.53](#), inclusive, of the Revised Code, upon application and certificate from such board, the legislative authority of the municipal corporation shall pass the necessary appropriation ordinances to pay such expenses. The legislative authority may levy and set apart the necessary sum to pay such expenses and to carry such sections into effect.

Effective Date: 10-01-1953.

**3707.29 Construction of hospital for contagious disease - bond issue.**

The legislative authority of a municipal corporation may purchase land within or without its boundaries and erect thereon suitable hospital buildings for the isolation, care, or treatment of persons suffering from dangerous contagious disease, and provide for the maintenance thereof. The plans and specifications for such buildings shall be approved by the board of health of the city or general health district in which such hospital is to be located.

The legislative authority may issue bonds and apply the proceeds thereof to such construction if, at an election held for that purpose, two-thirds of the votes cast are in favor thereof. Such bonds may not exceed twenty-five thousand dollars, with a rate or rates of interest not to exceed the rate provided in section [9.95](#) of the Revised Code, and the principal shall be paid within ten years. After the erection of such buildings, the legislative authority each year may make such appropriations for their care, use, and maintenance as are necessary.

Effective Date: 11-15-1991.



### **3707.30 Care and control of hospital - removal of persons to hospital.**

Hospital buildings constructed under section [3707.29](#) of the Revised Code shall be under the care and control of the board of health of the city or general health district in which such buildings are located. The board shall appoint all employees or other persons necessary to the use, care, and maintenance thereof, and shall regulate the entrance of patients thereto and their care and treatment.

When a person suffering from a dangerous contagious disease is found in a hotel, lodging-house, boardinghouse, tenement house, or other public place in the municipal corporation, the board, if it deems it necessary for the protection of the public health, may remove such person to such hospital, where all needful provisions shall be made for his care and treatment. If such person is able, the expense so incurred shall be paid by him.

Effective Date: 10-01-1953.

### **3707.31 Establishment of quarantine hospital.**

A municipal corporation may establish a quarantine hospital within or without its limits. If without its limits, the consent of the municipal corporation or township within which it is proposed to establish such hospital shall first be obtained, but such consent shall not be necessary if the hospital is more than eight hundred feet from any occupied house or public highway. When great emergency exists, the board of health of a city or general health district may seize, occupy, and temporarily use for a quarantine hospital a suitable vacant house or building within its jurisdiction. The board of a district within which is located a municipal corporation having a quarantine hospital shall have exclusive control of such hospital.

Effective Date: 10-01-1953.

### **3707.32 Erection of temporary buildings by board - destruction of property.**

The board of health of a city or general health district may erect temporary wooden buildings or field hospitals necessary for the isolation or protection of persons or freight supposed to be infected, and may employ nurses, physicians, and laborers sufficient to operate them, and sufficient police to guard them. Such board may cause the disinfection, renovation, or destruction of bedding, clothing, or other property belonging to corporations or individuals when such action is deemed necessary by the board or a reasonable precaution against the spread of contagious or infectious diseases.

Effective Date: 10-01-1953.

### **3707.33 Amended and Renumbered RC 3707.38.**

Effective Date: 02-12-2004.

### **3707.34 Quarantine and isolation policies.**

(A) The health commissioner appointed by a board of health of a general or city health district may act on behalf of the board in administering the provision of sections [3707.04](#) to [3707.32](#) of the Revised Code regarding quarantine and isolation if the commissioner acts pursuant to a policy the board adopts as described in division (B) of this section and either of the following applies:

(1) Circumstances render a meeting of the board impractical or impossible.

(2) Delaying action until a meeting of the board compromises the public health.

(B) Each board of health shall adopt a policy, subject to the approval of the district advisory council or city council for city health districts not governed by an advisory council, specifying the actions that a health commissioner may take pursuant to this section. Any action a health commissioner takes in accordance with the board's policy is deemed an action taken by the board unless the board votes to nullify the commissioner's action.

Effective Date: 02-12-2004.

**3707.35 to 3707.37 Amended and Renumbered RC 3717.66, 3717.64, 3717.65.**

Effective Date: 01-09-1994.

**3707.371 to 3707.374 Amended and Renumbered RC 3717.61, 3717.62, 3717.63, 3717.67.**

Effective Date: 01-09-1994.

**3707.375, 3707.376 Amended and Renumbered RC 3717.68, 3717.69.**

Effective Date: 01-09-1994.

**3707.38 [Repealed].**

The board of health of a city or general health district may appoint, define the duties of, and fix the compensation of the number of inspectors of shops, wagons, appliances, and food, and the number of other persons necessary to carry out this chapter and Chapter 3717. of the Revised Code and, if applicable, to carry out any duties assumed by the board under an agreement entered into under division (A)(2) of section [917.02](#) of the Revised Code. Inspectors for those purposes may enter any house, vehicle, or yard. The board may authorize the health commissioner to perform the duties of the inspectors.

Effective Date: 02-12-2004; 04-15-2005.

**3707.39 Employment of scavengers - approval for constructing, enlarging, or modifying solid waste facility.**

The legislative authority of a municipal corporation may empower the board of health of the city or general health district of which the municipal corporation is a part to employ such number of scavengers for the removal of swill, garbage, and offal from the houses, buildings, yards, and lots within the municipal corporation as are necessary. In such case, the board may make contracts therefor, subject to the approval of the legislative authority and signed by the proper officers thereof, and may regulate the work to be done. Upon the request of the board, the legislative authority shall lease or purchase suitable lands, the location of which shall be approved by the board, to be used as a solid waste facility as defined in section [3734.01](#) of the Revised Code for such swill, garbage, and offal and other noxious substances removed from the municipal corporation.

When so required by rules adopted under division (G)(2) of section [343.01](#) of the Revised Code, the municipal corporation, before constructing, enlarging, or modifying such a facility, shall obtain approval for the facility from the board of county commissioners of the county or board of directors of the joint

solid waste management district, or board of trustees of a regional solid waste management authority if such has been formed under section [343.011](#) of the Revised Code, having jurisdiction for compliance with the initial or amended solid waste management plan of the district approved under section [3734.521](#), [3734.55](#), or [3734.56](#) of the Revised Code.

Effective Date: 04-16-1993.

#### **3707.40 Sanitary plant defined.**

As used in sections 3707.40 to [3707.46](#) of the Revised Code, "sanitary plant" means a structure with necessary land, fixtures, appliances, and appurtenances required for the treatment, purification, transfer, and disposal in a sanitary manner of the sewage, solid wastes as defined in section [3734.01](#) of the Revised Code, or any other liquid or solid wastes of a municipal corporation.

Effective Date: 06-24-1988.

#### **3707.41 Municipal corporation may obtain plans and real estate for sanitary plant.**

Upon the recommendation of the board of health of the city or general health district in which a municipal corporation is located, or, if the powers of such board have been vested in any other officer or board, upon the recommendation of such officer or board, the legislative authority of such municipal corporation may cause plans and estimates to be prepared and acquire by condemnation or otherwise such lands within or without the municipal corporation as are necessary to provide for the proper disposal in a sanitary manner of the sewage, garbage, and waste matters of the municipal corporation.

Effective Date: 10-01-1953.

#### **3707.42 Construction of sanitary plant - purposes.**

Upon obtaining the approval of the director of environmental protection, and if so required by rules adopted under division (G)(2) of section [343.01](#) of the Revised Code, the approval of the board of county commissioners of the county or board of directors of the joint solid waste management district, or board of trustees of a regional solid waste management authority if such has been formed under section [343.011](#) of the Revised Code, having jurisdiction where a sanitary plant for the transfer or disposal of solid wastes is to be located, for compliance with the initial or amended solid waste management plan of the district approved under section [3734.521](#), [3734.55](#), or [3734.56](#) of the Revised Code, the legislative authority of a municipal corporation may contract for, erect, and maintain a sanitary plant on the lands acquired as provided in section [3707.41](#) of the Revised Code, with all necessary buildings, machinery, appliances, and appurtenances for the treatment, purification, transfer, and disposal in a sanitary and economic manner of the sewage, solid wastes as defined in section [3734.01](#) of the Revised Code, or any other liquid or solid wastes, or any substance injurious to the health of the municipal corporation.

Effective Date: 04-16-1993.

#### **3707.43 Contract for removal of waste substances - expense.**

The legislative authority of a municipal corporation may contract for a period of not to exceed five years for the collection and removal of the garbage, night soil, dead animals, and other solid waste substances mentioned in section [3707.42](#) of the Revised Code at the expense of the municipal corporation or at the expense of persons responsible for the existence of such waste substances.

Effective Date: 10-01-1953.

#### **3707.44 Joint construction and use of sanitary plants.**

The legislative authority of a municipal corporation or the board of township trustees of any township may enter into a contract, upon such terms and for such period of time as is mutually agreed upon, with any other municipal corporation or township to prepare all necessary plans and estimates of cost, and to construct, operate, use, and maintain a sanitary plant.

Effective Date: 10-01-1953.

#### **3707.45 Appointment of sanitary board.**

The legislative authority of a municipal corporation, by resolution, may determine to have all the work in connection with the erection and maintenance of a sanitary plant and the acquisition of the necessary real estate therefor put under the control of a sanitary board.

The sanitary board shall consist of two citizens from each of the two political parties casting the highest vote at the most recent municipal election. The members of the board shall be appointed by the mayor, with the consent and approval of the legislative authority, and shall serve for a term of two years.

The board shall receive the reasonable compensation that the legislative authority prescribes.

Effective Date: 08-22-1995.

#### **3707.46 Powers of sanitary board.**

The sanitary board shall have entire control of the erection and maintenance of the sanitary plant and the purchase of the necessary real estate therefor on behalf of the municipal corporation. The board may modify the original plans and specifications, subject to the approval of the director of environmental protection, but the total cost thereof shall not exceed the original estimate.

Effective Date: 10-23-1972.

#### **3707.47 Annual reports.**

On or before the fifteenth day of January of each year, the board of health or health department shall make a report in writing for the preceding calendar year, to the legislative authority of the municipal corporation and to the director of health. Such report shall be on the sanitary condition and prospects of such municipal corporation, and shall contain the statistics of deaths and the action of the board and its officers and agents and the names thereof. The report shall contain other useful information, and the board shall suggest therein any further legislative action deemed proper for the better protection of life and health. Such board or health department shall promptly furnish any special report called for by the director of health.

Effective Date: 10-01-1953.

#### **3707.48 Prohibition against violation of orders or regulations of board.**

No person shall violate sections 3707.01 to 3707.50 or section 3707.53 of the Revised Code, or any order or regulation of the board of health of a city or general health district made in pursuance thereof, obstruct or interfere with the execution of such order, or willfully or illegally omit to obey such order.

Amended by 130th General Assembly File No. 12, SB 26, §1, eff. 5/28/2013.

Effective Date: 10-01-1953 .

### **3707.49 Violation by a corporation - forfeiture.**

A corporation shall, for any violation, obstruction, interference, or omission mentioned in section [3707.48](#) of the Revised Code, forfeit and pay to the proper city or general health district a sum not to exceed three hundred dollars, to be collected in a civil action brought in the name of the board of health of such district. No proof of actual damages shall be required, but the court or jury, finding other facts to justify recovery, shall determine the amount by reference to all the facts, culpatory, exculpatory, or extenuating, adduced upon the trial.

Effective Date: 10-01-1953.

### **3707.50 Warning concerning anabolic steroids to be conspicuously posted in athletic facility locker rooms.**

(A) As used in this section:

(1) "Anabolic steroid" has the same meaning as in section [3719.41](#) of the Revised Code.

(2) "Athletic facility" means both of the following:

- (a) A privately owned athletic training, exercise, or sports facility or stadium that is open to the public;
- (b) A publicly owned sports facility or stadium.

(B) The following warning shall be conspicuously posted in each locker room of every athletic facility:

"Warning: Improper use of anabolic steroids may cause serious or fatal health problems, such as heart disease, stroke, cancer, growth deformities, infertility, personality changes, severe acne, and baldness. Possession, sale, or use of anabolic steroids without a valid prescription is a crime punishable by a fine and imprisonment."

(C) No privately owned athletic facility shall fail to post the warning required by this section.

(D) Any person who violates division (C) of this section is guilty of a misdemeanor of the fourth degree.

Effective Date: 05-21-1991.

### **3707.51 "Youth sports organization" defined.**

As used in sections [3707.511](#) and [3707.52](#) of the Revised Code, "youth sports organization" means a public or nonpublic entity that organizes an athletic activity in which the athletes are not more than nineteen years of age and are required to pay a fee to participate in the athletic activity or whose cost to participate is sponsored by a business or nonprofit organization.

Added by 129th General Assembly File No. 192, HB 143, §1, eff. 3/27/2013.

**3707.511 Concussion awareness, training and procedures in youth sports organizations.**

(A) As used in this section:

- (1) "Licensing agency" has the same meaning as in section 4745.01 of the Revised Code.
- (2) "Licensed health care professional" means an individual, other than a physician, who is authorized under Title XLVII of the Revised Code to practice a health care profession.
- (3) "Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(B) A youth sports organization shall provide to the parent, guardian, or other person having care or charge of an individual who wishes to practice for or compete in an athletic activity organized by a youth sports organization the concussion and head injury information sheet required by section 3707.52 of the Revised Code. The organization shall provide the information sheet annually for each sport or other category of athletic activity for or in which the individual practices or competes.

(C)

(1) No individual shall act as a coach or referee for a youth sports organization unless the individual holds a pupil-activity program permit issued under section 3319.303 of the Revised Code for coaching interscholastic athletics or presents evidence that the individual has successfully completed, within the previous three years, a training program in recognizing the symptoms of concussions and head injuries to which the department of health has provided a link on its internet web site under section 3707.52 of the Revised Code.

(2) The youth sports organization for which the individual intends to act as a coach or referee shall inform the individual of the requirement described in division (C)(1) of this section.

(D) If an individual practicing for or competing in an athletic event organized by a youth sports organization exhibits signs, symptoms, or behaviors consistent with having sustained a concussion or head injury while participating in the practice or competition, the individual shall be removed from the practice or competition by one of the following:

- (1) The individual who is serving as the individual's coach during that practice or competition;
- (2) An individual who is serving as a referee during that practice or competition;
- (3) An official of the youth sports organization who is supervising that practice or competition.

(E)

(1) If an individual is removed from practice or competition under division (D) of this section, the coach, referee, or official who removed the individual shall not allow the individual, on the same day the individual is removed, to return to that practice or competition or to participate in any other practice or competition for which the coach, referee, or official is responsible. Thereafter, the coach, referee, or official shall not allow the student to return to that practice or competition or to participate

in any other practice or competition for which the coach, referee, or official is responsible until both of the following conditions are satisfied:

(a) The individual's condition is assessed by any of the following who has complied with the requirements in division (E)(4) of this section:

(i) A physician;

(ii) A licensed health care professional the youth sports organization, pursuant to division (E)(2) of this section, authorizes to assess an individual who has been removed from practice or competition under division (D) of this section;

(iii) A licensed health care professional who meets the minimum education requirements established by rules adopted under section 3707.521 of the Revised Code by the professional's licensing agency.

(b) The individual receives written clearance that it is safe for the individual to return to practice or competition from the physician or licensed health care professional who assessed the individual's condition.

(2) A youth sports organization may authorize a licensed health care professional to make an assessment or grant a clearance for purposes of division (E)(1) of this section only if the professional is acting in accordance with one of the following, as applicable to the professional's authority to practice in this state:

(a) In consultation with a physician;

(b) Pursuant to the referral of a physician;

(c) In collaboration with a physician;

(d) Under the supervision of a physician.

(3) A physician or licensed health care professional who makes an assessment or grants a clearance for purposes of division (E)(1) of this section may be a volunteer.

(4) Beginning one year after the effective date of this amendment, all physicians and licensed health care professionals who conduct assessments and clearances under division (E)(1) of this section must meet the minimum education requirements established by rules adopted under section 3707.521 of the Revised Code by their respective licensing agencies.

(F)

(1) A youth sports organization or official, employee, or volunteer of a youth sports organization, including a coach or referee, is not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from providing services or performing duties under this section, unless the act or omission constitutes willful or wanton misconduct.

(2) This section does not eliminate, limit, or reduce any other immunity or defense that a public entity, public official, or public employee may be entitled to under Chapter 2744. or any other provision of the Revised Code or under the common law of this state.

Amended by 130th General Assembly File No. TBD, HB 487, §1, eff. 9/17/2014.

Amended by 130th General Assembly File No. 25, HB 59, §101.01 (Vetoed), eff. 9/29/2013.

Added by 129th General Assembly File No. 192, HB 143, §1, eff. 4/26/2013.

**3707.52 Concussion and head injury information sheet.**

(A) The department of health shall create a concussion and head injury information sheet for participants in interscholastic athletics and youth sports organizations. The department shall include in the information sheet pertinent information to inform and educate coaches, athletes, and the parents, guardians, or other persons having care or charge of athletes of the signs and symptoms of concussion or head injury and the risks of continuing to practice for or compete in an athletic event or activity after sustaining a concussion or head injury. The department periodically shall review the information sheet and update it accordingly.

The department shall make the information sheet available on its internet web site in a format suitable for easy downloading and printing.

(B) The department shall provide a link on its internet web site to one or more free online training programs in recognizing the symptoms of concussions and head injuries. The department shall include one or more programs that are appropriate for coaches or referees of schools or youth sports organizations seeking to fulfill the requirements of section [3313.539](#) or [3707.511](#) of the Revised Code.

Added by 129th General Assembly File No. 192, HB 143, §1, eff. 3/27/2013.

**3707.521 Rules regarding assessment of athletes sustaining concussions or head injuries.**

(A) As used in this section:

"License," "licensee," and "licensing agency" have the same meanings as in section [4745.01](#) of the Revised Code.

"Licensed health care professional" means an individual, other than a physician, who is authorized under Title XLVTI of the Revised Code to practice a health care profession.

"Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(B)

If a licensing agency responsible for the licensing of physicians or licensed health care professionals seeks to have its licensees authorized to assess and clear athletes for return to practice or competition under section [3313.539](#) or [3707.511](#) of the Revised Code, the licensing agency shall adopt rules establishing standards that are equal to or stronger than the guidelines developed by the committee established by the director of health under a previous version of this section, and which met during 2014 and 2015.

The licensing agency may adopt rules establishing continuing education requirements for its licensees who assess and clear athletes for return to practice or competition under section [3313.539](#) or [3707.511](#) of the Revised Code.



Any rules adopted under this division shall be adopted in accordance with Chapter 119. of the Revised Code.

Amended by 131st General Assembly File No. TBD, HB 471, §1, eff. 12/19/2016.

Added by 130th General Assembly File No. TBD, HB 487, §1, eff. 9/17/2014.

### **3707.53 Deposit for costs not required in prosecutions - fines.**

In prosecutions under sections [3707.01](#) to [3707.49](#) of the Revised Code, no deposit for costs shall be required. A judgment or verdict of guilty immediately shall be followed by sentence and execution of sentence. All fines collected under such sections shall be paid to the treasurer of the proper city or general health district and credited to the health fund of the board of health instituting the prosecution.

Effective Date: 03-17-1987.

### **3707.54 [Repealed].**

Effective Date: 01-01-1964.

### **3707.55 Acquisition or sale of real property.**

(A) A board of health of a general health district may acquire, convey, lease, or enter into a contract to purchase, lease, or sell real property for the district's purposes, and may enter into loan agreements, including mortgages, for the acquisition of such property.

(B) Notwithstanding anything to the contrary in section [3709.34](#) of the Revised Code, if a board of health of a general health district acquires, leases, or enters into a contract to purchase or lease real property under this section, the board of county commissioners has no obligation to pay for or reimburse the general health district for such property, or to furnish suitable quarters to the general health district.

(C) The board of county commissioners may issue securities of the county pursuant to Chapter 133. of the Revised Code for the acquisition of real property by a general health district under division (A) of this section, but only if the county has a contract with the general health district whereby the health district agrees to pay the county an amount equal to the debt charges on the issued securities on or before the date those charges fall due.

For purposes of this section, "debt charges" and "securities" have the same meanings as in section [133.01](#) of the Revised Code, and "board of health of a general health district" includes a board of health of a combined health district formed pursuant to section [3709.07](#), [3709.071](#), or [3709.10](#) of the Revised Code.

Effective Date: 03-30-1999.

### **3707.56 Protocols for dispensing naloxone.**

(A) As used in this section and in sections 3707.561 and 3707.562 of the Revised Code, "board of health" means a board of health of a city or general health district or the authority having the duties of a board of health under section [3709.05](#) of the Revised Code.

(B) A board of health, through a physician serving as the board's health commissioner or medical director, may authorize pharmacists and pharmacy interns practicing pharmacy in a county that includes all or part of the health district represented by the board to use the protocol developed pursuant to rules adopted under section [4729.44](#) of the Revised Code for the purpose of dispensing naloxone under section [4729.44](#) of the Revised Code.

Amended by 131st General Assembly File No. TBD, SB 319, §1, eff. 4/6/2017.

Added by 131st General Assembly File No. TBD, HB 4, §1, eff. 7/16/2015.

**3707.561 Personally furnishing naloxone; protocol.**

(A) A board of health that establishes a protocol under division (C) of this section may, through a physician serving as the board's health commissioner or medical director, authorize one or more individuals to personally furnish a supply of naloxone pursuant to the protocol to either of the following:

- (1) An individual who there is reason to believe is experiencing or at risk of experiencing an opioid-related overdose;
- (2) A family member, friend, or other person in a position to assist an individual who there is reason to believe is at risk of experiencing an opioid-related overdose.

(B)

(1) An individual authorized under this section may personally furnish naloxone to an individual described in division (A) of this section if both of the following conditions are met:

(a) The authorized individual complies with the protocol established by the authorizing board, including having completed the training required by the protocol.

(b) The authorized individual instructs the individual to whom naloxone is furnished to summon emergency services as soon as practicable either before or after administering naloxone.

(2) An individual authorized under this section to personally furnish naloxone may do so without having examined the individual to whom it may be administered.

(C) A board of health, through a physician serving as the board's health commissioner or medical director, may establish a protocol for personally furnishing naloxone under division (A) of this section. The protocol must be in writing and include all of the following:

- (1) A description of the clinical pharmacology of naloxone;
- (2) Precautions and contraindications concerning furnishing naloxone;
- (3) Any limitations the board specifies concerning the individuals to whom naloxone may be furnished;
- (4) The naloxone dosage that may be furnished and any variation in the dosage based on circumstances specified in the protocol;
- (5) Labeling, storage, record keeping, and administrative requirements;

(6) Training requirements that must be met before an individual can be authorized to furnish naloxone;

(7) Any instructions or training the authorized individual must provide to an individual to whom naloxone is furnished.

(D) A board that in good faith authorizes an individual to personally furnish naloxone under this section is not liable for damages in any civil action for any act or omission of the individual to whom the naloxone is furnished.

A physician serving as a board's health commissioner or medical director who in good faith authorizes an individual to personally furnish naloxone under this section is not liable for or subject to any of the following for any act or omission of the individual to whom the naloxone is furnished: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

An individual authorized under this section to personally furnish naloxone who does so in good faith is not liable for or subject to any of the following for any act or omission of the individual to whom the naloxone is furnished: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

Added by 131st General Assembly File No. TBD, SB 319, §1, eff. 4/6/2017.

### **3707.562 Administration of naloxone; protocol.**

(A) As used in this section, "service entity" has the same meaning as in section 4729.514 of the Revised Code.

(B) A board of health that has established a protocol under division (D) of this section may authorize an individual who is an employee, volunteer, or contractor of a service entity to administer naloxone to an individual who is apparently experiencing an opioid-related overdose.

(C) An individual authorized by a board of health under this section may administer naloxone to an individual who is apparently experiencing an opioid-related overdose if both of the following conditions are met:

(1) The authorized individual complies with the protocol established by the board.

(2) The authorized individual summons emergency services as soon as practicable either before or after administering the naloxone.

(D) A board of health, through a physician serving as the board's health commissioner or medical director, may establish a protocol for administering naloxone under this section. The protocol must be established in writing and include all of the following:

(1) A description of the clinical pharmacology of naloxone;

(2) Precautions and contraindications concerning the administration of naloxone;

(3) Any limitations the board specifies concerning the individuals to whom naloxone may be administered;

(4) The naloxone dosage that may be administered and any variation in the dosage based on circumstances specified in the protocol;

(5) Labeling, storage, record keeping, and administrative requirements;

(6) Training requirements that must be met before an individual can be authorized to administer naloxone.

(E) A board that in good faith authorizes an individual to administer naloxone under this section is not liable for damages in any civil action for any act or omission of the authorized individual.

A physician serving as a board's health commissioner or medical director who in good faith authorizes an individual to administer naloxone under this section is not liable for or subject to any of the following for any act or omission of the authorized individual: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

A service entity or an employee, volunteer, or contractor of a service entity is not liable for or subject to any of the following for injury, death, or loss to person or property that allegedly arises from an act or omission associated with procuring, maintaining, accessing, or using naloxone under this section, unless the act or omission constitutes willful or wanton misconduct: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

This section does not eliminate, limit, or reduce any other immunity or defense that a service entity or an employee, volunteer, or contractor of a service entity may be entitled to under Chapter 2 305. or any other provision of the Revised Code or under the common law of this state.

Added by 131st General Assembly File No. TBD, SB 319, §1, eff. 4/6/2017.

### **3707.57 Bloodborne infectious disease prevention programs.**

(A) As used in this section:

(1) "Bloodborne pathogens" means the human immunodeficiency virus (HIV), hepatitis B virus, and hepatitis C virus.

(2) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health under section [3709.05](#) of the Revised Code.

(B) A board of health may establish a bloodborne infectious disease prevention program. The cost of the program is the responsibility of the board of health.

(C) A board of health that establishes a bloodborne infectious disease prevention program shall determine the manner in which the program is operated and the individuals who are eligible to participate. The program shall do all of the following:

(1) If resources are available, provide on-site screening for bloodborne pathogens;

(2) Provide education to each program participant regarding exposure to bloodborne pathogens;

(3) Identify health and supportive services providers and substance abuse treatment programs available in the area served by the prevention program and, as appropriate, develop and enter into referral agreements with the identified providers and programs;

(4) Encourage each program participant to seek appropriate medical care, mental health services, substance abuse treatment, or social services and, as appropriate, make referrals to health and

supportive services providers and substance abuse treatment programs with which the prevention program has entered into referral agreements;

(5) Use a recordkeeping system that ensures that the identity of each program participant remains anonymous;

(6) Comply with applicable state and federal laws governing participant confidentiality;

(7) Provide each program participant with documentation identifying the individual as an active participant in the program.

(D) A bloodborne infectious disease prevention program may collect demographic information about each program participant, including the zip code applicable to the participant's address, and the participant's comorbidity diagnosis, if any. The program may report the information to the department of mental health and addiction services.

(E)

(1) Before establishing a bloodborne infectious disease prevention program, the board of health shall consult with all of the following:

(a) Interested parties from the health district represented by the board, including all of the following:

(i) Law enforcement representatives;

(ii) Prosecutors, as defined in section [2935.01](#) of the Revised Code;

(iii) Representatives of community addiction services providers whose alcohol and drug addiction services are certified under section [5119.36](#) of the Revised Code;

(iv) Persons recovering from substance abuse;

(v) Relevant private, nonprofit organizations, including hepatitis C and HIV advocacy organizations;

(vi) Residents of the health district;

(vii) The board of alcohol, drug addiction, and mental health services that serves the area in which the health district is located.

(b) Representatives selected by the governing authority of the city, village, or township in which the program is proposed to be established.

(2) If the board of health, after consulting with the interested parties and representatives listed in division (D)(1) of this section, decides to establish a bloodborne infectious disease prevention program, the board shall provide written notice of the proposed location to the governing authority of the city, village, or township in which the program is to be located. The governing authority retains all zoning rights.

(F)

(1) If carrying out a duty under a component of a bloodborne infectious disease prevention program would be considered a violation of any of the following, an employee or volunteer of the program, when carrying out the duty, is not subject to criminal prosecution for the violation:

- (a) Section [2923.24](#) of the Revised Code;
- (b) Section [2925.12](#) of the Revised Code;
- (c) Division (C)(1) of section [2925.14](#) of the Revised Code regarding the prohibition against illegal possession of drug paraphernalia;
- (d) Division (C) or (D) of section [3719.172](#) of the Revised Code regarding the prohibition against furnishing a hypodermic needle to another person.

(2) If participating in a component of a bloodborne infectious disease prevention program would be considered a violation of any of the following, a program participant who is within one thousand feet of a program facility and is in possession of documentation from the program identifying the individual as an active participant in the program is not subject to criminal prosecution for the violation:

- (a) Section [2923.24](#) of the Revised Code;
- (b) Section [2925.12](#) of the Revised Code;
- (c) Division (C)(1) of section [2925.14](#) of the Revised Code regarding the prohibition against illegal possession of drug paraphernalia.

(G) A board of health that establishes a bloodborne infectious disease prevention program shall include details about the program in its annual report prepared under section [3707.47](#) of the Revised Code.

Amended by 131st General Assembly File No. TBD, SB 319, §1, eff. 7/1/2017.

Added by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

### **3707.58 Information regarding sudden cardiac arrest.**

(A) As used in this section:

- (1) "Youth athlete" means an individual who wishes to practice for or compete in athletic activities organized by a youth sports organization;
- (2) "Youth sports organization" has the same meaning as in section [3707.51](#) of the Revised Code.

(B) Prior to the start of each athletic season, a youth sports organization that is subject to this section may hold an informational meeting for youth athletes, parents, guardians, other persons having care or charge of a youth athlete, physicians, pediatric cardiologists, athletic trainers, and any other persons regarding the symptoms and warning signs of sudden cardiac arrest for all ages of youth athletes.

(C) No youth athlete shall participate in an athletic activity organized by a youth sports organization until the youth athlete has submitted to a designated official of the youth sports organization a form signed by the youth athlete and the parent, guardian, or other person having care or charge of the youth athlete stating that the youth athlete and the parent, guardian, or other person having care or charge of the youth athlete have received and reviewed a copy of the information developed by the departments of health and education and posted on their respective internet web sites as required by section [3707.59](#) of the Revised Code. A completed form shall be submitted each calendar year to each youth sports organization that organizes an athletic activity in which the youth athlete participates.

(D) No individual shall coach an athletic activity organized by a youth sports organization unless the individual has completed, on an annual basis, the sudden cardiac arrest training course approved by the department of health under division (C) of section [3707.59](#) of the Revised Code.

(E)

(1) A youth athlete shall not be allowed to participate in an athletic activity organized by a youth sports organization if either of the following is the case:

(a) The youth athlete's biological parent, biological sibling, or biological child has previously experienced sudden cardiac arrest, and the youth athlete has not been evaluated and cleared for participation in an athletic activity organized by a youth sports organization by a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(b) The youth athlete is known to have exhibited syncope or fainting at any time prior to or following an athletic activity and has not been evaluated and cleared for return under division (E)(3) of this section after exhibiting syncope or fainting.

(2) A youth athlete shall be removed by the youth athlete's coach from participation in an athletic activity organized by a youth sports organization if the youth athlete exhibits syncope or fainting.

(3) If a youth athlete is not allowed to participate in or is removed from participation in an athletic activity organized by a youth sports organization under division (E)(1) or (2) of this section, the youth athlete shall not be allowed to return to participation until the youth athlete is evaluated and cleared for return in writing by any of the following:

(a) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery, including a physician who specializes in cardiology;

(b) A certified nurse practitioner, clinical nurse specialist, or certified nurse-midwife who holds a certificate of authority issued under Chapter 4723. of the Revised Code.

The licensed health care providers specified in divisions (E)(3)(a) and (b) of this section may consult with any other licensed or certified health care providers in order to determine whether a youth athlete is ready to return to participation.

(F) A youth sports organization that is subject to this section shall establish penalties for a coach who violates the provisions of division (E) of this section.

(G)

(1) A youth sports organization or official, employee, or volunteer of a youth sports organization, including a coach, is not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from providing services or performing duties under this section, unless the act or omission constitutes willful or wanton misconduct.

(2) This section does not eliminate, limit, or reduce any other immunity or defense that a public entity, public official, or public employee may be entitled to under Chapter 2744. or any other provision of the Revised Code or under the common law of this state.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Added by 131st General Assembly File No. TBD, SB 252, §1, eff. 3/14/2017.

**3707.59 Educational materials regarding sudden cardiac arrest.**

(A) As used in this section:

(1) "Athletic activity" means both of the following:

(a) An athletic activity, as defined in section 3313.5310 of the Revised Code;

(b) An athletic activity organized by a youth sports organization.

(2) "Youth athlete" and "youth sports organization" have the same meanings as in section 3707.58 of the Revised Code.

(B) The department of health and the department of education jointly shall develop and shall post on their respective internet web sites guidelines and other relevant materials to inform and educate students and youth athletes participating in or desiring to participate in an athletic activity, their parents, and their coaches about the nature and warning signs of sudden cardiac arrest. These guidelines and materials shall address the risks associated with continuing to participate in an athletic activity after experiencing one or more symptoms of sudden cardiac arrest, such as fainting, difficulty breathing, chest pains, dizziness, and an abnormal racing heart rate. In developing guidelines and other relevant materials under this division, the department of health and the department of education shall consult with the Ohio chapter of the American college of cardiology and with an interscholastic conference or an organization that regulates interscholastic athletic competition and conducts interscholastic athletic events.

In developing guidelines and materials under this division, the departments may utilize existing materials developed by the parent heart watch organization, the sudden arrhythmia death syndromes foundation, and any other organizations deemed appropriate by the departments.

(C) For purposes of the training required for a coach of an athletic activity under division (D) of section 3313.5310 or division (D) of section 3707.58 of the Revised Code, the department of health shall approve a sudden cardiac arrest training course offered by an outside entity.

Added by 131st General Assembly File No. TBD, SB 252, §1, eff. 3/14/2017.

**3707.99 Penalty.**

(A) Whoever violates section [3707.03](#) of the Revised Code, unless good and sufficient reason therefor is shown, is guilty of a minor misdemeanor.

(B) Whoever violates division (B) of section [3707.06](#) or section [3707.48](#) of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense , the person is guilty of a misdemeanor of the fourth degree.

Effective Date: 02-12-2004.



## **3701.344 Rules for private water systems.**

(A) As used in this section and sections [3701.345](#) and [3701.347](#) of the Revised Code, "private water system" means any water system for the provision of water for human consumption, if the system has fewer than fifteen service connections and does not regularly serve an average of at least twenty-five individuals daily at least sixty days out of the year. "Private water system" includes any well, spring, cistern, pond, hauled water, or recycled water and any equipment for the collection, transportation, filtration, disinfection, treatment, or storage of such water extending from and including the source of the water to the point of discharge from any pressure tank or other storage vessel; to the point of discharge from the water pump where no pressure tank or other storage vessel is present; or, in the case of multiple service connections serving more than one dwelling, to the point of discharge from each service connection. "Private water system" does not include the water service line extending from the point of discharge to a structure.

(B) Notwithstanding section [3701.347](#) of the Revised Code and subject to division (C) of this section, rules adopted by the director of health regarding private water systems shall provide for the following:

(1) Except as otherwise provided in this division, boards of health of city or general health districts shall be given the exclusive power to establish fees in accordance with section [3709.09](#) of the Revised Code for administering and enforcing the rules. The fees shall establish a different rate for administering and enforcing the rules relative to private water systems serving single-family dwelling houses and nonsingle-family dwelling houses. Except for an amount established by the director, pursuant to division (B)(5) of this section, for each new private water system installation, no portion of any fee for administering and enforcing the rules shall be returned to the department of health. If the director of health determines that a board of health of a city or general health district is unable to administer and enforce a private water system program in the district, the director shall administer and enforce such a program in the district and establish fees for such administration and enforcement.

(2) Boards of health of city or general health districts shall be given the exclusive power to determine the number of inspections necessary for determining the safe drinking characteristics of a private water system.

(3) Private water systems contractors, as a condition of doing business in this state, shall annually register with, and comply with surety bonding requirements of, the department of health. No such contractor shall be permitted to register if the contractor fails to comply with all applicable rules adopted by the director and the board of health of the city or general health district. The annual registration fee for private water systems contractors shall be sixty-five dollars. The director, by rule adopted in accordance with Chapter 119. of the Revised Code, may increase the annual registration fee.

(4) Subject to rules adopted by the director, boards of health of city or general health districts shall have the option of determining whether bacteriological examinations shall be performed at approved laboratories of the state or at approved private laboratories.

(5) The director may establish fees for each new private water system installation, which shall be collected by the appropriate board of health and transmitted to the director pursuant to section [3709.092](#) of the Revised Code.

(6) All fees received by the director of health under divisions (B)(1), (3), and (5) of this section shall be deposited in the state treasury to the credit of the general operations fund created in section [3701.83](#) of the Revised Code for use in the administration and enforcement of sections [3701.344](#) to [3701.347](#) of the Revised Code and the rules pertaining to private water systems adopted under those sections.

(7) The director shall define "well," "spring," "cistern," "pond," "hailed water," and "recycled water" for purposes of this section and the rules adopted under it.

(C) To the extent that rules adopted under division (B) of this section require health districts to follow specific procedures or use prescribed forms, no such procedure or form shall be implemented until it is approved by majority vote of an approval board of health commissioners, hereby created. Members of the board shall be the officers of the association of Ohio health commissioners, or any successor organization, and membership on the board shall be coterminous with holding an office of the association. No health district is required to follow a procedure or use a form required by a rule adopted under division (B) of this section without the approval of the board.

(D) A board of health shall collect well log filing fees on behalf of the division of water resources in the department of natural resources in accordance with section [1521.05](#) of the Revised Code and rules adopted under it. The fees shall be submitted to the division quarterly as provided in those rules.

(E) A water system that will be used in agriculture and that does not provide water for human consumption shall not be required to obtain a permit or license issued under, pay any fees assessed or levied under, or comply with any rule adopted under sections [3701.34](#) to [3701.347](#) of the Revised Code.

Amended by 131st General Assembly File No. TBD, HB 471, §1, eff. 12/19/2016.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 1/1/2016.

Amended by 130th General Assembly File No. TBD, SB 179, §1, eff. 7/10/2014.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 07-26-1991 .

## Chapter 3701-25 Resident Camps

### 3701-25-01 Definitions.

As used in this chapter:

(A) "Board of health" means the board of health of the city or general health district, or the authority having the duties of a board of health in any city as authorized by section [3709.05](#) of the Revised Code.

(B) "Camp" means a resident camp.

(C) "Gray water recycling systems" means systems that treat and reuse wastewater discharged from lavatories, bathtubs, showers, clothes washers, and laundry sinks that does not contain food wastes or bodily wastes.

(D) "Health commissioner" means the health commissioner of a city or general health district or his authorized representative.

(E) "Human consumption" means ingestion or absorption of water or water vapor by humans as the result of drinking, cooking, dishwashing, handwashing, bathing, showering, or oral hygiene, or other domestic uses such as flushing toilets or doing laundry.

(F) "One hundred year flood" means a flood having a one percent chance of being equaled or exceeded in any given year.

(G) "One hundred year flood plain" means that area adjoining any river, stream, watercourse, or lake that has been or may be inundated by a one hundred year flood.

(H) "Operator" means the person having responsible charge of a camp.

(I) "Permanent sleeping quarters" means buildings, platform tents, or other structures that are constructed in a fixed location and are used as primary sleeping quarters.

(J) "Person" has the same meaning as in section [1.59](#) of the Revised Code and also includes this state, any political subdivision of this state, and any other state or local body of this state.

(K) "Primitive camp area" means any camp in which only sewage and solid waste disposal facilities are required.

(L) "Privy" means a self-contained waterless toilet used for disposal of non water-carried human excreta that consists of a shelter built above an approved tank installed in the ground into which human excreta is deposited.

(M) "Resident camp" means a facility which is being primarily utilized for the purpose of camping, that requires overnight residence, indoor or outdoor activities, and exists on any tract of land together with any buildings or other structures pertinent to its use. A resident camp does not include the following:

(1) Any university, college, or other educational facilities; or

(2) Any use of a tract of land, or property determined by the board of health as not being within the intent of this chapter.

(N) "Sewage" means liquid waste containing animal or vegetable matter in suspension or solution that originates from humans and human activities. Sewage includes liquids containing household chemicals in solution commonly discharged from a residence or from commercial, institutional, or other similar facilities.

(O) "Sewerage system" has the same meaning as set forth in section [6111.01](#) of the Revised Code.

(P) "Solid wastes" has the same meaning as set forth in rule [3745-27-01](#) of the Administrative Code.

(Q) "Substantially alter" means a change in the layout or design of a camp, including, without limitation, the movement of utilities or changes in established roadways, camp areas, or other facilities.

(R) "Temporary shelters" means tents, adirondack shelters or other non-permanent structures used for overnight camping, field trips, and backpacking purposes.

Replaces: 3701-25-01

Effective: 01/01/2015

R.C. [119.032](#) review dates: 11/30/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 4/3/80, 9/6/98

### **3701-25-02 Permission to operate.**

(A) The local board of health shall have the right of entry and access to camps at any reasonable time for the purpose of inspecting and investigating conditions relating to the administration and enforcement of rules [3701-25-01](#) to [3701-25-10](#) of the Administrative Code.

(1) Before a permit is initially issued and annually thereafter, or more often if necessary, the health commissioner shall cause each camp to be inspected relative to compliance with these rules.

(2) A record shall be made of each inspection.

(B) No person shall operate or maintain a camp unless the following requirements are met:

(1) Receive a site evaluation from the local board of health relative to compliance with Chapter 3701-25 of the Administrative Code. A written report containing information about the location shall be prepared, which shall include at a minimum, its topography, soil conditions, previous uses, and available utilities;

(2) Submission of plans and specifications to the local health jurisdiction described in paragraph (A) of rule [3701-25-03](#) of the Administrative Code;

(3) Obtain written approval for the plans and specifications from the health commissioner;

(4) Written authorization for the operation of the camp shall be obtained for each calendar year prior to opening the camp for the calendar year for which application is made.

Replaces: 3701-25-03, 3701-25-04

Effective: 01/01/2015

R.C. [119.032](#) review dates: 11/30/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 9/6/98

### **3701-25-03 Plans; approval and content.**

The health commissioner, upon request of the person submitting the plans and specifications for approval, may waive submission of any of the items required by this paragraph if it is determined that they are not necessary to review the plans effectively. The health commissioner may request additional information and may return incomplete plans to the applicant without review. The plans shall be acted upon within thirty days after the date of receipt of the information required of this rule.

(A) Plans shall be submitted for:

- (1) Initial approvals;
- (2) Substantial alterations; or
- (3) When deemed necessary by the health commissioner.

(B) The plans and specifications shall be submitted in duplicate and shall show:

- (1) The name, address, and telephone number of the proposed facility owner, camp operator and a person to contact with regard to the plans, and a letter of transmittal from the person requesting the review;
- (2) A site plan showing the general layout of the entire camp;
- (3) Entrance and exit roads, access roads, and trails;
- (4) Camp buildings and service buildings and other proposed structures;
- (5) The area, dimensions, and elevations of the tract of land;
- (6) Method of storage, collection, and disposal of solid wastes;
- (7) Swimming facilities, including swimming pools and other bathing places;
- (8) The location and details of the lighting and electrical systems, if applicable;
- (9) Details and specifications of the water system or EPA approval notification or proof of a PWS, if applicable;
- (10) Details and specifications of the gray water recycling system;
- (11) Design and design plans for drainage of surface and storm waters or EPA approval notification, if applicable; and
- (12) Details and specifications of the sewage collection and treatment system or EPA approval notification, if applicable.

(C) The plans shall meet the requirements of paragraph (B) of this rule and shall be accompanied by all of the following documents:

(1) Written verification from the local zoning authority that the land use has been zoned and approved for the development of a camp;

(2) Written verification that all proposed buildings in the camp meet applicable state or local building requirements;

(3) Written verification by the fire protection authority, or authorities, that have jurisdiction in the area that the camp has adequate fire protection;

(4) Written verification by the municipal corporation or board of county commissioners for unincorporated areas that the proposed new construction or substantial alteration to a camp will be made in accordance with the municipal or county flood plain ordinances or resolutions and local flood plain requirements; and

(5) Written verification that the plans for the sewerage system and the water supply system have been approved by the Ohio environmental protection agency or the local health district depending on which entity has jurisdiction.

(D) Except as otherwise provided in this rule, a plan approval issued for a camp shall be valid for three years after the date on which the approval was issued.

(1) One extension may be granted for an unspecified period of time, or until the rules in effect at the time of the approval are revised, if it is found that the applicant for plan approval has made a good faith effort to complete the construction or substantial alteration of the camp, but has failed to complete it for reasons beyond the applicant's control.

(2) A request for an extension shall be filed in writing before the expiration of the initial three-year period.

(3) If the construction or substantial alteration has not been completed within the three-year period, or within the limit of any extension granted under this paragraph, the plans shall be resubmitted in accordance with this rule.

(E) The plans may be disapproved for either of the following reasons:

(1) The applicant for plan approval fails to comply with any rule of Chapter 3701-25 of the Administrative Code; or

(2) The proposed construction or substantial alteration fails to comply with any rule of Chapter 3701-25 of the Administrative Code.

(F) Plan disapprovals may be appealed to the board of health in accordance with fair hearing procedures adopted by the board of health.

Replaces: 3701-25-02

Effective: 01/01/2015

R.C. [119.032](#) review dates: 11/30/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 9/6/98

**3701-25-04 Responsibility of camp operator.**

The camp operator shall:

(A) Establish rules governing the operation and maintenance of the camp. Such rules shall be given to the patrons as they initially enter the camp or be conspicuously posted. The rules shall include, but not be limited to:

- (1) Safety information;
- (2) Traffic control;
- (3) Noise control;
- (4) Use of hazardous materials and fire safety;
- (5) Registration of camp visitors; and
- (6) Aquatic recreation area safety, if applicable.

(B) Prevent and abate any nuisances within the camp;

(C) Maintain vehicular access, as appropriate, throughout the camp at all times the camp is in use. Camp roads and walkways shall be maintained to provide all-weather access at all times the camp is in use;

(D) Ensure at least one responsible adult is available at all times the camp is in operation;

(E) Ensure the camp is properly drained and kept free of trash and debris;

(F) Implement insect and rodent control measures whenever an insect or rodent nuisance exists;

(G) Reasonably control noxious plants such as poison ivy, poison sumac and other plants which could constitute a hazard to patrons in public use areas;

(H) Require the registration of all pets and service animals that are permitted within the camp prior to entry. All dogs must have proof of current rabies vaccination;

(I) Promptly report to the health commissioner of the health district where the camp is located cases of either domestic or wild animal bites inflicted upon any person in the camp; and

(J) Promptly notify the health commissioner of any known cases of communicable disease and in the event of an outbreak, comply with the orders given by the health commissioner.

Replaces: 3701-25-12, 3701-25-16, 3701-25-17, 3701-25-18, 3701-25-19, 3701-25-20, 3701-25-21, 3701-25-22

Effective: 01/01/2015

R.C. [119.032](#) review dates: 11/30/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 9/6/98

**3701-25-05 Water, sewerage and gray water recycling systems.**

(A) Water supply systems.

(1) Water for human consumption shall be provided at a camp and shall be of adequate quantity and from:

(a) A public water system which meets the requirements of section 6109. of the Revised Code and the rules adopted thereunder; or

(b) A private water system which meets the requirements of section [3701.344](#) of the Revised Code and the rules adopted thereunder.

(2) The water supply system and equipment shall be maintained in a safe and sanitary manner so as not to create a health hazard to the occupants of the camp. No person shall install or maintain a connection within a water supply system which could contaminate the water system or provide a cross-connection between a source of contamination and the water system unless an approved backflow prevention device is installed.

(3) Adequate drainage shall be provided at all water service outlets.

(4) Water used for the flushing of holding tanks or toilets may be from a supply that does not meet the requirements of paragraph (A)(1)(a) or (A)(1)(b) of this rule only if all outlets from the supply are clearly and indelibly labeled to the effect that the water is "unsafe for human consumption".

(5) As of September 6, 1998, when water is supplied for human consumption, the primary water source in any new or substantially altered camp shall be protected at the point of connection by an ASSE number 1013 reduced pressure principle backflow prevention assembly or equivalent device. Such device shall be annually inspected and tested.

(6) All water hoses used for human consumption in a camp must be rated for potable water use only.

(B) Sewerage systems.

(1) All sewerage systems shall meet the standards of Chapter 6111. of the Revised Code or Chapter 3718. of the Revised Code, as applicable.

(2) All sewerage systems shall be maintained in a safe and sanitary manner so as not to create a health hazard.

(3) The operator shall not permit any individual within the camp to create a sewage nuisance.

(4) When the services of a registered septage hauler are utilized for the ultimate disposal of sewage pumped from holding tanks, a service agreement shall be kept on file by the operator on premise including the dates of any services performed.

(C) Gray water recycling systems requirements.



(1) The operator of a camp shall ensure that the gray water recycling system meets the standards of section [3718.02](#) or Chapter 6111. of the Revised Code as appropriate and as follows:

- (a) Located no farther than two hundred feet walking distance;
- (b) Maintained to keep the facility and the area around the facility in a safe and sanitary manner and free from any nuisances or health hazards;
- (c) Easily accessible and provided with a sign indicating that the facility is for gray water only and that no sewage is permitted;
- (d) Direct or indirect connection of any pipe, hose or direct discharge from any portable camping unit or other source to a gray water recycling system is prohibited;
- (e) The operator shall not permit any individual within the camp to create a nuisance. The operator of a camp shall ensure that gray water is not discharged to the surface of the ground and that gray water is disposed of in a manner which meets the requirements of this rule.

(2) Except as provided in paragraph (C)(3) of this rule, a gray water recycling system installed in a camp after September 6, 1998 shall consist of one of the following:

- (a) A plastic or concrete holding tank which is of a water-tight design and is capable of holding at least two hundred fifty gallons. The drain opening through which waste water is deposited into the holding tank shall be installed in a plastic or concrete riser which shall extend a minimum of eighteen inches above the ground surface. The drain opening shall be surrounded by a surface which extends from the opening to the sides of the riser and which slopes to the opening. The drain opening shall be covered by a drain grate and shall be located at least four inches below the top edge of the riser;
- (b) An individual connection to an approved sewage collection system; or
- (c) An alternative waste water disposal system approved by the health commissioner when it can be determined that the soil conditions are conducive for filtration of liquid waste water.

(3) A camp that was in existence on or before September 6, 1998 is not required to comply with paragraph (C)(2) of this rule unless either of the following is the case:

- (a) The camp is substantially altered or expanded in such a manner that an approval is required under rule [3701-25-03](#) of the Administrative Code; or
- (b) The health commissioner determines that any existing waste water disposal facility is causing a nuisance because its location, installation, or design is not in compliance with this rule.

(4) When the services of a registered septage hauler are utilized for the ultimate disposal of gray water pumped from holding tanks, a service agreement shall be kept on file by the operator on premise including the dates of any services performed.

(5) All gray water recycling systems shall be installed and maintained in accordance with the approved plans.

Replaces: 3701-25-06, 3701-25-07, 3701-25-08, 3701-25-08.1

Effective: 01/01/2015

R.C. [119.032](#) review dates: 11/30/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 9/6/1998

### **3701-25-06 Hygiene facilities.**

(A) All toilet facilities shall be:

- (1) Properly located, constructed, and maintained in accordance with the approved plans;
- (2) Provided to the general camp population in an adequate number, based on the following minimum ratios:
  - (a) One seat for every ten females;
  - (b) One seat for every ten males, however up to one third of the seats for males may be substituted with urinals;
  - (c) If more than ten percent of the camp population has restricted mobility, the ratios are:
    - (i) One seat for every eight females;
    - (ii) One seat for every eight males.
- (3) Maintained in a clean and sanitary condition;
- (4) Provided for men and women. Each facility shall be plainly designated. If the facilities for each sex are in the same building, they shall be separated by solid walls or partitions extending from the floor to the ceiling;
- (5) Provided with adequate toilet tissue at each toilet fixture;
- (6) Provided with available handwashing;
- (7) Provided with self-closing doors or modesty shields at the entrance and exits;
- (8) Provided with floors that are easily cleanable, non-skid finish, impervious to moisture, and self draining; and
- (9) Plainly designated and the location of toilets shall be indicated by suitable signs. During night hours all toilet facilities shall be lighted by artificial lighting.
- (10) Pit latrines are not permitted, except pit latrines that were in existence on or before the effective date of this rule are permitted in primitive camp areas unless either of the following is the case:
  - (a) The camp is substantially altered or expanded in such a manner that plan approval is required under rule [3701-25-03](#) of the Administrative Code; or
  - (b) The health commissioner determines that a nuisance exists.
- (11) Vault privies shall be constructed of a water-tight holding tank capable of holding a minimum volume of one thousand gallons.

(12) Where water is provided to toilet facilities, plans shall be submitted to and approved by the Ohio environmental protection agency.

(B) All handwashing facilities shall be:

(1) Made available at toilet facilities;

(2) Equipped with water that is safe for human consumption, soap, and an acceptable hand drying method shall be provided in each camp except primitive camp areas;

(3) Maintained in a clean and sanitary condition;

(4) Provided with floors that are easily cleanable, non-skid finish, impervious to moisture, and self draining;

(5) The number of handwashing facilities in existing resident camps shall be satisfactory. In camps constructed after January 1, 1972, handwashing facilities shall be provided in the ratio as provided in the Ohio building code adopted by the board of building standards under authority of Chapter 3781. of the Revised Code;

(6) The location of handwashing facilities shall be indicated by suitable signs. Except in primitive camp areas, during night hours the interior of these facilities shall be illuminated by artificial lighting; and

(7) Notwithstanding the requirements of rule [3701-25-05](#) of the Administrative Code, after the effective date of this rule, waste water from handwashing facilities shall be disposed of in a sewage collection system or a gray water recycling system.

(C) All shower facilities shall be:

(1) Equipped with water that is safe for human consumption;

(2) When shower facilities are provided and will be used by more than one family at one time or by non-family groups, separate facilities shall be provided for each sex. If shower facilities for each sex are in the same building, they shall be separated by solid walls or partitions extending from the floor to the ceiling. Shower building entrances and exits shall be provided with self-closing doors or modesty shields;

(3) The number of shower facilities in existing resident camps shall be satisfactory. In camps constructed after January 1, 1972, shower facilities shall be provided in the ratio as provided in the Ohio building code adopted by the board of building standards under authority of Chapter 3781. of the Revised Code;

(4) The location of shower facilities shall be indicated by suitable signs. During night hours the interior of these facilities shall be illuminated by artificial lighting when in use; and

(5) Notwithstanding the requirements of rule [3701-25-05](#) of the Administrative Code, after the effective date of this rule, waste water from shower facilities shall be disposed of in a sewage collection system or a gray water recycling system.

Replaces: 3701-25-09, 3701-25-11

Effective: 01/01/2015

R.C. [119.032](#) review dates: 11/30/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 9/6/98

### **3701-25-07 Solid waste storage and disposal.**

(A) The storage, collection, and disposal of solid wastes shall be conducted so as to avoid the creation of health hazards, rodent harborages, insect breeding areas, and accidents.

(B) When solid wastes are stored at camp areas or at a central point within the camp, they shall be stored in durable rust resistant, watertight, non-absorbent, and easily cleanable containers with tight fitting covers. Containers and covers shall be maintained in a clean condition and in good repair. Solid waste containers shall be sufficient in number and size to accommodate all solid wastes between collections.

(C) All solid waste containers must be easily accessible and emptied at least weekly unless otherwise authorized by the health commissioner.

(D) All camps must have a written policy for the disposal of infectious wastes. Infectious waste disposal must be in compliance with rules of the Ohio environmental protection agency.

Replaces: 3701-15-12

Effective: 01/01/2015

R.C. [119.032](#) review dates: 11/30/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 9/6/1998

### **3701-25-08 Electrical service.**

(A) Electrical systems installed in camps shall be approved, installed, and maintained in accordance with the provisions of the "National Electric Code," as amended.

(B) When, in the opinion of the local health district, an electrical hazard exists, they may:

(1) Allow the camp operator to abate the hazard;

(2) Require written verification by a licensed contractor that a hazard does not exist; or

(3) Require written verification by a licensed contractor that proper repairs have been made to abate the hazard. Repairs that are necessary will apply only towards abating the hazard and will not be cause to renovate the entire electrical system due to other nonconforming issues with the current version of the NEC unless the licensed contractor verifies such renovation is necessary to abate the hazard.

(C) Written verification of the most recent permits and any documents from a licensed contractor certifying work performed within the camp shall be maintained on file at the camp for review by the local health district.

(D) Whenever electrical service is available to the camp, all public service buildings shall be provided with external lighting sufficient to provide illumination and visibility.

Replaces: 3701-25-14

Effective: 01/01/2015

R.C. [119.032](#) review dates: 11/30/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972

### **3701-25-08.1 Waste water disposal facilities.**

Effective: 01/01/2015

R.C. [119.032](#) review dates: 06/27/2014

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 9/6/1998

### **3701-25-09 Sleeping quarters.**

(A) All permanent sleeping quarters which are provided by the operator shall be constructed and maintained in a safe condition, shall afford adequate protection against inclement weather conditions and shall be so located and maintained as to provide easy, unobstructed exit in case of fire or other emergency.

(B) In permanent sleeping quarters which are provided by the operator, cots and bunks shall be arranged as to allow:

(1) Adequate cross ventilation;

(2) A minimum distance of five feet between heads of the sleepers; and

(3) Every bed shall be elevated at least twelve inches from the floor to the bottom of the mattress. The clear space between the top of the lower mattress of a bunk bed and bottom of the upper bunk shall be a minimum of twenty-seven inches. The distance from the top of the upper mattress to the ceiling shall be a minimum of thirty-six inches. There shall be a minimum distance of thirty inches between the sides of the beds. In instances where the thirty inch separation distance cannot be achieved, the operator may provide a permanent partition or other acceptable barrier between beds.

(C) Articles of bedding and furniture which are provided by the operator shall be:

(1) Kept clean, free of insects, pests, and rodents, and in good repair;

(2) Provided with impervious, easily cleanable mattress covers, or the equivalent;

(3) Changed between campers, when soiled, and at least weekly, if sheets and pillowcases are supplied by the operator; and

(4) Equipped with guardrails attached to the upper bunks to prevent occupants from accidentally rolling out of bed.

Replaces: 3701-25-15

Effective: 01/01/2015

R.C. [119.032](#) review dates: 11/30/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 9/6/98

### **3701-25-10 Safety.**

(A) Fire fighting equipment of the type and quantity acceptable to the state fire marshal or local fire department shall be made available by the operator for use in fighting fires. All fire fighting equipment shall be maintained in good operating condition and so located that it is readily available for use at all times.

(B) Water recreation areas, under control of the operator, shall be supervised and maintained when in use.

(C) Firearms, archery, hazardous substances, and potentially hazardous equipment under the control of the operator shall be used, maintained, and stored in a safe manner and shall be protected from unauthorized use. The operator shall also identify programs which require specialized supervision and control and protect the areas and equipment from unauthorized access and use.

(D) The operator shall provide a place for the reception and first aid treatment of sick or injured campers. First aid equipment consisting of unused disposable gloves and a sufficient supply of materials to stop bleeding, and to clean and cover minor cuts and abrasions shall be maintained.

(E) A telephone and directions to a telephone shall be provided and made available at the camp. A list of emergency numbers along with the address of the camp shall be conveniently posted or otherwise made available to all phones.

(F) Hazardous substances shall be labeled, stored, and handled as required by applicable laws and rules and as directed by the health commissioner in instances not covered by such laws and rules.

(G) All playgrounds and playground equipment shall be installed and maintained in a safe condition.

(H) All heating and cooling devices shall be installed and operated in such a manner as to avoid fire hazards, a dangerous concentration of fumes or gases, accidents, and electrical hazards.

(I) The handling and storage of fuel oil or other flammable liquids shall be in compliance with the applicable standards of the current edition of the of the national fire protection association standard number thirty.

(J) Whenever possible, the operator shall identify natural hazards to life and safety and control them where possible within the camp.

(K) The operator shall maintain a record of all injuries occurring within the camp area that require the attention of medical personnel licensed under Chapters 4723., 4730., and 4731. of the Revised Code.

(L) The operator shall insure that no motorized vehicles are used in such a manner in the camp that a hazard to life or safety occurs.

Replaces: 3701-25-18

Effective: 01/01/2015

R.C. [119.032](#) review dates: 11/30/2019

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 9/6/98

### **3701-25-11 [Rescinded] Handwashing and shower facilities.**

Effective: 01/01/2015

R.C. [119.032](#) review dates: 06/27/2014

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 9/6/98

### **3701-25-12 [Rescinded] Solid waste storage and disposal.**

Effective: 01/01/2015

R.C. [119.032](#) review dates: 06/27/2014

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 9/6/98

### **3701-25-13 [Rescinded] Lighting.**

Rescinded eff 9-6-98

### **3701-25-14 [Rescinded] Electrical service.**

Effective: 01/01/2015

R.C. [119.032](#) review dates: 06/27/2014

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 9/6/98

### **3701-25-15 [Rescinded] Sleeping quarters.**

Effective: 01/01/2015

R.C. [119.032](#) review dates: 06/27/2014

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 9/8/98

**3701-25-16 [Rescinded] Control of insects, rodents, other pests and noxious plants.**

Effective: 01/01/2015

R.C. [119.032](#) review dates: 06/27/2014

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 9/6/98

**3701-25-17 [Rescinded] Restriction of animals and pets.**

Effective: 01/01/2015

R.C. [119.032](#) review dates: 06/27/2014

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 9/6/98

**3701-25-18 [Rescinded] Safety.**

Effective: 01/01/2015

R.C. [119.032](#) review dates: 06/27/2014

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972

**3701-25-19 [Rescinded] Communicable disease.**

Effective: 01/01/2015

R.C. [119.032](#) review dates: 06/27/2014

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 9/6/98

**3701-25-20 [Rescinded] Maintenance.**

Effective: 01/01/2015

R.C. [119.032](#) review dates: 06/27/2014

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 9/6/98

**3701-25-21 [Rescinded] Rules.**

Effective: 01/01/2015

R.C. [119.032](#) review dates: 06/27/2014

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)



Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 9/6/98

**[3701-25-22 \[Rescinded\] Responsibility of camp operator.](#)**

Effective: 01/01/2015

R.C. [119.032](#) review dates: 06/27/2014

Promulgated Under: [119.03](#)

Statutory Authority: [3701.13](#)

Rule Amplifies: [3701.03](#), [3701.13](#)

Prior Effective Dates: 1/1/1972, 9/6/98

**[3701-25-51 Definitions. \[Rescinded\].](#)**

Rescinded eff 5-1-07

**[3701-25-52 Plans: approval and content. \[Rescinded\].](#)**

Rescinded eff 5-1-07

**[3701-25-52.1 Compliance with approved plans verification inspections. \[Rescinded\].](#)**

Rescinded eff 5-1-07

**[3701-25-54 Licensing. \[Rescinded\].](#)**

Rescinded eff 5-14-07

**[3701-25-54.1 License fee categories. \[Rescinded\].](#)**

Rescinded eff 5-1-07

**[3701-25-54.2 Cost methodology. \[Rescinded\].](#)**

Rescinded eff 5-1-07

**[3701-25-55 Density. \[Rescinded\].](#)**

Rescinded eff 5-1-07

**[3701-25-56 Site. \[Rescinded\].](#)**

Rescinded eff 5-1-07

**[3701-25-57 Water, sewage, and liquid waste systems. \[Rescinded\].](#)**

Rescinded eff 5-1-07

**[3701-25-58 Water supply. \[Rescinded\].](#)**

Rescinded eff 5-1-07

**3701-25-59 Sewage and liquid waste. [Rescinded].**

Rescinded eff 5-1-07

**3701-25-60 Required liquid waste and sewage facilities. [Rescinded].**

Rescinded eff 5-1-07

**3701-25-61 Toilet facilities. [Rescinded].**

Rescinded eff 5-1-07

**3701-25-62 Dump station. [Rescinded].**

Rescinded eff 5-1-07

**3701-25-63 Waste water disposal facilities. [Rescinded].**

Rescinded eff 5-1-07

**3701-25-64 Handwashing and shower facilities. [Rescinded].**

Rescinded eff 5-1-07

**3701-25-65 Solid waste storage and collection. [Rescinded].**

Rescinded eff 5-1-07

**3701-25-66 Safety. [Rescinded].**

Rescinded eff 5-1-07

**3701-25-67 Rules. [Rescinded].**

Rescinded eff 5-1-07

**3701-25-68 Electrical service. [Rescinded].**

Rescinded eff 5-1-07

**3701-25-69 Lighting. [Rescinded].**

Rescinded eff 5-1-07

**3701-25-70 Maintenance. [Rescinded].**

Rescinded eff 5-1-07

**3701-25-71 Control of insects, rats, mice, and noxious plants. [Rescinded].**

Rescinded eff 5-1-07

**3701-25-72 Restriction of animals and pets. [Rescinded].**

Rescinded eff 5-1-07

**3701-25-74 Responsibility of camp operator. [Rescinded].**

Rescinded eff 5-1-07

## Chapter 3718: SEWAGE TREATMENT SYSTEMS

### 3718.01 Definitions.

As used in this chapter:

(A) "Alter" means to change by making substantive replacements of, additions to, or deletions in the design or materials or to change the location of an existing sewage treatment system.

(B) "Bedrock" means hard stratum that underlies unconsolidated surface materials or soil.

(C) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city as authorized by section [3709.05](#) of the Revised Code.

(D) "Domestic septage" means the liquid or solid material removed from a sewage treatment system, portable toilet, or type III marine sanitation device as defined in 33 C.F.R. 159.3. "Domestic septage" does not include grease removed from a grease trap.

(E) "Gray water recycling systems" means systems that treat and reuse wastewater discharged from lavatories, bathtubs, showers, clothes washers, and laundry sinks that does not contain food wastes or bodily wastes.

(F) "Household sewage treatment system" means any sewage treatment system, or part of such a system, that receives sewage from a single-family, two-family, or three-family dwelling.

(G) "Infiltrative surface" means the point or area of application of treated or partially treated sewage to the soil or sand fill for purposes of treatment, dispersal, or both.

(H) "Inspection" means the on-site evaluation or analysis of the design, installation, and operation of a sewage treatment system.

(I) "Installer" means any person who engages in the business of installing or altering or who, as an employee of another, installs or alters any sewage treatment system.

(J) "Limiting condition" means a restrictive soil layer, bedrock, a water table, or ground water that limits or precludes the treatment or dispersal of sewage in the soil of a property where a household sewage treatment system is located.

(K) "Manufacturer" means any person that manufactures sewage treatment systems or components of systems.

(L) "Person" has the same meaning as in section [1.59](#) of the Revised Code and also includes any state, any political subdivision of a state, and any department, division, board, commission, agency, or instrumentality of a state or political subdivision.

(M) "Sanitary sewerage system" means pipelines or conduits, pumping stations, force mains, and all other constructions, devices, appurtenances, and facilities that convey sewage to a central sewage treatment plant and that are required to obtain a permit under Chapter 6111. of the Revised Code.

(N) "Septage hauler" means any person who engages in the collection, transportation, disposal, and land application of domestic septage.

(O) "Service provider" means any person who services, but does not install or alter, sewage treatment systems.

(P) "Sewage" means liquid waste containing animal or vegetable matter in suspension or solution that originates from humans and human activities. "Sewage" includes liquids containing household chemicals in solution commonly discharged from a residence or from commercial, institutional, or other similar facilities.

(Q) "Sewage treatment system" means a household sewage treatment system, a small flow on-site sewage treatment system, or both, as applicable.

(R) "Small flow on-site sewage treatment system" means a system, other than a household sewage treatment system, that treats not more than one thousand gallons of sewage per day and that does not require a national pollutant discharge elimination system permit issued under section [6111.03](#) of the Revised Code or an injection well drilling or operating permit issued under section [6111.043](#) of the Revised Code.

(S) "Soil" means the naturally occurring pedogenically developed and undeveloped regolith overlying bedrock.

(T) "Vertical separation distance" means the distance of the infiltrative surface of the distribution system of a soil absorption system, or component thereof, to a limiting condition in the soil.

(U) "Water table" means the surface of the saturated zone below which all interconnected voids are filled with water and at which the pressure is atmospheric.

Amended by 128th General Assembly File No. 51, SB 110, §1, eff. 9/17/2010.

Effective Date: 05-06-2005 .

### **3718.011 Conditions under which sewage treatment system causes a public health nuisance.**

(A) For purposes of this chapter, a sewage treatment system is causing a public health nuisance if any of the following situations occurs and, after notice by a board of health to the applicable property owner, timely repairs are not made to that system to eliminate the situation:

(1) The sewage treatment system is not operating properly due to a missing component, incorrect settings, or a mechanical or electrical failure.

(2) There is a blockage in a known sewage treatment system component or pipe that causes a backup of sewage or effluent affecting the treatment process or inhibiting proper plumbing drainage.

(3) An inspection conducted by, or under the supervision of, the environmental protection agency or a sanitarian registered under Chapter 4736. of the Revised Code documents that there is ponding of liquid or bleeding of liquid onto the surface of the ground or into surface water and the liquid has a distinct sewage odor, a black or gray coloration, or the presence of organic matter and any of the following:

(a) The presence of sewage effluent identified through a dye test;

(b) The presence of fecal coliform at a level that is equal to or greater than five thousand colonies per one hundred milliliters of liquid as determined in two or more samples of the liquid when five or fewer samples are collected or in more than twenty per cent of the samples when more than five samples of the liquid are collected;

(c) Water samples that exceed one thousand thirty e. coli counts per one hundred milliliters in two or more samples when five or fewer samples are collected or in more than twenty per cent of the samples when more than five samples are collected.

(4) With respect to a discharging system for which an NPDES permit has been issued under Chapter 6111. of the Revised Code and rules adopted under it, the system routinely exceeds the effluent discharge limitations specified in the permit.

(B) With respect to divisions (A)(1) and (2) of this section, a property owner may request a test to be conducted by a board of health to verify that the sewage treatment system is causing a public health nuisance. The property owner is responsible for the costs of the test.

Added by 128th General Assembly File No. 51, SB 110, §1, eff. 9/17/2010.

### **3718.012 Older sewage treatment systems.**

A sewage treatment system that was in operation prior to the effective date of this section shall not be required to be replaced with a new sewage treatment system under this chapter or rules adopted under it and shall be deemed approved if the system does not cause a public health nuisance or, if the system is causing a public

health nuisance as provided in section [3718.011](#) of the Revised Code, repairs are made to the system that eliminate the public health nuisance as determined by the applicable board of health.

Added by 128th General Assembly File No.51, SB 110, §1, eff. 9/17/2010.

**3718.02 Director of health to adopt administrative rules; board of health may adopt more stringent rules.**

(A) The director of health, in accordance with Chapter 119. of the Revised Code, shall adopt, and subsequently may amend and rescind, rules of general application throughout the state to administer this chapter. Rules adopted under division (A) of this section shall do at least all of the following:

(1) Require that the appropriate board of health approve or disapprove the installation, operation, and alteration of a sewage treatment system if it is not connected to a sanitary sewerage system;

(2) Require a board of health, or other person as established by rule, to conduct a site evaluation for any proposed installation of a sewage treatment system;

(3) Prescribe standards for the siting, design, installation, operation, monitoring, maintenance, and abandonment of sewage treatment systems that may be used in this state and for the progressive or incremental alteration or repair of an existing sewage treatment system or the progressive or incremental installation of a new system to replace an existing sewage treatment system. The rules shall be adopted so as to establish a preference for the repair of an existing sewage treatment system, when technically and economically feasible, rather than its replacement with a new system. The standards shall include at a minimum all of the following:

(a) Soil absorption specifications and vertical separation distances.

(i) Soil absorption specifications established in rules shall include standards regarding the sizing of sewage treatment systems in use in the state.

(ii) In establishing soil absorption specifications and vertical separation distances, the rules shall identify those soil conditions that present a low or moderate risk of inadequate treatment or dispersal of sewage from sewage treatment systems. For low and moderate risk conditions, the required vertical separation distance shall not exceed eighteen inches except as authorized pursuant to rules adopted under divisions (A)(3)(a)(iii) and (iv) of this section.

In addition, the rules shall identify those soil conditions that present a high risk of inadequate treatment or dispersal of sewage. For such high risk conditions, the vertical separation distance shall be set at a depth from twenty-four to thirty-six inches and shall not be lowered unless a reduction of vertical separation is granted in accordance with rules adopted under division (A)(3)(a)(iii) of this section.

(iii) The rules shall establish options to be utilized by a board of health when approving the reductions of or compliance with vertical separation distances that are established in rules adopted under division (A)(3)(a)(ii) of this section. The options for a board of health in providing such approval shall include, but not be limited to: the use where deemed appropriate for a particular site of subsurface interceptor drains, perimeter drains, or engineered drainage; pretreatment of sewage; or soil elevation.

(iv) The rules shall provide that a board of health may petition the director to increase the vertical separation distances required for sewage treatment systems in the applicable health district or a portion of the district when conditions present a high risk of inadequate treatment or dispersal of sewage. The rules also shall provide that the director may approve such a request upon a demonstration by the board of health that unusual or unique local conditions relating to terrain, bedrock, water table, soil fragments, or soil textures require the establishment of greater vertical separation distances within the jurisdiction of the board of health or a portion thereof. If, under the rules, the director of health approves a greater vertical separation distance, a board of health still may approve a reduction of that vertical separation distance for an individual sewage treatment system pursuant to rules adopted under division (A)(3)(a)(iii) of this section. Further, if, under the rules, the director approves a greater vertical separation distance, a person who is denied permission by a board of health to install or replace a

sewage treatment system as a result of the director's approval may request a hearing in accordance with section [3718.11](#) of the Revised Code.

(b) Specifications for the quality of treated sewage effluent from household sewage treatment systems that is applied to soil on the property where a household sewage treatment system is located. The specifications established in the rules for the quality of effluent from discharging systems shall comply with discharge requirements imposed by the national pollutant discharge elimination system permit program established under section [6111.03](#) of the Revised Code and rules adopted under it.

(c) Requirements for the reasonable maintenance of a system according to maintenance requirements approved by the director of health as recommended by the sewage treatment system technical advisory committee or according to accepted standards and practices established in rules, as applicable. The requirements may include standards for service contracts or other arrangements that assure regular maintenance and upkeep of the system. In determining the reasonableness of a maintenance requirement, the director shall consider a manufacturer's maintenance requirements as well as all other maintenance alternatives.

(4) Prescribe procedures for notification to boards of health of the approval of a sewage treatment system or components of a system by the director of health under section [3718.04](#) of the Revised Code;

(5) Prescribe criteria and procedures under which boards of health shall issue installation permits, operation permits, and alteration permits for sewage treatment systems. The rules shall require as a condition of an installation permit that the installer of a system must warrant that the system was installed in accordance with all applicable rules and design requirements. In addition, the rules shall require a board of health, not later than sixty days after the issuance of an installation, operation, or alteration permit, to notify the director that the permit was issued. The rules shall require the notification to be in a format prescribed by the director and to include information related to the issuance of the permit. With the assistance of the department of health, a board of health, to the extent practicable, shall computerize the process of the issuance of permits for sewage treatment systems.

(6) Require a board of health to inspect a sewage treatment system not later than twelve months after its installation to ensure that the system is operating properly. The rules shall require a board of health, not later than sixty days after the inspection, to certify to the director on a form provided by the director that the inspection was performed.

(7) Require each board of health to develop a program for the administration of maintenance requirements established in rules adopted under division (A)(3)(c) of this section. The rules shall include requirements and procedures under which a person may demonstrate the required maintenance of a system in lieu of having an inspection conducted when an inspection otherwise is required. The rules shall require a board of health to provide written notice to a person that is demonstrating maintenance of a system in lieu of an inspection that if proof of the required maintenance of the system is not provided as required by rules, the system is subject to inspection by the board and the reasonable cost of the inspection must be paid by the person. The rules shall authorize a board of health to inspect any sewage treatment system if there is a good-faith complaint regarding the system, there is probable cause for the inspection, or proof of the required maintenance of the system has not been provided as required by rules. In addition, the rules shall authorize a board of health to inspect a sewage treatment system without prior notice in any instance in which the board has probable cause to believe that the system is endangering or threatening to endanger public health. The rules shall require that the reasonable costs for sewage effluent testing or evaluation be paid by the owner of a sewage treatment system that is being investigated. Further, the rules shall establish a methodology for determining the reasonable costs of an inspection in accordance with section [3709.09](#) of the Revised Code. The rules shall allow, but shall not require, a board of health to continue an inspection program that was established by the board prior to the effective date of the rules, provided that the program authorizes a person to demonstrate the required maintenance of a system in lieu of an inspection.

(8) Require a board of health to register installers, service providers, and septage haulers that perform work within the health district; prescribe criteria and procedures for the registration; and prescribe criteria for a demonstration of competency as a part of the registration. The rules shall establish uniform statewide bonding

requirements or other financial security requirements for installers, service providers, and septage haulers as a condition of registration within any health district. The rules shall establish a methodology by which the required amount of a bond or other security may be calculated for each installer, service provider, and septage hauler. The methodology, at a minimum, shall consider the number of systems installed or serviced and the type of system installed or serviced by an installer, service provider, or septage hauler on an annual basis. The rules shall provide that no board of health shall require an additional or different bond or security requirement as a condition of registration beyond the bonding and security requirements established in the rules adopted under division (A)(8) of this section.

The rules shall establish a cost methodology for determining the fee for the registration of an installer, service provider, or septage hauler in any health district.

(9) Prescribe requirements for the collection, transportation, disposal, and land application of domestic septage in this state from a sewage treatment system;

(10) Require boards of health to maintain records that are determined necessary to ascertain compliance with this chapter and the rules adopted under it;

(11) Require the manufacturer of a sewage treatment system that is authorized for use in this state in rules adopted under this section or that is approved for use in this state under section [3718.04](#) of the Revised Code to provide instructions for the operation and maintenance of the system. The rules shall provide that a board of health may require a copy of a manufacturer's instructions for the operation and maintenance of a system to be filed with the board prior to the installation and use of the system in the health district in which the board has jurisdiction. In addition, the rules shall require a board of health and a manufacturer to provide a copy of the operation and maintenance instructions, if available, when a board of health or a manufacturer receives a written request for instructions.

(12) Prescribe criteria for the provision of written evidence of compliance with rules pertaining to sewage treatment for purposes of sections [711.05](#) and [711.10](#) of the Revised Code;

(13) Pursuant to divisions (A)(1) and (3) of this section, prescribe standards for the siting, design, installation, operation, monitoring, maintenance, and abandonment of small flow on-site sewage treatment systems that may be used in this state;

(14) Prescribe minimum criteria and procedures under which boards of health may establish household sewage treatment district management programs for the purpose of providing a responsive approach toward preventing or solving sewage treatment problems resulting from household sewage treatment systems within the districts established under the program. For purposes of division (A)(14) of this section, a board of health may enter into a contract with any entity to administer a household sewage treatment district management program.

(15) Prescribe standards for the use of subsurface interceptor drains, perimeter drains, and engineered drainage to remove or divert any subsurface water from an area to be used for soil absorption of sewage in the soil of a sewage treatment system;

(16) Prescribe standards for the inspection of septage hauling truck tanks by boards of health, including, but not limited to, tank seal safety specifications;

(17) Establish standards and testing methods to ensure that all septic tanks, other disposal component tanks, dosing tanks, pump vaults, household sewage treatment disposal system holding tanks and privy vaults, or other applicable sewage disposal system components manufactured after September 17, 2010, and used in this state are watertight and structurally sound;

(18) Require a board of health to give notice and an opportunity for a hearing, pursuant to section [3718.11](#) of the Revised Code, to an affected property owner regarding any of the following:

(a) The denial of an installation, operation, or alteration permit for a sewage treatment system;

(b) The imposition of a condition on the installation of a sewage treatment system;



(c) The required replacement of a sewage treatment system;

(d) Any other final order or decision of a board of health that is made under this chapter concerning which a property owner is claiming to be aggrieved or adversely affected.

The rules also shall establish procedures for giving such notice and for conducting the hearing required in rules adopted under division (A)(18) of this section.

(19) Prescribe standards for the regulation of gray water recycling systems;

(20) Prohibit a sewage treatment system from causing a public health nuisance;

(21) Define economic impact for purposes of division (B) of this section and section [3718.022](#) of the Revised Code.

The director may adopt other rules under division (A) of this section that the director determines are necessary to implement this chapter and to protect the public health and welfare.

At least sixty days prior to adopting a rule under division (A) of this section, the director shall provide boards of health and any other interested parties an opportunity to comment on the rule.

(B)

(1) In accordance with section [3709.20](#) or [3709.21](#) of the Revised Code, as applicable, and subject to review by and approval of the director under division (C) of section [3718.05](#) of the Revised Code, a board of health may adopt rules necessary for the public health providing for more stringent standards than those established in rules adopted by the director under division (A) of this section. In proposing or adopting the rules, a board of health shall consider and document the economic impact of the rules on property owners within the applicable health district.

(2) A board that intends to adopt rules shall notify the department of health of the proposed rules and submit a copy of the proposed rules and the documentation of the economic impact of the rules at least ninety days prior to the proposed date of adoption. The director shall approve or disapprove any such proposed rule within ninety days after receiving a copy of the proposed rule from the board of health.

(3) In reviewing a proposed rule, the director shall approve the rule if all of the following apply:

(a) The proposed rule is not in conflict with this chapter or rules adopted under it.

(b) The proposed rule is authorized by division (B) of this section.

(c) The proposed rule is no less stringent than rules adopted by the director.

(d) Unless otherwise authorized by this chapter or rules adopted under it, the proposed rule does not require design changes to a sewage treatment system, or component thereof, that differ from a design authorized in rules adopted under division (A) of this section, including rules adopted under division (A)(1) or (A)(3)(a)(iii) or (iv) of this section, or approved by the director under section [3718.04](#) of the Revised Code.

(e) The proposed rule does not require operation or maintenance procedures for a sewage treatment system that conflict with operation or maintenance procedures authorized in rules adopted under division (A) of this section, including rules adopted under division (A)(1) or (A)(3)(a)(iii) or (iv) of this section, or approved by the director under section [3718.04](#) of the Revised Code.

(4) If a board of health fails to submit a proposed rule to the director or fails to demonstrate that the board has considered the economic impact of the proposed rule, the rule shall have no force or effect and is not enforceable.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Amended by 128th General Assembly File No. 51, SB 110, §1, eff. 9/17/2010.

Amended by 128th General Assembly File No.12, HB 363, §6, eff. 12/22/2009.

Amended by 128th General Assembly File No.9, HB 1, §640.20, eff. 7/17/2009.

Effective Date: 05-06-2005 .

**3718.021 Board of health may regulate small flow on-site systems; OEPA regulation in default.**

(A) A board of health may regulate the siting, design, installation, operation, monitoring, maintenance, and abandonment of small flow on-site sewage treatment systems in accordance with rules adopted by the director of health under division (A)(13) of section [3718.02](#) of the Revised Code. If a board of health chooses to regulate small flow on-site sewage treatment systems, the board first shall send written notification to the director of health and the director of environmental protection.

(B) If a board of health chooses to regulate small flow on-site sewage treatment systems under division (A) of this section and later determines that it no longer wants to regulate those systems, the board shall notify the director of health and the director of environmental protection. Upon the receipt of the notification by the director of environmental protection, the board of health shall cease regulating small flow on-site sewage treatment systems, and the environmental protection agency shall regulate those systems.

(C) If after a survey conducted under section [3718.07](#) of the Revised Code the director of health finds that a board of health that has chosen to regulate small flow on-site sewage treatment systems is not complying with the rules adopted under division (A)(13) of section [3718.02](#) of the Revised Code, the director shall notify the director of environmental protection and the board of health. Upon receipt of the notification, the board shall cease regulating small flow on-site sewage treatment systems, and the environmental protection agency shall regulate those systems.

Amended by 129th General Assembly File No.127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 05-06-2005 .

**3718.022 Consideration of economic impact in adopting rules.**

Notwithstanding any provision in this chapter to the contrary, in adopting rules under division (A) of section [3718.02](#) of the Revised Code, the director of health shall consider the economic impact of the rules on property owners, the state of available technology, and the nature and economics of the available alternatives.

Amended by 129th General Assembly File No.127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 2007 HB119 07-01-2009

**3718.023 Approval of installation, operation or alteration of sewage treatment systems.**

(A) In accordance with rules adopted under division (A) of section [3718.02](#) of the Revised Code, a board of health shall approve or deny the installation, operation, or alteration of sewage treatment systems the use of which has been authorized in those rules or that have been approved for use in this state by the director of health under section [3718.04](#) of the Revised Code. The board shall approve an installation, operation, or alteration only in the health district in which the board has jurisdiction. A board shall approve the installation, operation, or alteration of a sewage treatment system through the issuance of a permit in accordance with rules adopted under section [3718.02](#) of the Revised Code. A board shall not approve the installation, operation, or alteration of a sewage treatment system if the installation, operation, or alteration is not appropriate for the site at which the use of the system is or is proposed to be located. In determining whether to approve or disapprove the installation, operation, or alteration of a sewage treatment system, including the progressive or incremental installation or alteration of a system, a board shall consider the economic impact on the property owner, the state of available technology, and the nature and economics of various alternatives. A board shall provide written documentation of such economic impact if requested by the property owner. In addition, the board shall ensure that a system, when

installed and maintained properly, will not create a public health nuisance and shall require a system to comply with the requirements established in division (B) of this section and other applicable requirements of this chapter.

The board shall permit a property owner to select a sewage treatment system for use by the property owner from those systems that have been approved for use in the state, from the least expensive system to the most expensive system, and a property owner may select any such system regardless of its cost, provided that the system selected will comply with all applicable requirements and standards established under this chapter and rules adopted under it.

(B) A board of health shall ensure that the design and installation of a soil absorption system prevents public health nuisances. In addition, a board of health shall ensure that a sewage treatment system that is installed after the effective date of this section shall not discharge into a ditch, stream, pond, lake, natural or artificial waterway, drain tile, or other surface water or onto the surface of the ground unless authorized by a national pollutant discharge elimination system permit issued under Chapter 6111. of the Revised Code and rules adopted under it. In addition, a board shall ensure that a sewage treatment system shall not discharge into an abandoned well, a drainage well, a dry well, a cesspool, a sinkhole, or another connection to ground water. If a household sewage treatment system serving a two- or three-family dwelling or a small flow on-site sewage treatment system is classified as a class V injection well, a board of health shall ensure that the system complies with rules adopted under section [6111.043](#) of the Revised Code and with Chapter 3745-34 of the Administrative Code.

(C) For purposes of the approval or denial of the installation, operation, or alteration of a sewage treatment system under this section, "economic impact" means all of the following, as applicable:

- (1) The cost to the property owner for the installation of the proposed sewage treatment system, including the cost of progressive or incremental installation of the system;
- (2) The cost of an alternative system, including the cost of progressive or incremental installation of the system, that, when installed and maintained properly, will not create a public health nuisance compared to the proposed sewage treatment system;
- (3) The costs of repairing the sewage treatment system, including the cost of progressive or incremental repairs, as opposed to replacing the system with a new system.

(D) An application for an installation permit that is accepted by a board of health prior to January 1, 2012, shall be valid for three years from the date of the submission of the complete application and the accompanying application fee.

(E) An installation permit issued by a board of health prior to January 1, 2012, shall be valid until January 1, 2013, unless extended by a board of health for not more than an additional six months.

Added by 128th General Assembly File No. 51, SB 110, §1, eff. 9/17/2010.

### **3718.024 Training in best management practices.**

The director of health in cooperation with a board of health shall assess the familiarity of the board's staff with best management practices in the use of sewage treatment systems, as necessary, and conduct appropriate training to educate the board's staff in those best management practices and in the use of any new sewage treatment system technology that is recommended for use by the sewage treatment system technical advisory committee created in section [3718.03](#) of the Revised Code.

Added by 128th General Assembly File No. 51, SB 110, §1, eff. 9/17/2010.

### **3718.025 National pollutant discharge elimination system permits.**

The environmental protection agency shall not require a board of health to enter into a memorandum of understanding or any other agreement with the agency regarding the issuance of national pollutant discharge elimination system permits for off-lot household sewage treatment systems. Rather, a representative of a board of health may meet with a person who intends to install such a system to determine the feasibility of the system

and refer the person to the agency to secure a national pollutant discharge elimination system permit for the system if needed. The environmental protection agency shall make revisions to any applicable general national pollutant discharge elimination system permits, issued pursuant to the federal Water Pollution Control Act as defined in section [6111.01](#) of the Revised Code, so that such a memorandum of understanding is not required. A board of health voluntarily may enter into a memorandum of understanding with the environmental protection agency to implement a general national pollutant discharge elimination system permit. The agency shall work with boards of health to facilitate securing national pollutant discharge elimination system permits on behalf of property owners in counties without a memorandum of understanding.

Added by 128th General Assembly File No. 51, SB 110, §1, eff. 9/17/2010.

### **3718.03 Sewage treatment system technical advisory committee.**

(A) There is hereby created the sewage treatment system technical advisory committee consisting of the director of health or the director's designee and thirteen members who are knowledgeable about sewage treatment systems and technologies. The director or the director's designee shall serve as committee secretary and may vote on actions taken by the committee. Of the thirteen members, five shall be appointed by the governor, four shall be appointed by the president of the senate, and four shall be appointed by the speaker of the house of representatives.

(1) Of the members appointed by the governor, one shall represent academia and shall be active in teaching or research in the area of on-site wastewater treatment, one shall be a representative of the public who is not employed by the state or any of its political subdivisions and who does not have a pecuniary interest in sewage treatment systems, one shall be a registered professional engineer employed by the environmental protection agency, one shall be selected from among soil scientists in the division of soil and water conservation in the department of agriculture, and one shall be a representative of a statewide organization representing townships.

(2) Of the members appointed by the president of the senate, one shall be a health commissioner who is a member of and recommended by the association of Ohio health commissioners, one shall represent the interests of manufacturers of sewage treatment systems, one shall represent installers and service providers, and one shall be a person with demonstrated experience in the design of sewage treatment systems.

(3) Of the members appointed by the speaker of the house of representatives, one shall be a health commissioner who is a member of and recommended by the association of Ohio health commissioners, one shall represent the interests of manufacturers of sewage treatment systems, one shall be a sanitarian who is registered under Chapter 4736. of the Revised Code and who is a member of the Ohio environmental health association, and one shall be a registered professional engineer with experience in sewage treatment systems.

(B) Terms of members appointed to the committee shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall serve from the date of appointment until the end of the term for which the member was appointed.

Members may be reappointed. Vacancies shall be filled in the same manner as provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member was appointed shall hold office for the remainder of that term. A member shall continue to serve after the expiration date of the member's term until the member's successor is appointed or until a period of sixty days has elapsed, whichever occurs first. The applicable appointing authority may remove a member from the committee for failure to attend two consecutive meetings without showing good cause for the absences.

(C) The technical advisory committee annually shall select from among its members a chairperson and a vice-chairperson. The secretary shall keep a record of its proceedings. A majority vote of the members of the full committee is necessary to take action on any matter. The committee may adopt bylaws governing its operation, including bylaws that establish the frequency of meetings.

(D) Serving as a member of the sewage treatment system technical advisory committee does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for

removal of public officers or employees from their offices or positions of employment. Members of the committee shall serve without compensation for attending committee meetings.

(E) A member of the committee shall not have a conflict of interest with the position. For the purposes of this division, "conflict of interest" means the taking of any action that violates any provision of Chapter 102. or 2921. of the Revised Code.

(F) The sewage treatment system technical advisory committee shall do all of the following:

(1) Develop with the department of health standards, guidelines, and protocols for approving or disapproving a sewage treatment system or components of a system under section [3718.04](#) of the Revised Code. Any guideline requiring the submission of scientific information or testing data shall specify, in writing, the protocol and format to be used in submitting the information or data.

(2) Develop with the department an application form to be submitted to the director by an applicant for approval or disapproval of a sewage treatment system or components of a system and specify the information that must be included with an application form;

(3) Make recommendations to the director regarding the approval or disapproval of an application sent to the director under section [3718.04](#) of the Revised Code requesting approval of a sewage treatment system or components of a system;

(4) Pursue and recruit in an active manner the research, development, introduction, and timely approval of innovative and cost-effective sewage treatment systems and components of a system for use in this state, which shall include conducting pilot projects to assess the effectiveness of a system or components of a system.

(G) The chairperson of the committee shall prepare and submit an annual report concerning the activities of the committee to the general assembly not later than ninety days after the end of the calendar year. The report shall discuss the number of applications submitted under section [3718.04](#) of the Revised Code for the approval of a new sewage treatment system or a component of a system, the number of such systems and components that were approved, any information that the committee considers beneficial to the general assembly, and any other information that the chairperson determines is beneficial to the general assembly. If other members of the committee determine that certain information should be included in the report, they shall submit the information to the chairperson not later than thirty days after the end of the calendar year.

(H) The department shall provide meeting space for the committee. The committee shall be assisted in its duties by the staff of the department.

(I) Sections [101.82](#) to [101.87](#) of the Revised Code do not apply to the sewage treatment system technical advisory committee.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 1/1/2016.

Amended by 128th General Assembly File No. 51, SB 110, §1, eff. 9/17/2010.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 7/17/2009.

Effective Date: 05-06-2005; 2007 HB119 07-01-2007

### **[3718.04 Application for approval of nonconforming system - standards - notice to applicant.](#)**

(A) A manufacturer seeking approval for the installation and use of a sewage treatment system or a component of a system in this state that differs in design or function from systems or components of systems the use of which is authorized in rules adopted under section [3718.02](#) of the Revised Code shall request an application form from the department of health. The applicant shall complete the form and include with it all of the information that is required by the department and the sewage treatment system technical advisory committee. The applicant shall submit a completed application and all required information to the director of health.

(B) Upon receipt of an application, the director shall examine the application and all accompanying information to determine if the application is complete. If the director determines that the application is not complete, the director shall notify the applicant not later than sixty days after submission of the application that the application is not complete, provide a description of the information that is missing from the application, and return the application and all accompanying information to the applicant. The applicant may resubmit the application to the director if the application includes the information that was identified by the director. Not later than thirty days after receipt of a complete application, the director shall notify the committee of the complete application and send a copy of the complete application and all accompanying information to the committee together with a request that the committee recommend that the director approve or disapprove the system.

Not later than ninety days after receipt of a complete application, the committee shall recommend approval or disapproval of the application and submit its recommendation in writing to the director. The director shall approve or disapprove the application not later than sixty days after the committee submits its recommendation to the director or, if the committee fails to recommend approval or disapproval within the required time, not later than one hundred twenty days after the submission of a complete application. If the director fails to approve or disapprove an application within the required time, the application shall be deemed approved.

(C) In approving or disapproving an application, the director shall use the standards , guidelines, and protocols that the committee developed with the department for that purpose. The director shall not approve an application that fails to comply with those standards , guidelines, and protocols. If the committee recommends approval or disapproval of an application, the director shall consider the committee's recommendation before approving or disapproving the application. If the committee fails to provide advice or if the committee fails to recommend approval or disapproval of the application within the required time, the director may approve or disapprove the application without considering the advice of the committee. The director shall establish and include any appropriate terms and conditions with the approval of a sewage treatment system or component of a system for use in this state. For purposes of establishing soil absorption specifications for a sewage treatment system, the terms and conditions shall include standards regarding the sizing of the system.

(D) If the director approves an application under this section, the director shall notify the applicant in writing. The director also shall notify boards of health in accordance with the procedures established in rules adopted under section [3718.02](#) of the Revised Code that the sewage treatment system or component of a system that is the subject of the application is approved for statewide use. If the director disapproves an application under this section, the director shall notify the applicant in writing and provide a brief explanation for the disapproval.

(E) Decisions of the director approving or disapproving applications under this section may be appealed in accordance with Chapter 119. of the Revised Code.

(F) No approval shall be required under this section with respect to a sewage treatment system or component of a system that has been approved by the director prior to the effective date of this amendment unless the manufacturer of the system or component changes the design or seeks modifications to any terms and conditions of the prior approval.

(G) The director may revoke the approval of a sewage treatment system or component of a system if the director finds, based on substantial evidence, that the system or component fails to comply with applicable standards for the system or component. The revocation of an approval under this division may be appealed in accordance with Chapter 119. of the Revised Code.

Amended by 128th General Assembly File No. 51, SB 110, §1, eff. 9/17/2010.

Effective Date: 05-06-2005 .

### **3718.041 Requests for statements of approval for installers or manufacturers.**

An installer or manufacturer of a sewage treatment system or component of a system the use of which has been authorized in rules adopted under section [3718.02](#) of the Revised Code may request from the director of health a written statement acknowledging that the system or component of a system is approved for use in this state and that the approval is equivalent in all respects to the approval of a system or component of a system under section



[3718.04](#) of the Revised Code. The director may approve or deny such a request as the director determines appropriate.

Added by 128th General Assembly File No. 51, SB 110, §1, eff. 9/17/2010.

**[3718.05 Administration and enforcement duties of director of health.](#)**

The director of health shall do all of the following:

- (A) Administer and enforce this chapter and the rules adopted under it;
- (B) Examine records of boards of health, in accordance with rules adopted by the director, that are determined necessary to ascertain compliance with this chapter and rules adopted under it;
- (C) Review and approve or disapprove rules proposed by boards of health under division (B) of section [3718.02](#) of the Revised Code. The director shall not disapprove a proposed rule unless the director determines that the proposed rule conflicts with this chapter or rules adopted under division (A) of section [3718.02](#) of the Revised Code or fails to promote public health or environmental protection. If the director disapproves a proposed rule, the director shall provide a written explanation of the director's disapproval to the board of health that proposed the rule.
- (D) Survey boards of health as required by section [3718.07](#) of the Revised Code;
- (E) Develop with the sewage treatment system technical advisory committee standards, guidelines, and protocols for use by the director in approving or disapproving a sewage treatment system under section [3718.04](#) of the Revised Code and an application form for use by applicants for that approval, including identification of the information that must be included with the form;
- (F) Provide instructions on the operation and maintenance of a sewage treatment system. The director shall provide the operation and maintenance instructions on the department of health's web site. In addition, the director shall provide a copy of the operation and maintenance instructions when the director receives a written request for the instructions.
- (G) Develop educational programs, in conjunction with boards of health, to educate owners of sewage treatment systems regarding the proper operation and maintenance of those systems.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Amended by 128th General Assembly File No. 51, SB 110, §1, eff. 9/17/2010.

Amended by 128th General Assembly File No. 12, HB 363, §6, eff. 12/22/2009.

Amended by 128th General Assembly File No. 9, HB 1, §640.20, eff. 7/17/2009.

Effective Date: 05-06-2005 .

**[3718.06 Fees; disposition of proceeds.](#)**

(A) A board of health shall establish fees in accordance with section 3709.09 of the Revised Code for the purpose of carrying out its duties under this chapter and rules adopted under it, including fees for installation permits, operation permits, and alteration permits issued by the board. All fees so established and collected by the board shall be deposited in a special fund of the district to be used exclusively by the board in carrying out those duties.

(B) In accordance with Chapter 119. of the Revised Code, the director of health may establish by rule a fee to be collected from applicants for installation permits and alteration permits issued under rules adopted under this chapter. The director of health shall use not more than ninety per cent of the proceeds from that fee for administering and enforcing this chapter and the rules adopted under it by the director. The director shall use not less than ten per cent of the proceeds from that fee to establish a program in cooperation with boards of health to fund installation and evaluation of sewage treatment system new technology pilot projects through grants or

other agreements. In the selection of pilot projects, the director shall consult with the sewage treatment system technical advisory committee. A board of health shall collect and transmit the fee to the director pursuant to section 3709.092 of the Revised Code.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Amended by 128th General Assembly File No. 51, SB 110, §1, eff. 9/17/2010.

Amended by 128th General Assembly File No. 12, HB 363, §6, eff. 12/22/2009.

Amended by 128th General Assembly File No. 9, HB 1, §640.20, eff. 7/17/2009.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 05-06-2005 .

### **3718.07 Survey to determine compliance - approved district list.**

The director of health shall survey each city and general health district at least once every three years to determine whether there is substantial compliance with the requirements of this chapter pertaining to health districts and the applicable rules adopted by the director under this chapter. Upon determining that there is substantial compliance, the director shall place the district on an approved list. The director may resurvey an approved district if it is determined by the director to be necessary and may remove from the list a district that is found not to be substantially complying with the requirements of this chapter pertaining to health districts and the applicable rules.

If the director determines that a district is not eligible to be placed on the approved list or to continue on the list after a resurvey, the director shall certify that determination to the board of health, and the director shall carry out the duties of the unapproved health district under this chapter and the applicable rules adopted under it within the district or shall contract with an approved health district to conduct those duties until the unapproved district is placed on or returned to the approved list. The director or the contracting district shall have within the unapproved district the authority to exercise powers and perform duties granted to or imposed on the board under this chapter and the applicable rules adopted under it.

Until the unapproved district is placed on or returned to the approved list, the director or the contracting district shall collect all fees payable to the board of health under this chapter and all such fees previously paid to the unapproved district that have not been expended or encumbered. The director shall deposit those fees in the state treasury to the credit of a special fund, which is hereby created, to be used by the director for the purpose of carrying out the duties of the unapproved health district under this chapter and the applicable rules adopted under it. A contracting district shall deposit those fees to the credit of its fund created under section [3718.06](#) of the Revised Code to be used by the district for the purpose of carrying out the duties of the unapproved district under this chapter and the applicable rules adopted under it. The director or contracting district shall repay to the unapproved district any balance remaining in the applicable fund from all sources when the unapproved district is placed on or returned to the approved list by the director.

If a health district is removed from the approved list under this section and the board of health of the district is regulating small flow on-site sewage treatment systems in the district under section [3718.021](#) of the Revised Code, the director of environmental protection shall regulate those systems in that district in accordance with division (C) of that section.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Amended by 128th General Assembly File No. 12, HB 363, §6, eff. 12/22/2009.

Amended by 128th General Assembly File No. 9, HB 1, §640.20, eff. 7/17/2009.

Effective Date: 05-06-2005 .



**3718.08 Violation of chapter, rules or conditions prohibited.**

No person shall violate this chapter, any rule adopted or order issued under it, or any condition of a registration or permit issued under rules adopted under it.

Amended by 128th General Assembly File No.12, HB 363, §6, eff. 12/22/2009.

Amended by 128th General Assembly File No.9, HB 1, §640.20, eff. 7/17/2009.

Effective Date: 05-06-2005 .

**3718.09 Enforcement orders - emergency orders.**

(A) A board of health may issue, modify, suspend, or revoke enforcement orders to a registration or permit holder or other person directing the holder or person to abate a violation of this chapter, any rule adopted or order issued under it, or a condition of a registration or permit issued under it within a specified, reasonable time. If an order issued under this division is neglected or disregarded, the applicable board of health may proceed in accordance with section [3707.02](#) of the Revised Code.

(B) The health commissioner or the commissioner's designated representative, without prior notice or hearing and in accordance with rules adopted by the director of health , may issue an emergency order requiring any action necessary to meet a public health emergency or to prevent or abate an imminent and substantial threat to surface water or ground water regarding domestic septage management or regarding a sewage treatment system that is being operated in a manner that does not comply with this chapter or rules adopted under it. A person to whom such an emergency order is issued immediately shall comply with the order. A person so ordered may apply to the issuer of the order for a hearing, which shall be held as soon as possible, but not later than twenty days after the issuer's receipt of the application for a hearing.

Amended by 129th General Assembly File No.127, HB 487, §101.01, eff. 9/10/2012.

Amended by 128th General Assembly File No.51, SB 110, §1, eff. 9/17/2010.

Amended by 128th General Assembly File No.12, HB 363, §6, eff. 12/22/2009.

Amended by 128th General Assembly File No.9, HB 1, §640.20, eff. 7/17/2009.

Effective Date: 05-06-2005 .

**3718.10 Prosecution or injunction for violation - civil penalty.**

(A) The prosecuting attorney of the county or the city director of law, village solicitor, or other chief legal officer of the municipal corporation where a violation has occurred or is occurring, upon complaint of the director of health or a board of health, shall prosecute to termination or bring an action for injunction or other appropriate relief against any person who is violating or has violated this chapter, any rule adopted or order issued under it, or any condition of a registration or permit issued under rules adopted under it. The court of common pleas or the municipal or county court in which an action for injunction is filed has jurisdiction to grant such relief upon a showing that the respondent named in the complaint is or was in violation of the chapter or rules, orders, or conditions.

Upon finding that a person intentionally has violated this chapter, a rule adopted or order issued under it, or any condition of a registration or permit issued under rules adopted under it, the court may assess a civil penalty of not more than one hundred dollars for each day of violation against the person. Seventy-five per cent of any penalties assessed by the court under this division shall be paid to the health district whose board of health brought the complaint, or to the state treasury to the credit of the general operations fund created in section [3701.83](#) of the Revised Code if the director of health is carrying out the duties of an unapproved health district in which the violation occurred in accordance with section [3718.07](#) of the Revised Code, and shall be used for the purposes of this chapter and the rules adopted under it. Twenty-five per cent of any penalties assessed by the court under this division shall be paid to the prosecuting attorney of the county or city director of law, village

solicitor, or other chief legal officer of the municipal corporation that prosecuted or brought the action under this division to pay the expenses incurred in bringing the action.

(B) The remedies provided in this chapter are in addition to any other remedies available under law.

Amended by 128th General Assembly File No.12, HB 363, §6, eff. 12/22/2009.

Amended by 128th General Assembly File No.9, HB 1, §640.20, eff. 7/17/2009.

Effective Date: 05-06-2005 .

### **3718.11 Request for hearing.**

(A) A property owner may request a hearing with the board of health for any reason described in division (A)(18) of section [3718.02](#) of the Revised Code. A property owner may appeal the results of the hearing to either of the following:

- (1) The court of common pleas of the county in which the property owner's land is located;
- (2) A sewage treatment system appeals board that is established in accordance with this section.

(B) A property owner that wishes to appeal to a sewage treatment system appeals board shall file the appeal with the board of health within whose jurisdiction the property owner's land is located. Upon receipt of a filing, the board of health shall send the filing of the appeal to the chairperson of the sewage treatment system appeals board for the county in which the board of health has jurisdiction.

(C)

(1) Not later than ninety days after the effective date of this section, a sewage treatment system appeals board shall be appointed for each county as follows:

(a) One member shall be appointed by the health commissioner of the general health district having jurisdiction in the county.

(b) One member shall be appointed by the judge of the probate court of the county having the longest continuous service as a judge of the probate court.

(c) One member shall be appointed by the director of health.

(2) Terms of appointment to a sewage treatment system appeals board shall be for two years. Members may be reappointed. Vacancies shall be filled in the same manner as provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member was appointed shall hold office for the remainder of that term.

(3) The person appointed by the judge of the probate court shall serve as chairperson of the board. A majority vote of the members of the board is necessary to take action on any matter. The chairperson of the board shall designate the time and location for a hearing before the board. Members of the board shall serve without compensation.

(4) A board of health shall send an appeal that has been filed with the board of health under division (B) of this section to the sewage treatment system appeals board immediately after the appeal has been filed. Not later than forty-five days after a hearing before a sewage treatment system appeals board, the board shall issue a written decision concerning an appeal before the board.

(5) The judge of the probate court who made an appointment to the board under this section shall establish due process procedures to be used by the applicable sewage treatment system appeals board appointed under this section for the purpose of hearing appeals regarding orders and decisions of a board of health. All appeals before the applicable sewage treatment system appeals board shall be conducted in accordance with those procedures.

The procedures may include filing fees applicable to appeals conducted by the sewage treatment system appeals board.

(D) An appeal before a sewage treatment system appeals board is final, and no further appeal may be taken.

Added by 128th General Assembly File No. 51, SB 110, §1, eff. 9/17/2010.

### **3718.99 Penalty.**

Whoever purposely violates section [3718.08](#) of the Revised Code shall be fined not more than one thousand dollars. Each day of violation is a separate offense. All money collected from fines under this section shall be used to administer and enforce this chapter and rules adopted under it and shall be deposited as follows:

(A) If the violation occurred within a health district that is approved under section [3718.07](#) of the Revised Code, the money shall be deposited to the credit of the district's special fund created under section [3718.06](#) of the Revised Code.

(B) If the violation occurred within a health district that is not approved under section [3718.07](#) of the Revised Code and a contracting district is carrying out the duties of the unapproved health district in accordance with that section, the money shall be deposited to the credit of the contracting district's special fund created under section [3718.06](#) of the Revised Code.

(C) If the violation occurred within an unapproved health district and the director of health is carrying out the duties of the unapproved health district in accordance with section [3718.07](#) of the Revised Code, the money shall be deposited in the state treasury to the credit of the general operations fund created in section [3701.83](#) of the Revised Code.

Amended by 128th General Assembly File No. 12, HB 363, §6, eff. 12/22/2009.

Amended by 128th General Assembly File No. 9, HB 1, §640.20, eff. 7/17/2009.

Effective Date: 05-06-2005 .

## Chapter 3749: SWIMMING POOLS

### 3749.01 Swimming pool definitions.

As used in sections 3749.01 to 3749.10 of the Revised Code:

(A) "Board of health" means a city board of health or a general health district, or an authority having the duties of a city board of health as authorized by section [3709.05](#) of the Revised Code.

(B) "Health district" means any city or general health district created pursuant to section [3709.01](#) of the Revised Code.

(C) "Person" means the state, any political subdivision, special district, public or private corporation, individual, firm, partnership, association, or any other entity.

(D) "Licensor" means a city board of health or a general health district, an authority having the duties of a city board of health as authorized pursuant to section [3709.05](#) of the Revised Code, or the director of the department of health when acting under section [3749.07](#) of the Revised Code.

(E) "Director" means the director of the department of health or his authorized representative.

(F) "Private residential swimming pool" means any indoor or outdoor structure, chamber, or tank containing a body of water for swimming, diving, or bathing located at a dwelling housing no more than three families and used exclusively by the residents and their nonpaying guests.

(G) "Public swimming pool" means any indoor or outdoor structure, chamber, or tank containing a body of water for swimming, diving, or bathing that is intended to be used collectively for swimming, diving, or bathing and is operated by any person whether as the owner, lessee, operator, licensee, or concessionaire, regardless of whether or not fee is charged for use, but does not mean any public bathing area or private residential swimming pool.

(H) "Public spa" means any public swimming pool that is typically operated as a smaller, higher temperature pool for recreational or nonmedical uses.

(I) "Special use pool" means a public swimming pool containing flume slides, wave generating equipment, or other special features that necessitate different design and safety requirements. Special use pool does not include any water slide or wave generating pool at a public amusement area which is licensed and inspected by the department of agriculture pursuant to sections [1711.50](#) to [1711.57](#) of the Revised Code.

(J) "Public bathing area" means an impounding reservoir, basin, lake, pond, creek, river, or other similar natural body of water.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017 (Vetoed).

Effective Date: 10-20-1987.

### 3749.02 Adoption of rules for public swimming pools, spas and special use pools.

The director of health shall, subject to Chapter 119. of the Revised Code, adopt rules of general application throughout the state governing the issuance of licenses, approval of plans, layout, construction, sanitation, safety, and operation of public swimming pools, public spas, and special use pools. Such rules shall not be applied to the construction, erection, or manufacture of any building to which section [3781.06](#) of the Revised Code is applicable when the building or structure is either integral to or appurtenant to a public swimming pool, a public spa, or a special use pool.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017(Vetoed).

Amended by 129th General Assembly File No.127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 09-10-1987 .

### **3749.03 Approval of plans by director of health.**

(A) No person shall construct or install, or renovate or otherwise substantially alter, a public swimming pool, public spa, or special use pool after September 10, 1987, until the plans for the pool or spa have been submitted to and approved by the director of health. Within thirty days of receipt of the plans, the director shall approve or disapprove them. The plans and approval required under this division do not apply to repairs or ordinary maintenance that does not substantially affect the manner of water recirculation or basic design of the public swimming pool, public spa, or special use pool.

Any person aggrieved by the director's disapproval of plans under this division may, within thirty days following receipt of the director's notice of disapproval, request a hearing on the matter. The hearing shall be held in accordance with Chapter 119. of the Revised Code and may be appealed in the manner provided in that chapter.

(B) Prior to the issuance of a license to operate a newly constructed or altered public swimming pool, public spa, or special use pool, the director or a licenser authorized by the director shall verify that the construction or alterations are consistent with the plans submitted and approved under division (A) of this section. The director or licenser authorized by the director shall have two working days from the time notification is received that a public swimming pool, public spa, or special use pool is ready for an inspection to verify the construction or alterations.

(C)

(1) Except as provided in division (C)(2) of this section, the fees for the approval of plans are as follows:

(a) Five per cent of the total cost of the equipment and installation not to exceed two hundred seventy-five dollars for a public swimming pool, public spa, or special use pool, or a combination thereof, that has less than two thousand square feet of surface area;

(b) Five per cent of the total cost of the equipment and installation not to exceed five hundred fifty dollars for a public swimming pool, public spa, special use pool, or a combination thereof, that has two thousand or more square feet of surface area.

(2) The director may, by rule adopted in accordance with Chapter 119. of the Revised Code, increase the fees established by this section.

(D) All plan approval fees shall be paid into the state treasury to the credit of the general operations fund created by section [3701.83](#) of the Revised Code. The fees shall be administered by the director and shall be used solely for the administration and enforcement of this chapter and the rules adopted thereunder.

(E) Plan approvals issued under this section shall not constitute an exemption from the land use and building requirements of the political subdivision in which the public swimming pool, public spa, or special use pool is or is to be located.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017(Vetoed).

Amended by 129th General Assembly File No.127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 12-22-1992 .

### **3749.04 Annual application for license to operate or maintain pool or spa.**

(A) No person shall operate or maintain a public swimming pool, public spa, or special use pool without a license issued by the licenser having jurisdiction.

(B) Every person who intends to operate or maintain an existing public swimming pool, public spa, or special use pool shall, during the month of April of each year, apply to the licenser having jurisdiction for a license to operate the pool or spa. Any person proposing to operate or maintain a new or otherwise unlicensed public swimming pool, public spa, or special use pool shall apply to the licenser having jurisdiction at least thirty days prior to the

intended start of operation of the pool or spa. Within thirty days of receipt of an application for licensure of a public swimming pool, public spa, or special use pool, the licensor shall process the application and either issue a license or otherwise respond to the applicant regarding the application.

(C) Each license issued shall be effective from the date of issuance until the last day of May of the following year.

(D) Each licensor administering and enforcing sections [3749.01](#) to [3749.09](#) of the Revised Code and the rules adopted thereunder may establish licensing and inspection fees in accordance with section [3709.09](#) of the Revised Code, which shall not exceed the cost of licensing and inspecting public swimming pools, public spas, and special use pools.

(E) Except as provided in division (F) of this section and in division (B) of section [3749.07](#) of the Revised Code, all license fees collected by a licensor shall be deposited into a swimming pool fund, which is hereby created in each health district. The fees shall be used by the licensor solely for the purpose of administering and enforcing this chapter and the rules adopted under this chapter.

(F) An annual license fee established under division (D) of this section shall include any additional amount determined by rule of the director of health, which the board of health shall collect and transmit to the director pursuant to section [3709.092](#) of the Revised Code. The amounts collected under this division shall be administered by the director of health and shall be used solely for the administration and enforcement of this chapter and the rules adopted under this chapter.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017(Vetoed).

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 07-24-1990 .

### **3749.05 Disciplinary actions by licensor of district.**

The licensor of the district in which a public swimming pool, public spa, or special use pool is located may, in accordance with Chapter 119. of the Revised Code, refuse to grant a license or suspend or revoke any license issued to any person for failure to comply with the requirements of Chapter 3749. of the Revised Code and the rules adopted thereunder.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017(Vetoed).

Effective Date: 09-10-1987.

### **3749.06 Inspection of public swimming pool, public spa, or special use pool.**

Prior to the issuance of an initial license and annually thereafter, the licensor shall inspect each public swimming pool, public spa, or special use pool in his jurisdiction to determine whether or not the pool or spa is in compliance with Chapter 3749. of the Revised Code and the rules adopted thereunder. A licensor may, as he determines appropriate, inspect a public swimming pool, public spa, or special use pool at any other time. The licensor shall make the initial inspection within five days from the date of receipt of notification that the pool or spa is ready for operation and shall maintain a record of each inspection that he conducts for a period of at least five years on forms prescribed by the director of health.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017(Vetoed).

Effective Date: 09-10-1987.

### **3749.07 Annual survey of health districts for compliance.**

(A) The director of health shall annually survey each health district that licenses public swimming pools, public spas, and special-use pools to determine whether or not the health district is in substantial compliance with this

chapter and the rules adopted thereunder. If the director determines that a health district is in substantial compliance, he shall place the district on an approved health district licensing list. The director shall, as he determines necessary, make additional surveys of health districts and shall remove from the approved health district licensing list any health district he determines not to be in substantial compliance with this chapter and the rules adopted thereunder.

(B) If the director determines that a health district is not eligible to be placed on the approved health district licensing list, he shall certify the same to the board of health of the health district and shall perform the duties of a health district in that area until the health district is eligible for placement on the approved list. All fees payable to the health district during the time that the director performs the duties of the health district and all other such fees that have not been expended or otherwise encumbered shall be deposited by the director in the state treasury to the credit of the general operations fund created by section [3701.83](#) of the Revised Code, to be used by the director in his capacity as a licensor. The director shall keep a record of the fees so deposited and, when the health district is placed on the approved list, shall transfer any remaining balance of the fees to the health district swimming pool fund created under division (E) of section [3749.04](#) of the Revised Code.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017(Vetoed).

Effective Date: 07-24-1990.

### **3749.08 [Repealed].**

Effective Date: 01-01-1995.

### **3749.09 Prohibitions - injunctive relief.**

(A) No person shall violate sections [3749.01](#) to 3749.09 of the Revised Code or any rule adopted thereunder.

(B) The prosecuting attorney of the county, the city director of law, or the attorney general, upon complaint of the licensor, shall prosecute to termination or bring an action for injunctive relief, or both, against any person violating sections [3749.01](#) to 3749.09 of the Revised Code or any rule adopted thereunder.

Effective Date: 09-10-1987.

### **3749.99 Penalty.**

Whoever violates division (A) of section [3749.09](#) of the Revised Code is guilty of a misdemeanor of the fourth degree.

Effective Date: 09-10-1987.



## **Chapter 3794: SMOKING BAN**

### **3794.01 Definitions.**

As used in this chapter:

(A) "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted smoking device for burning tobacco or any other plant. "Smoking" does not include the burning of incense in a religious ceremony.

(B) "Public place" means an enclosed area to which the public is invited or in which the public is permitted and that is not a private residence.

(C) "Place of employment" means an enclosed area under the direct or indirect control of an employer that the employer's employees use for work or any other purpose, including but not limited to, offices, meeting rooms, sales, production and storage areas, restrooms, stairways, hallways, warehouses, garages, and vehicles. An enclosed area as described herein is a place of employment without regard to the time of day or the presence of employees.

(D) "Employee" means a person who is employed by an employer, or who contracts with an employer or third person to perform services for an employer, or who otherwise performs services for an employer for compensation or for no compensation.

(E) "Employer" means the state or any individual, business, association, political subdivision, or other public or private entity, including a nonprofit entity, that employs or contracts for or accepts the provision of services from one or more employees.

(F) "Enclosed Area" means an area with a roof or other overhead covering of any kind and walls or side coverings of any kind, regardless of the presence of openings for ingress and egress, on all sides or on all sides but one.

(G) "Proprietor" means an employer, owner, manager, operator, liquor permit holder, or person in charge or control of a public place or place of employment.

(H) "Retail tobacco store" means a retail establishment that derives more than eighty percent of its gross revenue from the sale of cigars, cigarettes, pipes, or other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. "Retail tobacco store" does not include a tobacco department or section of a larger commercial establishment or of any establishment with a liquor permit or of any restaurant.

(I) "Outdoor patio" means an area that is either: enclosed by a roof or other overhead covering and walls or side coverings on not more than two sides; or has no roof or other overhead covering regardless of the number of walls or other side coverings.

Effective Date: 12-07-2006.

### **3794.02 Smoking prohibitions.**

(A) No proprietor of a public place or place of employment, except as permitted in section [3794.03](#) of this chapter, shall permit smoking in the public place or place of employment or in the areas directly or indirectly under the control of the proprietor immediately adjacent to locations of ingress or egress to the public place or place of employment.

(B) A proprietor of a public place or place of employment shall ensure that tobacco smoke does not enter any area in which smoking is prohibited under this chapter through entrances, windows, ventilation systems, or other means.

(C) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an individual for exercising any right, including reporting a violation, or performing any obligation under this chapter.



(D) No person shall refuse to immediately discontinue smoking in a public place, place of employment, or establishment, facility or outdoor area declared nonsmoking under section [3794.05](#) of this chapter when requested to do so by the proprietor or any employee of an employer of the public place, place of employment or establishment, facility or outdoor area.

(E) Lack of intent to violate a provision of this chapter shall not be a defense to a violation.

Effective Date: 12-07-2006.

### **3794.03 Areas where smoking is not regulated by this chapter.**

The following shall be exempt from the provisions of this chapter:

(A) Private residences, except during the hours of operation as a child care or adult care facility for compensation, during the hours of operation as a business by a person other than a person residing in the private residence, or during the hours of operation as a business, when employees of the business, who are not residents of the private residence or are not related to the owner, are present.

(B) Rooms for sleeping in hotels, motels and other lodging facilities designated as smoking rooms; provided, however, that not more than twenty per cent of sleeping rooms may be so designated.

(C) Family-owned and operated places of employment in which all employees are related to the owner, but only if the enclosed areas of the place of employment are not open to the public, are in a freestanding structure occupied solely by the place of employment, and smoke from the place of employment does not migrate into an enclosed area where smoking is prohibited under the provisions of this chapter.

(D) Any nursing home, as defined in division (A) of section [3721.10](#) of the Revised Code, but only to the extent necessary to comply with division (A)(18) of section [3721.13](#) of the Revised Code. If indoor smoking area is provided by a nursing home for residents of the nursing home, the designated indoor smoking area shall be separately enclosed and separately ventilated so that tobacco smoke does not enter, through entrances, windows, ventilation systems, or other means, any areas where smoking is otherwise prohibited under this chapter. Only residents of the nursing home may utilize the designated indoor smoking area for smoking. A nursing home may designate specific times when the indoor smoking area may be used for such purpose. No employee of a nursing home shall be required to accompany a resident into a designated indoor smoking area or perform services in such area when being used for smoking.

(E) Retail tobacco stores in operation prior to December 7, 2006. The retail tobacco store shall annually file with the department of health by the thirty-first day of January an affidavit stating the percentage of its gross income during the prior calendar year that was derived from the sale of cigars, cigarettes, pipes, or other smoking devices for smoking tobacco and related smoking accessories. Any retail tobacco store that begins operation after December 7, 2006, or any existing retail tobacco store that relocates to another location after December 7, 2006, may only qualify for this exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited under the provisions of this chapter.

(F) Outdoor patios . All outdoor patios shall be physically separated from an enclosed area. If windows or doors form any part of the partition between an enclosed area and the outdoor patio, the openings shall be closed to prevent the migration of smoke into the enclosed area. If windows or doors do not prevent the migration of smoke into the enclosed area, the outdoor patio shall be considered an extension of the enclosed area and subject to the prohibitions of this chapter.

(G) Private clubs as defined in division (B)(13) of section [4301.01](#) of the Revised Code, provided all of the following apply: the club has no employees; the club is organized as a not-for-profit entity; only members of the club are present in the club's building; no persons under the age of eighteen are present in the club's building; the club is located in a freestanding structure occupied solely by the club; smoke from the club does not migrate into an enclosed area where smoking is prohibited under the provisions of this chapter; and, if the club serves alcohol, it holds a valid D4 liquor permit.

(H) An enclosed space in a laboratory facility at an accredited college or university, when used solely and exclusively for clinical research activities by a person, organization, or other entity conducting institutional review board-approved scientific or medical research related to the health effects of smoking or the use of tobacco products. The enclosed space shall not be open to the public and shall be designed to minimize exposure of nonsmokers to smoke. The program administrator shall annually file a notice of new research with the department of health on a form prescribed by the department.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Effective Date: 12-07-2006.

#### **3794.04 Construction; other applicable laws.**

Because medical studies have conclusively shown that exposure to secondhand smoke from tobacco causes illness and disease, including lung cancer, heart disease, and respiratory illness, smoking in the workplace is a statewide concern and, therefore, it is in the best interests of public health that smoking of tobacco products be prohibited in public places and places of employment and that there be a uniform statewide minimum standard to protect workers and the public from the health hazards associated with exposure to secondhand smoke from tobacco. The provisions of this chapter shall be liberally construed so as to further its purposes of protecting public health and the health of employees and shall prevail over any less restrictive state or local laws or regulations. Nothing in this chapter shall be construed to permit smoking where it is otherwise restricted by other laws or regulations.

Effective Date: 12-07-2006.

#### **3794.05 Declaration of establishment as nonsmoking.**

Notwithstanding any other provision of this chapter, the owner, manager, operator, or other person in charge or control of an establishment, facility, or outdoor area which does not otherwise qualify as a public place or place of employment may declare such establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place declared nonsmoking under this section where a sign conforming to the requirements of section [3794.06](#) is posted.

Effective Date: 12-07-2006.

#### **3794.06 Posting of signs; prohibition of ashtrays; responsibilities of proprietors.**

In addition to the prohibitions contained in section [3794.02](#) of this chapter, the proprietor of a public place or place of employment shall comply with the following requirements:

(A) "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be conspicuously posted in every public place and place of employment where smoking is prohibited by this chapter, including at each entrance to the public place or place of employment. Signs shall be of sufficient size to be clearly legible to a person of normal vision throughout the areas they are intended to mark. All signs shall contain a telephone number for reporting violations.

(B) All ashtrays and other receptacles used for disposing of smoking materials shall be removed from any area where smoking is prohibited by this chapter.

Effective Date: 12-07-2006.

#### **3794.07 Duties of the department of health.**

This chapter shall be enforced by the department of health and its designees. The director of health shall within six months of December 7, 2006:

(A) Promulgate rules in accordance with Chapter 119. of the Revised Code to implement and enforce all provisions of this chapter;

(B) Promulgate rules in accordance with Chapter 119. of the Revised Code to prescribe a schedule of fines for violations of this chapter designed to foster compliance with the provisions of this chapter. The amount of a fine for a violation of divisions (A) and (B) of section [3794.02](#) and divisions (A) and (B) of section [3794.06](#) of the Revised Code shall not be less than one hundred dollars and the maximum for a violation shall be twenty five hundred dollars. The amount of a fine for a violation of division (D) of section [3794.02](#) of the Revised Code shall be up to a maximum of one hundred dollars per violation. Each day of a violation shall constitute a separate violation. The schedule of fines that apply to a proprietor shall be progressive based on the number of prior violations by the proprietor. Violations which occurred more than two years prior to a subsequent violation shall not be considered if there has been no finding of a violation in the intervening time period. The fine schedule shall set forth specific factors that may be considered to decrease or waive the amount of a fine that otherwise would apply. Fines shall be doubled for intentional violations.

(C) Promulgate rules in accordance with Chapter 119. of the Revised Code to prescribe a procedure for providing a proprietor or individual written notice of a report of a violation and the opportunity to present in writing any statement or evidence to contest the report, and prescribing procedures for making findings whether a proprietor or individual violated a provision of this chapter and for imposing fines for violations;

(D) Establish a system for receiving reports of violations of the provisions of this chapter from any member of the public, including, but not limited to, by mail and one or more e-mail addresses and toll-free telephone numbers exclusively for such purpose. A person shall not be required to disclose his or her identity in order to report a violation;

(E) Inform proprietors of public places and places of employment of the requirements of this chapter and how to comply with its provisions, including, but not limited to, by providing printed and other materials and a toll-free telephone number and e-mail address exclusively for such purposes; and

(F) Design and implement a program to educate the public regarding the provisions of this chapter, including, but not limited to, through the establishment of an internet web site and how a violation may be reported.

(G) Adopt rules to prescribe fines for a violation of division (E) of section [3794.03](#) of the Revised Code. Division (B) of this section does not apply to a fine for a violation of division (E) of section [3794.03](#) of the Revised Code.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

Effective Date: 12-07-2006 .

### **[3794.08 Smoke free indoor air fund.](#)**

There is hereby created in the state treasury the smoke free indoor air fund. All fines collected pursuant to this chapter and any grant, contribution, or other moneys received by the department of health for the purposes of this chapter shall be credited to the smoke free indoor air fund and used solely for the purposes of this chapter.

Effective Date: 12-07-2006.

### **[3794.09 Enforcement; penalties.](#)**

(A) Upon the receipt of a first report that a proprietor of a public place or place of employment or an individual has violated any provision of this chapter, the department of health or its designee shall investigate the report and, if it concludes that there was a violation, issue a warning letter to the proprietor or individual.

(B) Upon a report of a second or subsequent violation of any provision of this chapter by a proprietor of a public place or place of employment or an individual, the department of health or its designee shall investigate the report. If the director of health or director's designee concludes, based on all of the information before him or her, that there was a violation, he or she shall impose a civil fine upon the proprietor or individual in accordance with the schedule of fines required to be promulgated under section [3794.07](#) of this chapter.

(C) Any proprietor or individual against whom a finding of a violation is made under this chapter may appeal the finding to the Franklin County Court of Common Pleas. Such appeal shall be governed by the provisions of section

[119.12](#) of the Revised Code.

(D) The director of health may institute an action in the court of common pleas seeking an order in equity against a proprietor or individual that has repeatedly violated the provisions of this chapter or fails to comply with its provisions.

Effective Date: 12-07-2006.

## Chapter 3705: VITAL STATISTICS

### 3705.01 Vital statistics definitions.

As used in this chapter:

(A) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception that after such expulsion or extraction breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

(B)

(1) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which after such expulsion or extraction does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(2) "Stillborn" means that an infant of at least twenty weeks of gestation suffered a fetal death.

(C) "Dead body" means a human body or part of a human body from the condition of which it reasonably may be concluded that death recently occurred.

(D) "Physician" means a person licensed pursuant to Chapter 4731. of the Revised Code to practice medicine or surgery or osteopathic medicine and surgery.

(E) "Attending physician" means the physician in charge of the patient's care for the illness or condition that resulted in death.

(F) "Institution" means any establishment, public or private, that provides medical, surgical, or diagnostic care or treatment, or domiciliary care, to two or more unrelated individuals, or to persons committed by law.

(G) "Funeral director" has the meaning given in section 4717.01 of the Revised Code.

(H) "State registrar" means the head of the office of vital statistics in the department of health.

(I) "Medical certification" means completion of the medical certification portion of the certificate of death or fetal death as to the cause of death or fetal death.

(J) "Final disposition" means the interment, cremation, removal from the state, donation, or other authorized disposition of a dead body or a fetal death.

(K) "Interment" means the final disposition of the remains of a dead body by burial or entombment.

(L) "Cremation" means the reduction to ashes of a dead body.

(M) "Donation" means gift of a dead body to a research institution or medical school.

(N) "System of vital statistics" means the registration, collection, preservation, amendment, and certification of vital records, the collection of other reports required by this chapter, and activities related thereto.

(O) "Vital records" means certificates or reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, annulment, and data related thereto and other documents maintained as required by statute.

(P) "File" means the presentation of vital records for registration by the office of vital statistics.

(Q) "Registration" means the acceptance by the office of vital statistics and the incorporation of vital records into its official records.

(R) "Birth record" means a birth certificate that has been registered with the office of vital statistics; or, if registered prior to March 16, 1989, with the division of vital statistics; or, if registered prior to the establishment of the division of vital statistics, with the department of health or a local registrar.

(S) "Certification of birth" means a document issued by the director of health or state registrar or a local registrar under division (B) of section 3705.23 of the Revised Code.

(T) "Certified nurse-midwife" has the same meaning as in section 4723.01 of the Revised Code.

Amended by 130th General Assembly File No. 68, HB 95, §1, eff. 6/3/2014.

Effective Date: 09-26-2003; 2008 SB175 09-12-2008

### **3705.02 Statewide system of vital statistics - office of vital statistics.**

A statewide system of registration of births, deaths, fetal deaths, and other vital statistics is hereby established, which shall consist of the office of vital statistics in the department of health and primary registration districts. The office of vital statistics shall be maintained at the capital of the state and shall be provided with sufficient staff, suitable offices, and other resources for the proper administration of the system of vital statistics and for the preservation of its official records. The director of health shall have charge of the system of vital statistics, enforce sections [3705.01](#) to [3705.29](#) of the Revised Code, and prepare and issue instructions necessary to secure the uniform observance of such sections. The director shall adopt rules as necessary to insure that this state shall have a complete and accurate registration of vital statistics. No system of registration of births, deaths, fetal deaths, or other vital statistics shall be maintained in any political subdivision in conflict with such sections.

Effective Date: 03-16-1989.

### **3705.03 State registrar is head of office of vital statistics - powers and duties.**

(A) The director of health shall designate the state registrar, who shall head the office of vital statistics and do all of the following:

- (1) Administer and enforce this chapter, the rules issued under this chapter, and the instructions of the director for the efficient administration of the system of vital statistics;
- (2) Direct and supervise the system of vital statistics and be custodian of the vital records;
- (3) Direct, supervise, and control the activities of all persons engaged in activities governed by this chapter;
- (4) Conduct training programs to promote uniformity of policy and procedures throughout the state in matters pertaining to the system of vital statistics.

(B) To preserve vital records, the state registrar may prepare a typewritten, photographic, electronic, or other reproduction of certificates or reports in the office of vital statistics. These reproductions, when certified by the director or state registrar, shall be accepted as the original records. The documents from which the reproductions have been made and verified may be disposed of as provided by rules that shall be adopted by the director.

Amended by 128th General Assembly File No.9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 03-16-1989 .

### **3705.04 Registration districts.**

The state shall be divided into registration districts. Each health district created by section [3709.01](#) of the Revised Code constitutes a primary registration district. The director of health may combine two or more primary registration districts, and may establish any state hospital, or other public institution, as a primary registration district.

Effective Date: 03-16-1989.

### **3705.05 Local registrars - deputy registrar - records.**

In each primary registration district, the board of health of the health district, on the recommendation of the health commissioner, shall appoint the local registrar of vital statistics. When a state hospital or other public institution has been made a primary registration district, the superintendent, or other person in charge thereof, shall be the local registrar of such district. When two or more primary registration districts have been combined into one primary registration district, the health commissioners of the health districts that constitute the combined primary registration district shall jointly appoint the local registrar who is to act as local registrar for the combined primary registration district. If the health commissioners fail to appoint the local registrar for the combined primary registration district, the director of health shall appoint the local registrar.

With the approval of the director of health, each local registrar shall appoint a deputy registrar who, in case of the absence, illness, or disability of the local registrar, shall act in the local registrar's stead. Acceptance of appointment as deputy registrar shall be in writing and shall be filed with the director. No funeral director or embalmer shall serve either as a local registrar or as a deputy registrar.

In a city registration district, all the records of vital statistics shall be kept in the office of the board of health of the city health district. In a general health district, all the records of vital statistics shall be kept at the office of the board of health of such district.

Effective Date: 02-12-2001.

### **3705.051 [Repealed].**

Effective Date: 12-15-1988.

### **3705.06 Local registrar to supply forms of certificates.**

The local registrar of vital statistics shall supply blank forms of certificates and instructions to such persons as require them, and shall require each birth, fetal death, or death certificate, when presented for filing, to be made out in accordance with sections [3705.01](#) to [3705.29](#) of the Revised Code, the rules adopted by the director of health, and the registration instructions of the director. If a birth, fetal death, or death certificate is incomplete or unsatisfactory, the local registrar shall indicate the defects therein and withhold registering the certificate or issuing a burial permit until such certificate is corrected.

Effective Date: 03-16-1989.

### **3705.07 Keeping and transmitting records by local registrar.**

(A) The local registrar of vital statistics shall number consecutively each fetal death and death certificate printed on paper that the local registrar receives from the electronic death registration system (EDRS) maintained by the department of health. The number assigned to each certificate shall be the one provided by EDRS. Such local registrar shall sign the local registrar's name in attest to the date of filing in the local office. The local registrar shall make a complete and accurate copy of each fetal death and death certificate printed on paper that is filed. Each paper copy shall be filed and preserved as the local record until the electronic information regarding the event has been completed and made available in EDRS and EDRS is capable of issuing a complete and accurate electronic copy of the certificate. The local record may be a photographic, electronic, or other reproduction. The local registrar shall transmit to the state office of vital statistics all original fetal death and death certificates received using the state transmittal schedule specified by the department of health. The local registrar shall immediately notify the health commissioner with jurisdiction in the registration district of the receipt of a death certificate attesting that death resulted from a communicable disease.

The office of vital statistics shall carefully examine the records and certificates received from local registrars of vital statistics and shall secure any further information that may be necessary to make each record and certificate complete and satisfactory. It shall arrange and preserve the records and certificates, or reproductions of them produced pursuant to section [3705.03](#) of the Revised Code, in a systematic manner and shall maintain a



permanent index of all births, fetal deaths, and deaths registered, which shall show the name of the child or deceased person, place and date of birth or death, and number of the certificate .

(B)

(1) The office of vital statistics shall make available to the division of child support in the department of job and family services all social security numbers that accompany a birth certificate submitted for filing under division (H) of section [3705.09](#) or section [3705.10](#) of the Revised Code or that accompany a death certificate registered under section [3705.16](#) of the Revised Code.

(2) The office of vital statistics also shall make available to the division of child support in the department of job and family services any other information recorded in the birth record that may enable the division to use the social security numbers provided under division (B)(1) of this section to obtain the location of the father of the child whose birth certificate was accompanied by the social security number or to otherwise enforce a child support order pertaining to that child or any other child.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Amended by 130th General Assembly File No. 56, SB 23, §1, eff. 3/20/2015.

Effective Date: 07-01-2000 .

### **3705.071 Copy of death certificate of child to be sent to county of residence.**

On receipt of a death certificate of a person who was under eighteen years of age at death, the local registrar of vital statistics shall determine the county in which the person resided at the time of death. If the county of residence was other than the county in which the person died, the registrar, after registering the certificate and no later than four weeks after receiving it, shall make a copy of the certificate and send it to the local registrar of vital statistics of the county in which the person resided at the time of death.

Effective Date: 10-05-2000.

### **3705.08 Director shall prescribe forms.**

(A) The director of health, by rule, shall prescribe the form of records and certificates required by this chapter. Records and certificates shall include the items and information prescribed by the director, including the items recommended by the national center for health statistics of the United States department of health and human services, subject to approval of and modification by the director.

(B) All birth certificates shall include a statement setting forth the names of the child's parents .

(C) All death certificates shall include, in the medical certification portion of the certificate, a space to indicate, if the deceased individual is female and the manner of death is determined to be a suspicious or violent death, whether any of the following conditions apply to the individual:

(1) Not pregnant within the past year;

(2) Pregnant at the time of death;

(3) Not pregnant, but had been pregnant within forty-two days prior to the time of death;

(4) Not pregnant, but had been pregnant within forty-three days to one year prior to the time of death;

(5) Unknown whether pregnant within the past year.

(D)

(1) The director shall prescribe electronic methods and forms for obtaining registration of births, deaths, and other vital statistics in each registration district, and for preserving the records of the office of vital statistics, and no forms or blanks shall be used other than those prescribed by the director.



(2) All birth, fetal death, and death records and certificates shall be certified. Except as provided in division (G) of section [3705.09](#), section [3705.12](#), [3705.121](#), [3705.122](#), or [3705.124](#), division (D) of section [3705.15](#), or section [3705.16](#) of the Revised Code, a birth certificate requiring signature may be electronically certified by the person in charge of the institution or that person's designee. A death certificate may be electronically certified by the individual who attests to the facts of death.

(3) All vital records shall contain the date received for filing.

(4) Information and signatures required in certificates, records, or reports authorized by this chapter may be filed and registered by photographic, electronic, or other means as prescribed by the director.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

Amended by 130th General Assembly File No. 56, SB 23, §1, eff. 3/20/2015.

Effective Date: 07-15-1992; 04-15-2005

### **3705.09 Filing and registration of birth certificate.**

(A) A birth certificate for each live birth in this state shall be filed in the registration district in which it occurs within ten calendar days after such birth and shall be registered if it has been completed and filed in accordance with this section.

(B) When a birth occurs in or en route to an institution, the person in charge of the institution or a designated representative shall obtain the personal data, prepare the certificate, and complete and certify the facts of birth on the certificate within ten calendar days . The physician or certified nurse-midwife in attendance shall be listed on the birth record.

(C) When a birth occurs outside an institution, the birth certificate shall be prepared and filed by one of the following in the indicated order of priority:

- (1) The physician or certified nurse-midwife in attendance at or immediately after the birth;
- (2) Any other person in attendance at or immediately after the birth;
- (3) The father;
- (4) The mother;
- (5) The person in charge of the premises where the birth occurred.

(D) Either of the parents of the child or other informant shall attest to the accuracy of the personal data entered on the birth certificate in time to permit the filing of the certificate within the ten days prescribed in this section.

(E) When a birth occurs in a moving conveyance within the United States and the child is first removed from the conveyance in this state, the birth shall be registered in this state and the place where it is first removed shall be considered the place of birth. When a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in this state, the birth shall be registered in this state but the record shall show the actual place of birth insofar as can be determined.

(F)

(1) If the mother of a child was married at the time of either conception or birth or between conception and birth, the child shall be registered in the surname designated by the mother, and the name of the husband shall be entered on the certificate as the father of the child. The presumption of paternity shall be in accordance with section [3111.03](#) of the Revised Code.

(2) If the mother was not married at the time of conception or birth or between conception and birth, the child shall be registered by the surname designated by the mother. The name of the father of such child shall also be inserted on the birth certificate if both the mother and the father sign an acknowledgement of paternity affidavit before the birth record has been sent to the local registrar. If the father is not named on the birth certificate pursuant to division (F)(1) or (2) of this section, no other information about the father shall be entered on the record.

(G) When a man is presumed, found, or declared to be the father of a child, according to section [2105.26](#), sections [3111.01](#) to [3111.18](#), former section [3111.21](#), or sections [3111.38](#) to [3111.54](#) of the Revised Code, or the father has acknowledged the child as his child in an acknowledgment of paternity, and the acknowledgment has become final pursuant to section [2151.232](#), [3111.25](#), or [3111.821](#) of the Revised Code, and documentary evidence of such fact is submitted to the department of health in such form as the director may require, a new birth record shall be issued by the department which shall have the same overall appearance as the record which would have been issued under this section if a marriage had occurred before the birth of such child. Where handwriting is required to effect such appearance, the department shall supply it. Upon the issuance of such new birth record, the original birth record shall cease to be a public record. Except as provided in division (C) of section [3705.091](#) of the Revised Code, the original record and any documentary evidence supporting the new registration of birth shall be placed in an envelope which shall be sealed by the department and shall not be open to inspection or copy unless so ordered by a court of competent jurisdiction.

(H) Every birth certificate filed under this section on or after July 1, 1990, shall be accompanied by all social security numbers that have been issued to the parents of the child, unless the division of child support in the department of job and family services, acting in accordance with regulations prescribed under the "Family Support Act of 1988," 102 Stat. 2353, 42 U.S.C.A. 405, as amended, finds good cause for not requiring that the numbers be furnished with the certificate. The parents' social security numbers shall not be recorded on the certificate. No social security number obtained under this division shall be used for any purpose other than child support enforcement.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Amended by 130th General Assembly File No. 68, HB 95, §1, eff. 6/3/2014.

Effective Date: 10-31-2001 .

### **3705.091 Acknowledgment of paternity affidavits.**

(A) If the natural mother and alleged father of a child sign an acknowledgment of paternity affidavit prepared pursuant to section [3111.31](#) of the Revised Code with respect to that child at the office of the local registrar, the local registrar shall provide a notary public to notarize the acknowledgment. The local registrar shall send a signed and notarized acknowledgment of paternity to the office of child support in the department of job and family services pursuant to section [3111.22](#) of the Revised Code. The local registrar shall send the acknowledgment no later than ten days after it has been signed and notarized. If the local registrar knows a man is presumed under section [3111.03](#) of the Revised Code to be the father of the child and that the presumed father is not the man who signed or is attempting to sign an acknowledgment with respect to the child, the local registrar shall not notarize or send the acknowledgment pursuant to this section.

(B) The local registrar of vital statistics shall provide an acknowledgment of paternity affidavit described in division (A) of this section to any person that requests it.

(C) The department of health shall store all acknowledgments of paternity affidavits it receives pursuant to section [3111.24](#) of the Revised Code. The department of health shall send to the office any acknowledgment the department is storing that the office requests. The department of health shall adopt rules pursuant to Chapter 119. of the Revised Code to govern the method of storage of the acknowledgments and to implement this section.

(D) The department of health and the department of job and family services shall enter into an agreement regarding expenses incurred by the department of health in comparing acknowledgment of paternity affidavits to birth records and storage of acknowledgment of paternity affidavits.

Effective Date: 03-22-2001.

### **3705.10 Delayed birth certificate.**

Any birth certificate submitted for filing eleven or more days after the birth occurred constitutes a delayed birth registration. A delayed birth certificate may be filed in accordance with rules which shall be adopted by the director of health. The rules shall include, but not be limited to, all of the following requirements for each delayed birth certificate filed on or after July 1, 1990:

(A) The certificate shall be accompanied by all social security numbers that have been issued to the parents of the child, unless the division of child support in the department of job and family services, acting in accordance with regulations prescribed under the "Family Support Act of 1988," 102 Stat. 2353, 42 U.S.C.A. 405, as amended, finds good cause for not requiring that the numbers be furnished with the certificate.

(B) The parents' social security numbers shall not be recorded on the certificate.

(C) No social security number obtained under this section shall be used for any purpose other than child support enforcement.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Effective Date: 07-01-2000.

### **3705.11 Report of foundling child.**

Whoever finds a living infant of unknown parentage shall immediately report such finding to the local registrar of vital statistics of the registration district in which the child is found, on a prescribed form which shall state:

(A) Date of finding;

(B) Place of finding;

(C) Sex of child;

(D) Race of the child;

(E) Approximate age of the child;

(F) Name and address of the person or institution with whom the child has been placed for care. The place where the child was found shall be known as the place of birth, and the date of birth shall be determined by approximation.

The person, superintendent, or manager of the institution with whom a foundling child is placed for care shall give such child a name within ten days and shall promptly report the name given to the local registrar of the registration district in which the child was found. The foundling report shall constitute the birth certificate for such foundling child and sections [3705.01](#) to [3705.29](#) of the Revised Code, relating to birth certificates or records, shall apply in the same manner and with the same effect to such report. If a foundling child is later identified and an original birth record is found or obtained, the foundling report shall cease to be a public record. Such foundling report shall be placed in an envelope which shall be sealed by the department and shall not be open to inspection or copy unless so ordered by a court of competent jurisdiction. All copies of the foundling report in the possession of the local registrar or the probate court as well as any and all index references thereto shall be destroyed.

Effective Date: 03-16-1989.

### **3705.12 Issuance of new or foreign birth record after adoption - access to original record, adoption file.**

Upon receipt of the items sent by a probate court pursuant to section 3107.19 of the Revised Code concerning the adoption of a child born in this state whose adoption was decreed on or after January 1, 1964, the department of

health shall issue, unless otherwise requested by the adoptive parents, a new birth record using the child's adopted name and the names of and data concerning the adoptive parents. The new birth record shall have the same overall appearance as the record that would have been issued under section 3705.09 of the Revised Code if the adopted child had been born to the adoptive parents. Where handwriting is required to effect that appearance, the department shall supply the handwriting.

Upon the issuance of the new birth record, the original birth record shall cease to be a public record. The index references to the original birth record, including references that were not a public record under this section as it existed prior to the effective date of this amendment, are a public record under section 149.43 of the Revised Code. The department shall place the original birth record and the items sent by the probate court pursuant to section 3107.19 of the Revised Code in an adoption file and seal the file. The contents of the adoption file are not a public record and shall be available

only in accordance with section 3705.126 of the Revised Code. For the purposes of sections 149.43 and 1347.08 of the Revised Code, the contents of the adoption file include any contact preference form, biological parent's name redaction request form, or social and medical history accepted and maintained by the department.

The department of health shall promptly forward a copy of the new birth record to the local registrar of vital statistics of the district in which the birth occurred. The local registrar shall file a copy of the new birth record along with and in the same manner as the other copies of birth records in the possession of the local registrar. All copies of the original birth record and all other papers, documents, and index references pertaining to the original birth record in the possession of the local registrar or the probate court shall be destroyed, except that the probate court shall retain permanently in the file of the adoption proceedings information that is necessary to enable the court to identify both the child's original birth record and the child's new birth record.

Amended by 130th General Assembly File No. 56, SB 23, §1, eff. 3/20/2015.

Effective Date: 09-18-1996 .

### **3705.121 Adoption decreed in out-of-state court.**

When the adoption of a child whose birth occurred in this state is decreed by a court in another state and when the department of health has received, from the court that decreed the adoption, an official communication containing information similar to that contained in the certificate of adoption for adoptions decreed in this state, section 3705.12 of the Revised Code shall apply to the child's case just as if the adoption had taken place in this state. The department shall place the original birth record and all papers and documents in its possession that pertain to the original birth record or to the adoption of the child in an adoption file and seal the file. The contents of the adoption file are not a public record and shall be made available only in accordance with section 3705.126 of the Revised Code. Index references to the original birth record, including references that were not a public record under section 3705.12 of the Revised Code as that section existed before September 18, 1996, are a public record under section 149.43 of the Revised Code.

Added by 130th General Assembly File No. 56, SB 23, §1, eff. 3/20/2015.

### **3705.122 Foreign birth record.**

(A) The department of health shall issue a foreign birth record as follows:

(1) On receipt of the items sent by a probate court pursuant to section 3107.19 of the Revised Code concerning the adoption of a person born in a foreign country, unless the adoptive parents or adopted person over eighteen years of age requests that such record not be issued;

(2) On receipt of an order issued under section 3107.18 of the Revised Code.

(B) A foreign birth record shall be the same in all respects as a birth record issued under section 3705.12 of the Revised Code, except that it shall show the actual country of birth. After registration of the birth record in the new name of the adopted person, the department shall place the items sent by the probate court in an adoption file

and seal the file. The contents of the adoption file are not a public record and shall be made available only in accordance with section 3705.126 of the Revised Code.

Added by 130th General Assembly File No. 56, SB 23, §1, eff. 3/20/2015.

### **3705.123 Records for adoptions decreed before 1/1/1964.**

No original birth record of any person whose birth occurred in this state and whose adoption was decreed before January 1, 1964, no birth record in the adopted name of any person whose birth occurred in this state and whose adoption was decreed before January 1, 1964, and no papers or documents that pertain to either such type of birth record or to the adoption of any such person shall be sealed on or after March 19, 1985. The department of health shall maintain in an adoption file all such records, papers, and documents that are in the possession of the department and were sealed pursuant to division (C) or (D) of section 3705.12 of the Revised Code as it existed before March 19, 1985, or that were mistakenly or otherwise sealed. The contents of the adoption file are not a public record and shall be made available only in accordance with section 3705.126 of the Revised Code.

Added by 130th General Assembly File No. 56, SB 23, §1, eff. 3/20/2015.

### **3705.124 Application for new birth record.**

An adopted person whose birth occurred in this state, whose adoption was decreed before January 1, 1964, who did not have a new or reissued birth record in the person's adopted name prepared pursuant to division (C) or (D) of section 3705.12 of the Revised Code as those divisions existed before March 19, 1985, and whose adoption is in full force and effect, may apply to the department of health at any time for the preparation of a new birth record in the person's adopted name. On receipt of such an application, the department shall prepare a new birth record in the person's name, in accordance with, and in the form described in, section 3705.12 of the Revised Code. On preparation of the new birth record, the original birth record of the applicant or the birth record issued in the adopted name of the applicant before January 1, 1964, that is being replaced, whichever is applicable, shall cease to be a public record. The department shall maintain the birth record that ceased to be a public record and papers and documents that pertain to it or to the adoption of the applicant in an adoption file. The contents of the adoption file are not a public record and shall be made available only in accordance with section 3705.126 of the Revised Code.

The department promptly shall forward a copy of a new birth record in an applicant's adopted name that is prepared under this section to the local registrar of vital statistics of the district in which the applicant's birth occurred. The local registrar shall file the copy along with, and in the same manner as, the other copies of birth records in the registrar's possession. All copies of the applicant's original birth record or the birth record issued in the applicant's adopted name before January 1, 1964, that is being replaced, and all other papers, documents, and index references pertaining to it that are in the possession of the local registrar or a probate court shall be destroyed, except that the probate court shall retain permanently in the file of adoption proceedings information that is necessary to enable the court to identify both the applicant's original birth record or birth record issued in the applicant's adopted name before January 1, 1964, that is being replaced, and the new birth record in the applicant's adopted name that is prepared pursuant to this section.

Added by 130th General Assembly File No. 56, SB 23, §1, eff. 3/20/2015.

### **3705.125 Prima facie evidence.**

A new birth record or foreign birth record, and any certified or exact copy of the new birth record or foreign birth record, when properly authenticated by a duly authorized person, shall be prima facie evidence in all courts and places of the facts stated in the new birth record or foreign birth record.

Added by 130th General Assembly File No. 56, SB 23, §1, eff. 3/20/2015.

### **3705.126 Confidentiality.**

The department of health shall neither open an adoption file nor make its contents available except as follows:

- (A) The department shall inspect the file to determine the court involved for the purpose of division (D) of section 3107.09 or section 3107.091 or 3107.171 of the Revised Code.
- (B) The department shall make the file's contents available to an adopted person or lineal descendant of an adopted person in accordance with section 3107.38 of the Revised Code.
- (C) The department shall open the file to transfer releases to the file in accordance with section 3107.381 of the Revised Code.
- (D) The department shall open the file to file a contact preference form from a biological parent pursuant to section 3107.39 of the Revised Code and remove any previously filed contact preference form from the biological parent.
- (E) **[Effective 3/20/2014]** The department shall open the file to file a biological parent's name redaction request form pursuant to division (C) of section 3107.391 of the Revised Code or to remove and destroy the form pursuant to division (D) of that section.
- (F) The department shall open the file to file a denial of release form under division (A) of section 3107.46 of the Revised Code or an authorization of release form under division (B) of that section.
- (G) The department shall make the file's contents available to an adopted person or adoptive parent in accordance with section 3107.47 of the Revised Code.
- (H) The department shall open the file to file a request from an adopted person under division (A) of section 3107.48 of the Revised Code or to remove and destroy the request pursuant to division (B) of that section.
- (I) The department shall inspect the file to assist a birth parent or birth sibling in finding the adopted person's name by adoption in accordance with section 3107.49 of the Revised Code.
- (J) The court that decreed the adoption may order that the contents be made open for inspection or available for copying.

Added by 130th General Assembly File No. 56, SB 23, §1, eff. 3/20/2015.

### **3705.13 Filing court order of change of name - new birth certificate.**

When a legal change of name of a person whose birth occurred in this state has been granted by a court, the office of vital statistics shall receive and file a certified copy of the court order legally changing the name. The court order shall be cross-referenced with the original birth record and the office of vital statistics shall issue a certification of birth containing the new name. Such certification shall disclose information that a legal change of name has been granted by a court.

Provided, if the original birth record was filed prior to the establishment of the division of vital statistics, a certified copy of the court order legally changing the name shall be received and filed with the probate court of the county wherein the birth occurred, instead of with the office of vital statistics. The court order shall be cross-referenced with the original birth record and upon request the probate court shall issue a birth record containing the new name. Such record shall disclose information that a legal change of name has been granted by the court.

Effective Date: 03-16-1989.

### **3705.131 [Repealed].**

Effective Date: 12-15-1988.

### **3705.14 Supplemental report for given name.**

When a living child's birth is recorded without a given name, a supplemental report of such given name may be completed and presented within one year after the birth to the local registrar in the registration district where the birth occurred or to the office of vital statistics.



Effective Date: 03-16-1989.

### **3705.15 Registration of unrecorded birth - correction of birth record.**

Whoever claims to have been born in this state, and whose registration of birth is not recorded, or has been lost or destroyed, or has not been properly and accurately recorded, may file an application for registration of birth or correction of the birth record in the probate court of the county of the person's birth or residence or the county in which the person's mother resided at the time of the person's birth. If the person is a minor the application shall be signed by either parent or the person's guardian.

(A) An application to correct a birth record shall set forth all of the available facts required on a birth record and the reasons for making the application, and shall be verified by the applicant. Upon the filing of the application the court may fix a date for a hearing, which shall not be less than seven days after the filing date. The court may require one publication of notice of the hearing in a newspaper of general circulation in the county at least seven days prior to the date of the hearing. The application shall be supported by the affidavit of the physician or certified nurse-midwife in attendance. If an affidavit is not available, the application shall be supported by the affidavits of at least two persons having knowledge of the facts stated in the application, by documentary evidence, or by other evidence the court deems sufficient.

The probate judge, if satisfied that the facts are as stated, shall make an order correcting the birth record, except that in the case of an application to correct the date of birth, the judge shall make the order only if any date shown as the date the attending physician or certified nurse-midwife signed the birth record or the date the local registrar filed the record is consistent with the corrected date of birth. If supported by sufficient evidence, the judge may include in an order correcting the date of birth an order correcting the date the attending physician or certified nurse-midwife signed the birth record or the date the local registrar filed the record.

(B) An application of a person whose registration of birth is not recorded, or has been lost or destroyed, must comply with division (A) of this section. Upon the filing of the application the court may fix a date for a hearing, which shall be not less than seven days after the filing date. The court may require one publication of notice of the hearing in a newspaper of general circulation in the county at least seven days prior to the date of the hearing. The probate judge, or a special master commissioner, shall personally examine the applicant in open court and shall take sworn testimony on the application which shall include the testimony of at least two credible witnesses, or clear and convincing documentary evidence. The probate court may conduct any necessary investigation, and shall permit the applicant and all witnesses presented to be cross-examined by any interested person, or by the prosecuting attorney of the county. When a witness or the applicant is unable to appear in open court, the court may authorize the taking of the witness's or applicant's deposition. The court may cause a complete record to be taken of the hearing, shall file it with the other papers in the case, and may order the transcript of the testimony to be filed and made a matter of record in the court. Upon being satisfied that notice of the hearing on the application has been given by publication, if required, and that the claim of the applicant is true, the court shall make a finding upon all the facts required on a birth record, and shall order the registration of the birth of the applicant. The court shall forthwith transmit to the director of health a certified summary of its finding and order, on a form prescribed by the director, who shall file it in the records of the central division of vital statistics.

(C) The director may forward a copy of the summary for the registration of a birth in the director's office to the appropriate local registrar of vital statistics.

A certified copy of the birth record corrected or registered by court order as provided in this section shall have the same legal effect for all purposes as an original birth record.

The application, affidavits, findings, and orders of the court, together with a transcript of the testimony if ordered by the court, for the correction of a birth record or for the registration of a birth, shall be recorded in a book kept for that purpose and shall be properly indexed. The book shall become a part of the records of the probate court.

(D)

(1) Except as provided in division (D)(2) of this section, whenever a correction is ordered in a birth record under division (A) of this section, the court ordering the correction shall forthwith forward to the department of health a certified copy of the order containing such information as will enable the department to prepare a new birth record. Thereupon, the department shall record a new birth record using the correct information supplied by the court and the new birth record shall have the same overall appearance as the original record which would have been issued under this chapter. Where handwriting is required to effect that appearance, the department shall supply it. Upon the preparation and filing of the new birth record, the original birth record and index references shall cease to be a public record. The original record and all other information pertaining to it shall be placed in an envelope which shall be sealed by the department, and its contents shall not be open to inspection or copy unless so ordered by the probate court of the county that ordered the correction.

The department shall promptly forward a copy of the new birth record to the local registrar of vital statistics of the district in which the birth occurred and the local registrar shall file a copy of the new birth record along with and in the same manner as the other copies of birth records in the local registrar's possession. All copies of the original birth record, as well as any and all other papers, documents, and index references pertaining to it, in the possession of the local registrar shall be destroyed. The probate court shall retain permanently in the file of its proceedings such information as will enable the court to identify both the original birth record and the new birth record.

The new birth record, as well as any certified copies of it when properly authenticated by a duly authorized person, shall be prima-facie evidence in all courts and places of the facts therein stated.

(2) If the correction ordered in the birth record under division (A) of this section involves a change in the date of birth of the applicant and the department of health determines that the corrected date of birth is inconsistent with the date shown as the date the attending physician or certified nurse-midwife signed the birth record or the date the local registrar filed the record, the department shall request that the court reconsider the order and, if appropriate, make a new order in which the dates are consistent. If the court does not make a new order within a reasonable time, instead of issuing a new birth record, the department shall file and record the court's order in the same manner as other birth records and make a cross-reference on the original and on the corrected record.

(E) The probate court shall assess costs of registering a birth or correcting a birth record under this section against the person who makes application for the registration or correction.

Amended by 130th General Assembly File No. 68, HB 95, §1, eff. 6/3/2014.

Effective Date: 04-02-1996 .

### **3705.16 Statement of facts in certificates - death certificate.**

(A) For purposes of this section notwithstanding section [3705.01](#) of the Revised Code, "fetal death" does not include death of the product of human conception prior to twenty weeks of gestation.

(B) Each death or fetal death that occurs in this state shall be registered with the local registrar of vital statistics of the district in which the death or fetal death occurred, by the funeral director or other person in charge of the final disposition of the remains. The personal and statistical information in the death or fetal death certificate shall be obtained from the best qualified persons or sources available, by the funeral director or other person in charge of the final disposition of the remains. The statement of facts relating to the disposition of the body and information relative to the armed services referred to in section [3705.19](#) of the Revised Code shall be signed by the funeral director or other person in charge of the final disposition of the remains.

(C) The funeral director or other person in charge of the final disposition of the remains shall present the death or fetal death certificate to the attending physician of the decedent, the coroner, or the medical examiner, as appropriate for certification of the cause of death. If a death or fetal death occurs under any circumstances mentioned in section [313.12](#) of the Revised Code, the coroner in the county in which the death occurs, or a deputy coroner, medical examiner, or deputy medical examiner serving in an equivalent capacity, shall certify the cause of death unless that death was reported to the coroner, deputy coroner, medical examiner, or deputy medical examiner and that person, after a preliminary examination, declined to assert jurisdiction with respect to



the death or fetal death. A physician other than the coroner in the county in which a death or fetal death occurs, or a deputy coroner, medical examiner, or deputy medical examiner serving in an equivalent capacity, may certify only those deaths that occur under natural circumstances.

The medical certificate of death shall be completed and signed by the physician who attended the decedent or by the coroner or medical examiner, as appropriate, within forty-eight hours after the death or fetal death. A coroner or medical examiner may satisfy the requirement of signing a medical certificate showing the cause of death or fetal death as pending either by stamping it with a stamp of the coroner's or medical examiner's signature or by signing it in the coroner's or medical examiner's own hand, but the coroner or medical examiner shall sign any other medical certificate of death or supplementary medical certification in the coroner's or medical examiner's own hand.

(D) Any death certificate registered pursuant to this section shall contain the social security number of the decedent, if available. A social security number obtained under this section is a public record under section [149.43](#) of the Revised Code.

Effective Date: 01-01-1998; 08-17-2006; 2008 SB175 09-12-2008 .

### **3705.17 Burial permit required - records to be kept.**

The body of a person whose death occurs in this state shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of by a funeral director until a burial permit is issued by a local registrar or sub-registrar of vital statistics. No such permit shall be issued by a local registrar or sub-registrar until a satisfactory death, fetal death, or provisional death certificate is filed with the local registrar or sub-registrar. When the medical certification as to the cause of death cannot be provided by the attending physician or coroner prior to burial, for sufficient cause, as determined by rule of the director of health, the funeral director may file a provisional death certificate with the local registrar or sub-registrar for the purpose of securing a burial or burial-transit permit. When the funeral director files a provisional death certificate to secure a burial or burial-transit permit, the funeral director shall file a satisfactory and complete death certificate within five days after the date of death. The director of health, by rule, may provide additional time for filing a satisfactory death certificate. A burial permit authorizing cremation shall not be issued upon the filing of a provisional certificate of death.

When a funeral director or other person obtains a burial permit from a local registrar or sub-registrar, the registrar or sub-registrar shall charge a fee of three dollars for the issuance of the burial permit. Two dollars and fifty cents of each fee collected for a burial permit shall be paid into the state treasury to the credit of the division of real estate in the department of commerce to be used by the division in discharging its duties prescribed in Chapter 4767. of the Revised Code and the Ohio cemetery dispute resolution commission created by section [4767.05](#) of the Revised Code. A local registrar or sub-registrar shall transmit payments of that portion of the amount of each fee collected under this section to the treasurer of state on a quarterly basis or more frequently, if possible. The director of health, by rule, shall provide for the issuance of a burial permit without the payment of the fee required by this section if the total cost of the burial will be paid by an agency or instrumentality of the United States, the state or a state agency, or a political subdivision of the state.

The director of commerce may by rule adopted in accordance with Chapter 119. of the Revised Code reduce the total amount of the fee required by this section and that portion of the amount of the fee required to be paid to the credit of the division of real estate for the use of the division and the Ohio cemetery dispute resolution commission, if the director determines that the total amount of funds the fee is generating at the amount required by this section exceeds the amount of funds the division of real estate and the commission need to carry out their powers and duties prescribed in Chapter 4767. of the Revised Code.

No person in charge of any premises in which interments or cremations are made shall inter or cremate or otherwise dispose of a body, unless it is accompanied by a burial permit. Each person in charge of a cemetery, crematory, or other place of disposal shall indorse upon a burial permit the date of interment, cremation, or other disposal and shall retain such permits for a period of at least five years. The person in charge shall keep an accurate record of all interments, cremations, or other disposal of dead bodies, made in the premises under the

person's charge, stating the name of the deceased person, place of death, date of burial, cremation, or other disposal, and name and address of the funeral director. Such record shall at all times be open to public inspection.

Effective Date: 09-22-2000.

### **3705.18 Authorization for final disposition of body transported into state.**

When a death occurs outside the state and the body is transported into this state for burial or other disposition, the body must be accompanied by an authorization for final disposition issued in accordance with the laws and health regulations of the place where death occurred. The authorization that accompanied the body shall be accepted as authorization for burial, cremation, or other disposal in Ohio. The person in charge of place of burial shall endorse and forward the authorization for final disposition that accompanied the body to the local registrar of vital statistics of the registration district in which burial was made.

Effective Date: 03-16-1989.

### **3705.181 Amended and Renumbered RC 3705.13.**

Effective Date: 03-16-1989.

### **3705.19 Death certificate to state whether deceased served in the armed forces.**

(A) If the deceased served in the armed forces of the United States, the death certificate shall include a statement of the branch of service in which he served, the date of entry into service, the date and type of discharge from such service, and information to show the name and location of the place where the deceased was buried or cremated, date of burial or cremation, and the location, lot, and grave number of the deceased's burial.

(B) Whenever the remains of a deceased person are transported into this state for burial or other disposition, the funeral director having responsibility for disposition of the remains shall ascertain from the best qualified persons or sources available whether or not the deceased was a member of the armed forces of the United States. If the director finds the deceased was a member, he shall also obtain from such persons or sources and shall transcribe on a form prescribed by the director of health, the deceased's branch of service, date of entry into service, date and type of separation or discharge from service, date of birth, state of birth, date of death, date of burial, the name and location of the cemetery, and the lot and grave number where the deceased is buried. The funeral director shall sign the completed form and submit it to the local registrar of vital statistics. If the director is unable to ascertain whether or not the deceased was a member of the armed forces of the United States or ascertains that the deceased was not a member, he shall enter such information on the form.

If no funeral director is responsible for the disposition of the remains of the deceased, the person in charge of the disposition, except a person who is customarily in charge only of the premises where burials or cremations take place, shall perform the duties required by this division.

(C) At intervals not to exceed three months, the department of health shall forward to the adjutant general a summary of information concerning deceased members and former members of the armed forces of the United States, including those who died outside this state, but whose remains were buried or received for other final disposition in this state. The summary shall state the name, date of birth, state of birth, date of death, date of entry into service, date and type of separation or discharge from service, branch of service, date of burial, place of burial, and location of grave. At the same time the department forwards this summary to the adjutant general, it shall forward to each county recorder that portion of the summary that relates to burials made, and grave locations situated, within the county. After the summary is sent to the adjutant general, the forms specified in division (B) of this section may be disposed of.

Effective Date: 03-16-1989.

### **3705.20 Fetal death certificate.**

(A) The fetal death of the product of human conception of at least twenty weeks of gestation shall be registered on a fetal death certificate.

On application of either parent, the fetal death of the product of human conception prior to twenty weeks of gestation shall be registered on a fetal death certificate, except that the fetal death certificate shall not list the cause of death.

The parent shall include with the application a copy of the statement required by division (B)(1) of section 3727.16 or division (B)(1) of section 4731.82 of the Revised Code. If the father submits the application, he shall also include with it a signed and notarized document from the mother attesting that she voluntarily provided the father with a copy of the statement.

A fetal death certificate for the product of human conception prior to twenty weeks gestation is not proof of a live birth for purposes of federal, state, and local taxes.

(B) The product of human conception of at least twenty weeks of gestation that suffers a fetal death occurring in Ohio shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of by a funeral director or other person until a fetal death certificate or provisional death certificate has been filed with and a burial permit is issued by the local registrar of vital statistics of the registration district in which the fetal death occurs, or the body is found.

A burial permit for the product of human conception that suffers a fetal death prior to twenty weeks of gestation shall be issued by the local registrar of vital statistics of the registration district in which the fetal death occurs if either parent files a fetal death certificate with that registrar.

(C)

(1) The department of health and the local registrar shall keep a separate record and index record of fetal death certificates.

(2) The personal or statistical information on the fetal death certificate shall be obtained by the funeral director or other person in charge of interment or cremation from the best qualified persons or sources available.

(D) When a burial permit is issued under division (B) of this section for the product of human conception of at least twenty weeks of gestation that suffers a fetal death, the local registrar shall inform the parent or parents listed on the fetal death certificate or provisional death certificate of the option of applying for a certificate that is issued under division (B)(3) of section 3705.23 of the Revised Code.

Amended by 130th General Assembly File No. 68, HB 95, §1, eff. 6/3/2014.

Effective Date: 03-16-1989; 2008 SB175 09-12-2008

### **3705.21 Registration of marriages, divorces, dissolutions, annulments and corrections of marriage certificate.**

All marriages taking place within the state, all divorces, dissolutions, and annulments of marriages decreed by a court of this state, and all corrections of certificates of marriage shall be registered with the office of vital statistics of the department of health. On or before the tenth day of each month, the probate judge of each county shall forward to the department on a form prescribed and furnished by the director of health a certified abstract of each marriage record made by the probate judge during the preceding month.

The clerk of the court of common pleas, on or before the tenth day of each month, shall send to the department on a form to be prescribed and furnished by the director a certified abstract of all decrees of divorce, dissolution, and annulment of marriage and orders correcting certificates of marriage that the clerk recorded during the preceding month. The office of vital statistics shall record and index all records received under this section.

Effective Date: 05-15-1996.

### **3705.22 Birth certificate to be amended to correct errors.**

Whenever it is alleged that the facts stated in any birth, fetal death, or death record filed in the department of health are not true, the director may require satisfactory evidence to be presented in the form of affidavits, amended records, or certificates to establish the alleged facts. When established, the original record or certificate shall be supplemented by the affidavit or the amended certificate or record information.

An affidavit in a form prescribed by the director shall be sworn to by a person having personal knowledge of the matter sought to be corrected. Medical certifications contained on fetal death or death records may be corrected only by the person whose name appears on the original record as attending physician or by the coroner of the county in which the death occurred.

The amended birth record shall be signed by the person who attended the birth and the informant or informants whose names appear on the original record. The amended death or fetal death record shall be signed by the physician or coroner, funeral director, and informant whose names appear on the original record.

An affidavit or amended record for the correction of the given name of a person shall have the signature of the person, if the person is age eighteen or older, or of both parents if the person is under eighteen, except that in the case of a child born out of wedlock, the mother's signature will suffice; in the case of the death or incapacity of either parent, the signature of the other parent will suffice; in the case of a child not in the custody of his parents, the signature of the guardian or agency having the custody of the child will suffice; and in the case of a child whose parents are deceased, the signature of another person who knows the child will suffice.

Once a correction or amendment of an item is made on a vital record, that item shall not be corrected or amended again except on the order of a court of this state or the request of a court of another state or jurisdiction.

The director may refuse to accept an affidavit or amended certificate or record that appears to be submitted for the purpose of falsifying the certificate or record.

A certified copy of a certificate or record issued by the department of health shall show the information as originally given and the corrected information, except that an electronically produced copy need indicate only that the certificate or record was corrected and the item that was corrected.

Effective Date: 03-16-1989.

### **3705.23 Copies of vital records.**

(A)

(1) Except as otherwise provided in this section, the director of health, the state registrar, or a local registrar, on receipt of a signed application and the fee specified in section [3705.24](#) of the Revised Code, shall issue a certified copy of a vital record, or of a part of a vital record, in the director's or registrar's custody to any applicant, unless the vital record has ceased to be a public record pursuant to section [3705.09](#), [3705.11](#), [3705.12](#), [3705.121](#), [3705.122](#), [3705.123](#), [3705.124](#), or [3705.15](#) of the Revised Code. The certified copy shall show the date the vital record was registered by the local registrar.

(2) A certified copy of a vital record may be made by a mechanical, electronic, or other reproduction process. It shall be certified as a true copy by the director, state registrar, or local registrar who has custody of the record and shall include the date of issuance, the name of the issuing officer, the signature of the officer or an authorized facsimile of the signature, and the seal of the issuing office.

(3) A certified copy of a vital record or of any part of a vital record, issued in accordance with this section, shall be considered for all purposes the same as the original and shall be prima-facie evidence of the facts stated in it in all courts and places.

(4)

(a) Information contained in the "information for medical and health use only" section of a birth record shall not be included as part of a certified copy of the birth record unless the information specifically is requested by the

individual to whose birth the record attests, either of the individual's parents or the individual's guardian, a lineal descendant, or an official of the federal or state government or of a political subdivision of the state charged by law with detecting or prosecuting crime.

(b) Except as provided in division (A)(4)(a) of this section, neither the office of vital statistics nor a local registrar shall disclose information contained in the "information for medical and health use only" section of a birth record unless a court, for good cause shown, orders disclosure of the information or the state registrar specifically authorizes release of the information for statistical or research purposes under conditions the state registrar, subject to the approval of the director of health, shall establish by rule.

(5) For the first five years after a decedent's death, a decedent's social security number shall not be included on a certified copy of the decedent's death certificate unless that information is specifically requested to be on the certified copy by one of the following who presents proof satisfactory to the director, state registrar, or local registrar of the person's identity:

(a) The decedent's spouse;

(b) A county veterans service officer employed under section [5901.07](#) of the Revised Code;

(c) An official specified in division (A). (B). or (C) of section [9.15](#) of the Revised Code who is authorized to cause the burial or cremation of a dead person as described in that section;

(d) An agent of an officer or official described in division (A)(5)(b) or (c) of this section, but only if the agent presents either of the following indicating the agent's status as the officer's or official's agent:

(i) Photographic identification, such as an employment badge;

(ii) A signed and dated letter on the officer's or official's letterhead.

(e) A lineal descendant of the decedent;

(f) An individual with a class A or B license to engage in the business of private investigation issued under section [4749.03](#) of the Revised Code;

(g) An official of the federal or state government or of a political subdivision of the state charged by law with detecting or prosecuting crime;

(h) An individual engaged in the work of, or connected with, or employed by, any media organization or media association for the purpose of gathering, procuring, compiling, editing, disseminating, or publishing news;

(i) The executor or administrator of the decedent's estate, or an attorney representing the executor or administrator;

(j) An agent, as defined in section [1337.22](#) of the Revised Code, of the decedent, when the decedent had been the principal under a power of attorney created pursuant to sections [1337.21](#) to [1337.64](#) of the Revised Code;

(k) The adult, or any adult in a group of adults, serving as the representative or successor representative under a written declaration the decedent executed pursuant to section [2108.70](#) of the Revised Code;

(l) A licensed funeral director, or an employee or agent of that individual, who requests a certified copy of the decedent's death certificate on behalf of a person described in division (A) (5) of this section other than a person described in division (A)(5)(g) of this section;

(m) Any person who is authorized by law to act on behalf of the decedent or the decedent's estate but is not listed in divisions (A)(5)(a) to (1) of this section.

(B)

(1) Unless the applicant specifically requests a certified copy, the director, the state registrar, or a local registrar, on receipt of a signed application for a birth record and the fee specified in section [3705.24](#) of the Revised Code,

may issue a certification of birth, and the certification of birth shall contain at least the name, sex, date of birth, registration date, and place of birth of the person to whose birth the record attests and shall attest that the person's birth has been registered. A certification of birth shall be prima-facie evidence of the facts stated in it in all courts and places.

(2) The director or state registrar, on receipt of a signed application for an heirloom certification of birth and the fee specified in section [3705.24](#) of the Revised Code, may issue an heirloom certification of birth. The director shall prescribe by rule guidelines for the form of an heirloom certification of birth, and the guidelines shall require the heirloom certification of birth to contain at least the name, sex, date of birth, registration date, and place of birth of the person to whose birth the record attests and to attest that the person's birth has been registered. An heirloom certification of birth shall be prima-facie evidence of the facts stated in it in all courts and places.

(3)

(a) The director or state registrar, on receipt of an application signed by either parent, shall issue a certificate that recognizes the delivery of a stillborn infant. The director or state registrar shall not charge a fee for the certificate. The certificate is not proof of a live birth for purposes of federal, state, and local taxes.

The certificate shall contain the infant's name and sex, the date of delivery, and the place of delivery. The certificate shall not contain the word "stillborn" or "stillbirth" or any other words having the same or a similar meaning. The director may prescribe by rule any other standards regarding the form of the certificate.

(b) If, prior to June 3, 2014, a parent obtained a certificate that contains the word "stillborn" or "stillbirth" or any other words having the same or a similar meaning, the parent may submit to the director or state registrar a written request for issuance of a certificate that meets the conditions specified in division (B)(3)(a) of this section. On receipt of the request, the director or state registrar shall issue the certificate.

(C) On evidence that a birth certificate was registered through misrepresentation or fraud, the state registrar may withhold the issuance of a certified copy of the birth record or a certification of birth until a court makes a determination that no misrepresentation or fraud occurred.

Amended by 131st General Assembly File No. TBD, SB 61, §1, eff. 10/15/2015.

Amended by 130th General Assembly File No. 56, SB 23, §1, eff. 3/20/2015.

Amended by 130th General Assembly File No. 68, HB 95, §1, eff. 6/3/2014.

Effective Date: 09-26-2003 .

### **3705.231 Copy of birth record.**

A local registrar shall allow an individual to photograph or otherwise copy a birth or death record.

Added by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

### **3705.24 Fees - annual certification by director of health to county treasurers.**

(A)

(1) The director of health shall, in accordance with section [111.15](#) of the Revised Code, adopt rules prescribing fees for the following items or services provided by the state office of vital statistics:

(a) Except as provided in division (A)(4) of this section:

(i) A certified copy of a vital record or a certification of birth;

(ii) A search by the office of vital statistics of its files and records pursuant to a request for information, regardless of whether a copy of a record is provided;

(iii) A copy of a record provided pursuant to a request.



- (b) Replacement of a birth certificate following an adoption, legitimation, paternity determination or acknowledgement, or court order;
- (c) Filing of a delayed registration of a vital record;
- (d) Amendment of a vital record that is requested later than one year after the filing date of the vital record;
- (e) Any other documents or services for which the director considers the charging of a fee appropriate.

(2) Fees prescribed under division (A)(1)(a) of this section shall not be less than twelve dollars.

(3) Fees prescribed under division (A)(1) of this section shall be collected in addition to any fees required by sections [3109.14](#) and [3705.242](#) of the Revised Code.

(4) Fees prescribed under division (A) of this section shall not apply to certifications issued under division (H) of this section or copies provided under section [3705.241](#) of the Revised Code.

(B) In addition to the fees prescribed under division (A) of this section or section [3709.09](#) of the Revised Code, the office of vital statistics, the board of health of a city or general health district, or a local registrar of vital statistics who is not a salaried employee of a city or general health district shall charge a five-dollar fee for each certified copy of a vital record and each certification of birth. This fee shall be deposited in the general operations fund created under section [3701.83](#) of the Revised Code and be used to support the operations, the modernization, and the automation of the vital records program in this state. A board of health or a local registrar shall forward all fees collected under this division to the department of health not later than thirty days after the end of each calendar quarter.

(C) Except as otherwise provided in division (H) of this section, and except as provided in section [3705.241](#) of the Revised Code, fees collected by the director of health under sections [3705.01](#) to [3705.29](#) of the Revised Code shall be paid into the state treasury to the credit of the general operations fund created by section [3701.83](#) of the Revised Code. Except as provided in division (B) or (I) of this section, money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it. Amounts submitted to the department of health for copies of vital records or services in excess of the fees imposed by this section shall be dealt with as follows:

- (1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section [3701.83](#) of the Revised Code.
- (2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment.

(D) If a local registrar is a salaried employee of a city or a general health district, any fees the local registrar receives pursuant to section [3705.23](#) of the Revised Code shall be paid into the general fund of the city or the health fund of the general health district.

Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, fetal death, death, or military service certificate properly and completely made out and registered with the local registrar or district and correctly copied and forwarded to the office of vital statistics in accordance with the population of the primary registration district at the last federal census. The fee for each birth, fetal death, death, or military service certificate shall be:

- (1) In primary registration districts of over two hundred fifty thousand, twenty cents;
- (2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents;
- (3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents;
- (4) In primary registration districts of less than fifty thousand, one dollar.

(E) The director of health shall annually certify to the county treasurers of the several counties the number of birth, fetal death, death, and military service certificates registered from their respective counties with the names of the local registrars and the amounts due each registrar and health district at the rates fixed in this section. Such amounts shall be paid by the treasurer of the county in which the registration districts are located. No fees shall be charged or collected by registrars except as provided by this chapter and section [3109.14](#) of the Revised Code.

(F) A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section [3705.21](#) of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license.

(G) The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section [3705.21](#) of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in these cases.

(H) The fee for an heirloom certification of birth issued pursuant to division (B)(2) of section [3705.23](#) of the Revised Code shall be an amount prescribed by rule by the director of health plus any fee required by section [3109.14](#) of the Revised Code. In setting the amount of the fee, the director shall establish a surcharge in addition to an amount necessary to offset the expense of processing heirloom certifications of birth. The fee prescribed by the director of health pursuant to this division shall be deposited into the state treasury to the credit of the heirloom certification of birth fund which is hereby created. Money credited to the fund shall be used by the office of vital statistics to offset the expense of processing heirloom certifications of birth. However, the money collected for the surcharge, subject to the approval of the controlling board, shall be used for the purposes specified by the family and children first council pursuant to section [121.37](#) of the Revised Code.

(I)

(1) Four dollars of each fee collected by the board of health of a city or general health district for a certified copy of a vital record or a certification of birth shall be transferred to the office of vital statistics not later than thirty days after the end of each calendar quarter. The amount collected shall be used to support public health systems. Of each four dollars collected, one dollar shall be used by the director of health to pay subsidies to boards of health. The subsidies shall be distributed in accordance with the same formula established under section [3701.342](#) of the Revised Code for the distribution of state health district subsidy funds to boards of health and local health departments.

(2) Four dollars of each fee collected by a local registrar of vital statistics who is not a salaried employee of a city or general health district, for a certified copy of a vital record or certification of birth, shall be transferred to the office of vital statistics not later than thirty days after the end of each calendar quarter. The amount collected shall be used to support public health systems.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 06-26-2003; 09-29-2005; 2007 HB119 09-29-2007.

### **3705.241 Fee for copy of adoption file - adoption records fund.**

Not later than ninety days after June 30, 1996, the director of health shall adopt rules in accordance with Chapter 119. of the Revised Code establishing the fee for providing a copy of the contents of an adoption file pursuant to sections 3107.38 and 3107.47 of the Revised Code.

The director shall deposit fees collected under this section in the adoption records fund, which is hereby created in the state treasury. The department shall use the money in the fund to perform its duties under sections



3107.38 and 3107.39 and sections 3107.45 to 3107.53 of the Revised Code.

Amended by 130th General Assembly File No. 56, SB 23, §1, eff. 3/20/2015.

Effective Date: 06-20-1996 .

**3705.242 Fee for copy of birth or death records - divorce decree filing fee.**

(A)

(1) The director of health, a person authorized by the director, a local commissioner of health, or a local registrar of vital statistics shall charge and collect a fee of one dollar and fifty cents for each certified copy of a birth record, each certification of birth, and each copy of a death record. The fee is in addition to the fee imposed by section 3705.24 or any other section of the Revised Code. A local commissioner of health or local registrar of vital statistics may retain an amount of each additional fee collected, not to exceed three per cent of the amount of the additional fee, to be used for costs directly related to the collection of the fee and the forwarding of the fee to the department of health.

The additional fees collected by the director of health or a person authorized by the director and the additional fees collected but not retained by a local commissioner of health or a local registrar of vital statistics shall be forwarded to the department of health not later than thirty days following the end of each quarter. Not later than two days after the fees are forwarded to the department each quarter, the department shall pay the collected fees to the treasurer of state in accordance with rules adopted by the treasurer of state under section 113.08 of the Revised Code.

(2) On the filing of a divorce decree under section 3105.10 or a decree of dissolution under section 3105.65 of the Revised Code, a court of common pleas shall charge and collect a fee of five dollars and fifty cents. The fee is in addition to any other court costs or fees. The county clerk of courts may retain an amount of each additional fee collected, not to exceed three per cent of the amount of the additional fee, to be used for costs directly related to the collection of the fee and the forwarding of the fee to the treasurer of state. The additional fees collected, but not retained, under division (A)(2) of this section shall be forwarded to the treasurer of state not later than twenty days following the end of each month.

(B) The treasurer of state shall deposit the fees paid or forwarded under this section in the state treasury to the credit of the family violence prevention fund, which is hereby created. A person or government entity that fails to pay or forward the fees in the manner described in this section, shall send to the department of public safety a penalty equal to ten per cent of the fees. The department of public safety shall forward all collected late fees to the treasurer of state for deposit into the family violence prevention fund in accordance with rules adopted by the treasurer of state under section 113.08 of the Revised Code.

The treasurer of state shall invest the moneys in the fund. All earnings resulting from investment of the fund shall be credited to the fund, except that actual administration costs incurred by the treasurer of state in administering the fund may be deducted from the earnings resulting from investments. The amount that may be deducted shall not exceed three per cent of the total amount of fees credited to the fund in each fiscal year. The balance of the investment earnings shall be credited to the fund.

(C) The director of public safety shall use money credited to the fund to provide grants to family violence shelters in Ohio and to operate the division of criminal justice services.

Amended by 130th General Assembly File No. 7, HB 51, §101.01, eff. 7/1/2013.

Amended by 129th General Assembly File No. 127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 09-29-2005; 03-30-2006; 2007 HB67 07-03-2007.

**3705.25 Local registrar, deputy registrar or sub-registrar to be removed for failing to discharge official duties.**

A local registrar of vital statistics, deputy registrar, or sub-registrar who fails to discharge official duties shall, on a recommendation of the health commissioner, forthwith be removed from office by the board of health of the health district that constitutes the primary registration district or, in the case of a local registrar serving a combined primary registration district, by the joint action of the boards of health of the health districts that constitute the combined district.

Effective Date: 02-12-2001.

### **3705.251 Amended and Renumbered RC 3705.19.**

Effective Date: 03-16-1989.

### **3705.26 Demand for information by state registrar.**

Any person having knowledge of the facts shall furnish such information as he may possess regarding any birth, fetal death, or death upon demand of the state registrar.

Effective Date: 03-16-1989.

### **3705.27 Matching of birth and death records to protect integrity of vital records.**

The director of health may match birth records and death records in accordance with written standards which he shall promulgate in order to protect the integrity of vital records and prevent the fraudulent use of birth records of deceased persons, to prove beyond a reasonable doubt the fact of death, and to post the facts of death to the appropriate birth record. Copies made of birth records marked "deceased" shall be similarly marked "deceased."

Effective Date: 03-16-1989.

### **3705.28 Prior records valid.**

This chapter applies to all birth, fetal death, or death certificates and records, and reports of marriage, divorce, dissolution of marriage, or annulment of marriage received by the department of health prior to the effective date of this section and in the custody of the state registrar or a local registrar, but nothing in this chapter affects the validity of any certificate, record, or report created or filed prior to the effective date of this section.

Effective Date: 03-16-1989.

### **3705.29 Prohibited acts.**

(A) No person shall do any of the following:

- (1) Purposely make any false statement in a certificate, record, or report required by this chapter or in an application or amendment of it, or purposely supply false information with the intent that that information be used in the preparation of any such report, record, or certificate, or amendment of it;
- (2) Without lawful authority and with intent to deceive, counterfeit, alter, amend, or mutilate any certificate, record, or report required by this chapter or any certified copy of it;
- (3) Purposely obtain, possess, use, sell, furnish, or attempt to obtain, possess, use, sell, or furnish to another for the purpose of deception any certificate, record, or report required by this chapter or any certified copy of it, or any certificate, record, or report that is counterfeit, altered, or amended or false in whole or part;
- (4) Purposely obtain, possess, use, sell, furnish, or attempt to obtain, possess, use, sell, or furnish to another for the purpose of deception any certificate, record, or report required by this chapter, or any certified copy of it, that relates to the birth of another person, whether living or dead;
- (5) Without lawful authority, possess any certificate, record, or report required by this chapter or any copy of such a certificate, record, or report, knowing it to have been stolen or otherwise unlawfully obtained.

(B) No person employed by the office of vital statistics or a local registrar shall purposely furnish or possess a birth record or certified copy of a birth record with intent that it be used for deception.

(C) No person shall do any of the following:

- (1) Purposely refuse to provide information required by this chapter or rules adopted under it;
- (2) Purposely transport out of this state or accept for interment or other disposition a dead body without a permit required by this chapter;
- (3) Knowingly prepare, issue, sell, or give any record or certificate that is alleged to be an original vital record or a certified copy of a vital record if the person knows or has reason to know that it is not an original vital record or a certified copy of a vital record;
- (4) Refuse to comply with the requirements of this chapter or violate any of the provisions of this chapter.

(D) No officer or employee of the department of health shall knowingly reveal or provide any information contained in an adoption file maintained by the department under section 3705.12, 3705.121, 3705.122, 3705.123, or 3705.124 of the Revised Code to any person, or knowingly reveal or provide the contents of an adoption file to any person, unless authorized to do so by section 3705.126 of the Revised Code.

(E) If a death, or a fetal death of at least twenty weeks of gestation, occurs under any circumstances mentioned in section 313.12 of the Revised Code, the coroner of the county in which the death or fetal death occurs, or a deputy coroner, medical examiner, or deputy medical examiner serving in an equivalent capacity, shall certify the cause of that death unless the death was reported to the coroner, deputy coroner, medical examiner, or deputy medical examiner and that person, after a preliminary examination, declined to assert jurisdiction with respect to the death or fetal death.

(F) No physician other than the coroner in the county in which a death, or a fetal death of at least twenty weeks of gestation, occurs, or a deputy coroner, medical examiner, or deputy medical examiner serving in an equivalent capacity, may certify any death or fetal death that occurs under any circumstances other than natural.

(G) If a death, or a fetal death of at least twenty weeks of gestation, occurs under any circumstances mentioned in section 313.12 of the Revised Code, no person shall knowingly present a death or fetal death certificate for the purpose of obtaining certification of the cause of death to any physician other than the coroner in the county in which the death or fetal death occurred, or to a deputy coroner, medical examiner, or deputy medical examiner serving in an equivalent capacity, unless that death or fetal death was reported to the coroner, deputy coroner, medical examiner, or deputy medical examiner and that person, after a preliminary examination, declined to assert jurisdiction with respect to the death or fetal death.

(H) No person, with intent to defraud or knowing that the person is facilitating a fraud, shall do either of the following:

- (1) Certify a cause of death in violation of the prohibition of division (E) or (F) of this section;
- (2) Obtain or attempt to obtain a certification of the cause of a death or fetal death in violation of the prohibition of division (G) of this section.

Amended by 130th General Assembly File No. 56, SB 23, §1, eff. 3/20/2015.

Effective Date: 09-18-1996; 08-17-2006; 2008 SB175 09-12-2008.

### **3705.30 Statewide birth defects information system.**

(A) As used in this section:

- (1) "Freestanding birthing center" has the same meaning as in section [3702.141](#) of the Revised Code.

(2) "Hospital" means a hospital classified under section [3701.07](#) of the Revised Code as a general hospital or children's hospital.

(3) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(B) The director of health shall establish and, if funds for this purpose are available, implement a statewide birth defects information system for the collection of information concerning congenital anomalies, stillbirths, and abnormal conditions of newborns.

(C) If the system is implemented under division (B) of this section, all of the following apply:

(1) The director may require each physician, hospital, and freestanding birthing center to report to the system information concerning all patients under five years of age with a primary diagnosis of a congenital anomaly or abnormal condition. The director shall not require a hospital, freestanding birthing center, or physician to report to the system any information that is reported to the director or department of health under another provision of the Revised Code or Administrative Code.

(2) On request, each physician, hospital, and freestanding birthing center shall give the director or authorized employees of the department of health access to the medical records of any patient described in division (C)(1) of this section. The department shall pay the costs of copying any medical records pursuant to this division.

(3) The director may review vital statistics records and shall consider expanding the list of congenital anomalies and abnormal conditions of newborns reported on birth certificates pursuant to section [3705.08](#) of the Revised Code.

(D) A physician, hospital, or freestanding birthing center that provides information to the system under division (C) of this section shall not be subject to criminal or civil liability for providing the information.

Amended by 129th General Assembly File No.127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 10-05-2000 .

### **3705.31 Purposes of system.**

If implemented under section [3705.30](#) of the Revised Code, the birth defects information system may be used for all of the following purposes:

(A) To identify and describe congenital anomalies, stillbirths, and abnormal conditions of newborns;

(B) To detect trends and epidemics in congenital anomalies, stillbirths, and abnormal conditions of newborns;

(C) To quantify morbidity and mortality of congenital anomalies and abnormal conditions of newborns;

(D) To stimulate epidemiological research regarding congenital anomalies, stillbirths, and abnormal conditions of newborns;

(E) To identify risk factors for congenital anomalies, stillbirths, and abnormal conditions of newborns;

(F) To facilitate intervention in and prevention of congenital anomalies, stillbirths, and abnormal conditions of newborns;

(G) To facilitate access to treatment for congenital anomalies and abnormal conditions of newborns;

(H) To inform and educate the public about congenital anomalies, stillbirths, and abnormal conditions of newborns.

Effective Date: 10-05-2000.

### **3705.32 Records are confidential - exceptions.**

(A) Except as provided in this section, records received and information assembled by the birth defects information system pursuant to section [3705.30](#) of the Revised Code are confidential medical records.

(B)

(1) The director of health may use information assembled by the system to notify parents, guardians, and custodians of children with congenital anomalies or abnormal conditions of medical care and other services available for the child and family.

(2) The director may disclose information assembled by the system with the written consent of the parent or legal guardian of the child who is the subject of the information.

(C)

(1) Access to information assembled by the system shall be limited to the following persons and government entities:

(a) The director of health;

(b) Authorized employees of the department of health;

(c) Qualified persons or government entities that are engaged in demographic, epidemiological, or similar studies related to health and health care provision.

(2) The director shall give a person or government entity described in division (C)(1)(c) of this section access to the system only if the person or a representative of the person or government entity signs an agreement to maintain the system's confidentiality.

(3) The director shall maintain a record of all persons and government entities given access to the information in the system. The record shall include all of the following information:

(a) The name of the person who authorized access to the system;

(b) The name, title, and organizational affiliation of the person or government entity given access to the system;

(c) The dates the person or government entity was given access to the system;

(d) The specific purpose for which the person or government entity intends to use the information.

(4) The record maintained pursuant to division (C)(3) of this section is a public record, as defined in section [149.43](#) of the Revised Code.

(5) A person who violates an agreement described in division (C)(2) of this section may be denied further access to confidential information maintained by the director.

(D) The director may disclose information assembled by the system in summary, statistical, or other form that does not identify particular individuals or individual sources of information.

Effective Date: 10-05-2000.

### **3705.33 Parent or legal guardian may request information concerning child to be removed from system.**

As used in this section, "local health department" means a health department operated by the board of health of a city or general health district or the authority having the duties of a board of health under section [3709.05](#) of the Revised Code.

A child's parent or legal guardian who wants information concerning the child removed from the birth defects information system shall request from the local health department or the child's physician a form prepared by the director of health. On request, a local health department or physician shall provide the form to the child's parent

or legal guardian. The individual providing the form shall discuss with the child's parent or legal guardian the information contained in the system. If the child's parent or legal guardian signs the form, the department or physician shall forward it to the director. On receipt of the signed form, the director shall remove from the system any information that identifies the child.

Effective Date: 10-05-2000.

### **3705.34 [Repealed].**

Effective Date: 10-05-2004.

### **3705.35 Rules.**

Not later than one hundred eighty days after October 5, 2000, the director of health shall adopt rules in accordance with Chapter 119. of the Revised Code to do all of the following:

- (A) Implement the birth defects information system;
- (B) Specify the types of congenital anomalies and abnormal conditions of newborns to be reported to the system under section [3705.30](#) of the Revised Code;
- (C) Establish reporting requirements for information concerning diagnosed congenital anomalies and abnormal conditions of newborns;
- (D) Establish standards that must be met by persons or government entities that seek access to the system;
- (E) Establish a form for use by parents or legal guardians who seek to have information regarding their children removed from the system and a method of distributing the form to local health departments, as defined in section [3705.33](#) of the Revised Code, and to physicians. The method of distribution must include making the form available on the internet.

Amended by 131st General Assembly File No. TBD, HB 471, §1, eff. 12/19/2016.

Effective Date: 10-05-2000.

### **3705.36 Annual report regarding system.**

Three years after the date a birth defects information system is implemented pursuant to section [3705.30](#) of the Revised Code, and annually thereafter, the department of health shall prepare a report regarding the birth defects information system. The department shall file the report with the governor, the president and minority leader of the senate, the speaker and minority leader of the house of representatives, the departments of developmental disabilities, education, and job and family services, the commission on minority health, and the news media.

Amended by 131st General Assembly File No. TBD, HB 471, §1, eff. 12/19/2016.

Amended by 128th General Assemblych.127, SB 79, §1, eff. 10/6/2009.

Effective Date: 10-05-2000 .

### **3705.40 Access to preliminary birth and death data maintained by department.**

(A) As used in this section :

(1) "Board of health" means a board of health of a city or general health district or the authority having the duties of a board of health under section [3709.05](#) of the Revised Code.

(2) "Geocoding" means a geographic information system (GIS) operation for converting street addresses into spatial data that can be displayed as features on a map, usually by referencing address information from a street segment data layer.

(B) The state registrar shall ensure that each board of health has access to preliminary birth and death data maintained by the department of health, as well as access to any electronic system of vital records the state registrar or department of health maintains, including the Ohio public health information warehouse. To the extent possible, the preliminary data shall be provided in a format that permits geocoding. If the state registrar requires a board to enter into a data use agreement before accessing such data or systems, the state registrar shall provide each board with an application for this purpose and, if requested, assist with the application's completion.

(C) The state registrar shall provide the users of the preliminary data and electronic systems described in division (B) of this section with a data analysis tool kit that assists the users with using the data in a manner that promotes consistency and accuracy among users. The tool kit shall include a data dictionary and sample data analyses.

Added by 131st General Assembly File No. TBD, SB 332, §1, eff. 4/6/2017.

### **3705.41 Vital records training.**

(A) As used in this section:

(1) "Freestanding birthing center" has the same meaning as in section [3702.141](#) of the Revised Code.

(2) "Funeral services worker" means a person licensed as a funeral director or embalmer under Chapter 4717. of the Revised Code or an individual responsible for the direct final disposition of a deceased person.

(3) "Hospital" means a hospital classified pursuant to rules adopted under section [3701.07](#) of the Revised Code as a general hospital or children's hospital and to which either of the following applies:

(a) The hospital has a maternity unit.

(b) The hospital receives for care infants who have been transferred to it from other facilities and who have never been discharged to their residences following birth.

(4) "Maternity unit" means the distinct portion of a hospital licensed as a maternity unit under Chapter 3711. of the Revised Code.

(B) At least annually, the state registrar shall offer to provide training for appropriate staff of hospitals and freestanding birthing centers, as well as funeral services workers, on their responsibilities under the laws of this state and any rules adopted pursuant to those laws pertaining to vital records. If provided, the training shall cover correct data entry procedures and time limits for reporting vital statistics information for the purpose of ensuring accuracy and consistency of the system of vital statistics.

Added by 131st General Assembly File No. TBD, SB 332, §1, eff. 4/6/2017.

### **3705.99 Penalty.**

(A) Whoever violates division (A) , (B), or (H) of section [3705.29](#) of the Revised Code shall be fined not more than ten thousand dollars or incarcerated for a term of not more than five years, or both.

(B) Whoever violates division (C), (E), (F), or (G) of section [3705.29](#) of the Revised Code shall be fined not more than one thousand dollars or incarcerated for a term of not more than one year, or both.

(C) Whoever violates division (D) of section [3705.29](#) of the Revised Code is guilty of a misdemeanor of the third degree.

Effective Date: 09-18-1996; 08-17-2006.



## Chapter 3701-5 Vital Statistics

### 3701-5-01 Definitions.

As used in this chapter:

(A) "Live birth means the complete expulsion or extraction from its mother of a product of human conception, that after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

(B) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, of at least twenty weeks of gestation, which, after such expulsion or extraction does not breathe or show any other evidence of life such as breathing of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(C) "Dead body" means a human body or part of a human body from the condition of which it reasonably may be concluded that death occurred.

(D) "Physician" means a person licensed pursuant to Chapter 4731. of the Revised Code to practice medicine or surgery or osteopathic medicine and surgery.

(E) "Attending physician" means the physician in charge of the patient's care for the illness or condition that resulted in death.

(F) "Institution" means any establishment, public or private, that provides medical, surgical, or diagnostic care or treatment, or domiciliary care, to two or more unrelated individuals, or to persons committed by law.

(G) "Funeral director" means the business or profession of directing or supervising funerals for profit, the business or profession of preparing dead human bodies for burial by means other than embalming, the disposition of dead human bodies, the provision or maintenance of a place for the preparation, the care, or disposition of dead human bodies, the use in connection with a business of the term "funeral director," "undertaker," "mortician," or any other term from which can be implied the business of funeral directing, or the holding out to the public that one is a funeral director or a disposer of dead human bodies.

(H) "Registration district" means a city or county health district created by section [3709.01](#) of the Revised Code. The director of health may combine two or more primary registration districts, or may establish any state hospital, or other public institution, as a primary registration district.

(I) "State registrar" means the head of the bureau of vital statistics in the department of health.

(J) "Local registrar" means the head of a primary registration district.

(K) "Deputy registrar" means an individual appointed by the local registrar, with the approval of the director, under section [3705.05](#), of the Revised Code. In the case of the absence, illness, or disability of the local registrar, the deputy registrar acts in his or her place.

(L) "Sub-registrar" means a person appointed by a local registrar for the purpose of approving permits for the disposition of remains , as provided in section [3705.17](#) of the Revised Code.

(M) "Final disposition" means the burial, cremation, entombment, removal from the state, donation, or other authorized disposition of a dead body or a fetus.

(N) "Cremation" means the reduction to ashes of a dead body.

(O) "System of vital statistics means the registration, collection, preservation, amendment, and certification of vital records, the collection of other reports required by Chapter 3705. of the Revised Code and activities related thereto.

(P) "Vital records" means certificates or reports of birth, death, fetal death, or abstracts of marriage, divorce, dissolution, and annulment, and data related thereto and other documents maintained as required by statute.

(Q) "File" means the presentation of vital records to the local registrar.

(R) "Registration" means the acceptance by the bureau of vital statistics and the incorporation of vital records into its official records.

(S) "Birth record" means a birth certificate that has been registered with the office of vital statistics; or, if registered prior to the effective date of this section, with the division of vital statistics; or, if registered prior to the establishment of the division of vital statistics, with the department of health or a local registrar.

(T) "Certification of birth" means a document issued by the director of health or state registrar or a local registrar under division (B) of section [3705.23](#) of the Revised Code.

(U) "Director" means the director of health.

(V) "Physician in attendance" means the physician who was in attendance at or immediately after the birth of the child or, the physician who is the chief or head of the department or section of obstetrics in the institution.

(W) "Governmental use only certificate" means a vital record issued to a local, state or federal government agency for use in official government business. The governmental use only certificate will be a plain paper copy issued free of charge and will be marked as a governmental use only certificate. A certified copy of a governmental use only certificate will be issued free of charge upon issuance of a court ordered subpoena for a vital record.

(X) "Stillbirth certificate" means a certificate recognizing the fetal death of an infant at any age of gestation. The director or state registrar shall issue a stillbirth certificate upon receipt of a application signed by either parent. The certificate shall contain the name of the infant, sex of the infant, and date of delivery and place of delivery. The director, state registrar, or local registrar shall charge no fee for the certificate. A certificate recognizing the delivery of a stillborn infant is not proof of a live birth for purposes of federal, state and local taxes.

(Y) "Delayed birth" means any birth that happens in an institution, that is not registered within seven years of date of birth, or is not registered within one year, if the birth occurs out of institution.

Effective: 7/3/2016

Five Year Review (FYR) Dates: 04/11/2016 and 04/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3705.02](#)

Rule Amplifies: 3705.01, [3705.02](#), [3705.03](#), [3705.04](#), [3705.05](#), [3705.06](#), [3705.07](#), [3705.071](#), [3705.08](#), [3705.09](#), [3705.091](#), [3705.10](#), [3705.11](#), [3705.12](#), [3705.13](#), [3705.14](#), [3705.15](#), [3705.16](#), [3705.17](#), [3705.18](#), [3705.19](#), [3705.20](#), [3705.21](#), [3705.22](#), [3705.23](#), [3705.24](#), [3705.241](#), [3705.242](#), [3705.25](#), [3705.26](#), [3705.27](#), [3705.28](#), [3705.29](#), [3705.30](#), [3705.31](#), [3705.32](#), [3705.33](#), [3705.35](#), [3705.36](#), [3705.99](#)

Prior Effective Dates: 1/1/1960, 6/1/66, 12/1/74, 11/20/94, 5/3/97, 12/1/05

### **3701-5-02 Forms used in the system of vital statistics.**

(A) The following forms, as set forth in the designated appendices to this rule, are prescribed for use in the system of vital statistics. Notwithstanding the requirement that the forms set forth below be used in the system of vital statistics, a mother's name and address and a father's name are not required to be entered on a fetal death report:

- (1) Certificate of live birth (appendix A);
- (2) Certificate of death (appendix B);
- (3) Report of fetal death (appendix C);
- (4) Affidavit correction of birth record (appendix D);

- (5) Supplementary medical certification (appendix E);
- (6) Certificate of service (appendix F);
- (7) Burial-transit permit (appendix G);
- (8) Certificate of adoption (appendix H);
- (9) Affidavit requesting new birth certificate for adopted child (appendix I);
- (10) Certified abstract of marriage (appendix J);
- (11) Certified abstract of divorce, annulment, or dissolution (appendix K);
- (12) Determination of paternity (appendix L);
- (13) Affidavit to correct a death certificate or fetal death report (appendix M);
- (14) Application, finding, and order for correction of birth record (appendix N);
- (15) Certification of birth record (recreation of birth facts) (appendix O);
- (16) Finding and order establishing registration of birth (appendix P);
- (17) Application, finding, and order for registration (appendix Q);
- (18) Affidavit for adopted person requesting information for adoption file (appendix R);
- (19) Medical birth information request (appendix S);
- (20) Application for certified copy of birth or death certificate or paternity affidavit (appendix T);
- (21) Application for certificate of public record (appendix U);
- (22) Denial of release for biological parent (appendix V);
- (23) Authorization for release form for biological parent (appendix W);
- (24) Authorization of release of adopted name (appendix X);
- (25) Rescission of authorization of release of adopted name (appendix Y);
- (26) Certification of birth (appendix Z); and
- (27) Certification of birth for a stillborn (appendix AA).

(B) To be registered, each vital record that is required to be filed under Chapter 3705. of the Revised Code shall comply with all of the following requirements, except as otherwise provided in that chapter:

- (1) The record shall be prepared in a form approved or prescribed and distributed by the director;
- (2) The record shall be prepared and completed in accordance with the written instructions prescribed and distributed by the director;
- (3) The record shall contain all items of information requested thereon. If any such items are omitted, the person responsible for completion of the record shall satisfactorily account for their omission; and
- (4) The record shall contain, in type or legible print, the certifier's name .

(C) All forms, certificates, and reports used in the system of vital statistics are the property of the Ohio department of health and shall be surrendered to the state registrar upon demand. The forms prescribed and

distributed by the director for reporting vital statistics shall be used only for official purposes. Only those forms furnished or approved by the director shall be used in the reporting of vital statistics or in making copies thereof.

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Effective: 7/3/2016

Five Year Review (FYR) Dates: 04/11/2016 and 04/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3705.02](#)

Rule Amplifies: [3705.08](#), [3107.45](#), [3107.47](#), [3707.48](#)

Prior Effective Dates: 11/20/1994, 5/3/97, 12/1/05, 1/1/11

**3701-5-03 Fees for certified copies of vital records and certifications of birth issued by the office of vital statistics.**

The fee for a certified copy of a vital record or a certification of birth issued by the bureau of vital statistics shall be twelve dollars plus any fees required by division (B) of section [3705.24](#) of the Revised Code, section [3705.242](#) of the Revised Code and section [3109.14](#) of the Revised Code.

Effective: 7/3/2016

Five Year Review (FYR) Dates: 04/11/2016 and 04/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3705.02](#)

Rule Amplifies: [3705.24](#)

Prior Effective Dates: 12/2/1991, 11/15/99, 12/1/05, 11/28/10

**3701-5-04 Registration of an institution birth.**

(A) All birth certificates shall be completed within ten days of birth. All certificates of birth must be presented for filing within twenty-one days of the date of birth with either the local registrar who, at the time the certificate is filed, has jurisdiction over the registration district where the birth occurred, or with the state registrar. If the birth was attended by a physician, the certificate of birth contains the physician's name and date; or if the birth was not attended by a physician, or was attended by a physician who is deceased, the certificate of birth is supported by an affidavit of an individual, other than one of the child's parents, who has knowledge that the birth occurred at the time and place indicated on the certificate of birth. An affidavit required by this paragraph shall affirm that the birth occurred at the time and place indicated on the certificate.

(B) A certificate of birth for an institution birth, filed more than one year but not more than seven years after the birth occurred shall be registered if it meets the requirements of paragraph (D) of this rule and if the birth was attended by a physician, the local registrar shall submit the certificate to the bureau of vital statistics with a written request that the bureau search the state files to determine whether an original certificate of birth was filed at the time of birth. The local registrar shall register the certificate of birth if the bureau of vital statistics determines that no original certificate of birth was registered and the state registrar approves the registration.

(C) The birth of any person whose institution birth was not registered within seven years after the birth occurred, or whose birth record has been lost or destroyed, shall be registered upon receipt of an order from a probate court, issued pursuant to section [3705.15](#) of the Revised Code, ordering registration of the birth.

(D) In addition to the applicable requirements of paragraphs (A) and (B) of this rule, a delayed birth certificate, to be registered, shall meet all of the following requirements:

(1) The certificate shall be accompanied by all social security numbers that have been issued to the parents of the child, unless the bureau of child support in the Ohio department of job and family services, acting in accordance with regulations prescribed under the Family Support Act of 1988, 102 Stat. 2353, 42 U.S.C.A. 405, as amended, finds good cause for not requiring that the numbers be furnished with the certificate;

(2) The parents' social security numbers shall not be recorded on the certificate;

(3) The local registrar of vital statistics shall transmit the social security numbers to the state bureau of vital statistics in accordance with section [3705.07](#) of the Revised Code.

(E) No social security number obtained under this section shall be used for any purpose other than child support enforcement.

Replaces: 3701-5-04

Effective: 7/3/2016

Five Year Review (FYR) Dates: 04/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3705.02](#)

Rule Amplifies: [3705.15](#)

Prior Effective Dates: 1/1/1960, 6/1/66, 12/13/76, 11/20/94, 12/1/05

### **3701-5-05 Appointment of sub-registrars.**

(A) The local registrar, with the approval of the director, may appoint one or more sub-registrars for the registration district.

(B) Each sub-registrar shall approve a disposition permit within twenty-four hours after verifying a certificate of death was initiated, or verifying a certificate of death has been completed if requesting a cremation disposition permit.

(C) Failure to comply with duties may result in removal by the local board of health or state registrar.

(D) Each sub-registrar shall remit fees for disposition permits as set forth by the state registrar.

Replaces: 3701-5-05

Effective: 7/3/2016

Five Year Review (FYR) Dates: 04/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3705.02](#)

Rule Amplifies: [3705.17](#), [3705.25](#)

Prior Effective Dates: 11/20/1994, 12/1/05

### **3701-5-06 Medical certification of cause of death.**

The medical certificate of death shall be completed and certified by the attending physician who attended the deceased, or by the coroner, within forty-eight hours after death, unless the results of an autopsy or chemical or biological examination are pending.

Replaces: 3701-5-06

Effective: 7/3/2016

Five Year Review (FYR) Dates: 04/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3705.02](#)

Rule Amplifies: [3705.16](#)

Prior Effective Dates: 11/20/94

### **3701-5-07 Filing of the certificate of death when the cause of death is not known.**

When the results of a coroner's investigation or a medical examination to determine the cause of death are not known within five days from the date of death, the coroner or attending physician, as applicable, shall certify the certificate of death, enter " pending" or "pending - not drug related" in the cause of death portion, and return the certificate to the funeral director or other person in charge of final disposition. The funeral director shall immediately file the certificate of death or fetal death report with the local registrar . If there is no funeral home, the agent shall file the death certificate with the local registrar. When the cause of death has been determined, the coroner or attending physician, as applicable shall complete the supplementary medical certification form prescribed and provided by the director. The coroner or physician shall file the form with the local registrar as an addendum to the previously filed certificate of death no later than six months after the date of death.

Replaces: part of 3701-5-06

Effective: 7/3/2016

Five Year Review (FYR) Dates: 04/11/2016 and 04/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3705.02](#)

Rule Amplifies: [3705.16](#), [3705.26](#)

Prior Effective Dates: 11/20/94

### **3701-5-08 Investigation of delayed filing of certificates of death and fetal death.**

(A) A funeral director shall obtain a disposition permit prior to or at the time of filing a death certificate. A disposition shall not occur prior to obtaining a disposition permit. A satisfactory and complete death certificate shall be filed within five working days after the date of death.

(B) If a satisfactory and complete certificate of death or fetal death is not filed within five days after date of death or fetal death, the local registrar may investigate the matter to determine the cause of delay. After investigation, if a satisfactory and complete certificate of death is not filed with the local registrar within a reasonable period of time, the local registrar shall report the matter to the licensing agency that licenses the entity causing the delay .



Effective: 7/3/2016

Five Year Review (FYR) Dates: 04/11/2016 and 04/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3705.02](#)

Rule Amplifies: [3705.16](#)

Prior Effective Dates: 11/20/94

### **3701-5-09 Disposition permit fees.**

The disposition permit fee required by section [3705.17](#) of the Revised Code shall be waived when the funeral director or other person in charge of the final disposition of the remains provides a signed statement to the local registrar. The statement must indicate which agency or instrumentality of the united states, state or state agency, or political subdivision of the state paid for the total cost of the burial.

Effective: 7/3/2016

Five Year Review (FYR) Dates: 04/11/2016 and 04/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3705.02](#)

Rule Amplifies: [3705.17](#), [3705.19](#)

Prior Effective Dates: 11/20/1994

### **3701-5-10 Matching of certificates of birth and death.**

(A) When carrying out the birth and death record matching program authorized by section [3705.27](#) of the Revised Code, the state registrar shall establish that a match exists by comparing specific information on the certificates of birth and death. The items for comparison shall include, at minimum, the following:

- (1) The name of the decedent;
- (2) The name of the decedent's father or maiden name of the decedent's mother;
- (3) The date of birth or age of decedent; and
- (4) The state of birth of decedent.

No match shall be determined to exist unless there is a death certificate.

(B) The date of death, the state where death occurred, and the death certificate number, shall be affixed to the birth record. The date of birth, the state of where the birth occurred, and the birth certificate number, shall be affixed to the death record.

Effective: 7/3/2016

Five Year Review (FYR) Dates: 04/11/2016 and 04/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3705.02](#)

Rule Amplifies: [3705.27](#)

Prior Effective Dates: 11/20/1994

### **3701-5-11 Record preservation by office of vital statistics.**

The director shall preserve all vital records filed with the office of vital statistics in accordance with Chapter 3705. of the Revised Code by maintaining the original or a typewritten, photographic, electronic, or other reproduction of the vital record in the bureau of vital statistics. When one hundred twenty-five years have elapsed after the date of birth or fifty years have elapsed after the date of death, fetal death (stillbirth), abstracts of marriage, divorce, dissolution, or annulment, the director may transfer the certificate of birth, death, or fetal death, or abstract of marriage, divorce, dissolution of marriage, or annulment into the custody of the Ohio history connection. The director shall maintain an index for records that have not elapsed.

Effective: 7/3/2016

Five Year Review (FYR) Dates: 04/11/2016 and 04/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3705.02](#)

Rule Amplifies: [3705.02](#), [3705.03](#), [3705.04](#), [3705.05](#), [3705.06](#), [3705.07](#), [3705.071](#), [3705.08](#), [3705.08](#), [3705.091](#), [3705.10](#), [3705.11](#), [3705.11](#), [3705.12](#), [3705.13](#), [3705.14](#), [3705.15](#), [3705.16](#), [3705.17](#), [3705.28](#), [3705.19](#), [3705.20](#), [3705.21](#), [3705.22](#), [3705.23](#), [3705.24](#), [3705.241](#), [3705.242](#), [3705.25](#), [3705.26](#), [3705.27](#), [3705.28](#), [3705.29](#), [3705.99](#)

Prior Effective Dates: 11/20/1994

### **3701-5-12 Disclosure of medical and health information.**

(A) The state registrar or the local registrar may disclose data from vital statistics records including data from the "information for medical and health use only" to any governmental agency or political subdivision that request the data for statistical or research purposes in the course of their official duties.

(B) The director or state registrar may permit the release of data from the "information for medical and health use only" section of a birth record, for appropriate statistical or research purposes after consultation with the department institutional review board. No data shall be furnished from records for statistical or research purposes until the department institutional review board has received an agreement signed by a responsible agent of the research organization agreeing to conform to the following release conditions:

- (1) Research protocol must be submitted to the department for review and approval;
- (2) The release agreement must state that vital statistics information received will not become part of any permanent record in the institution or organization;
- (3) The release agreement must state that vital statistics information will be kept confidential and will not be provided to another individual, agency, or organization;
- (4) Copies of survey letters and/or questionnaires must be submitted for approval when used in conjunction with vital statistics information;
- (5) If applicable, copies of human subject review board/committee approval from institution or other organization must be submitted;
- (6) Any other conditions deemed necessary by the director to protect the confidentiality of the "information for medical and health use only" section of the certificate of birth.

Effective: 7/3/2016

Five Year Review (FYR) Dates: 04/11/2016 and 04/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3705.02](#)

Rule Amplifies: [3705.27](#)

Prior Effective Dates: 11/20/1994

### **3701-5-13 Heirloom birth certificate fee.**

The fee for an heirloom birth certificate shall be twenty-five dollars of which ten dollars shall be used for the purposes specified by the family and children first council pursuant to section [121.37](#) of the Revised Code and including the fee required by section [3109.14](#) of the Revised Code, The director may reduce the amount of the fee to be used by the family and children first council if the council so requests.

Five Year Review (FYR) Dates: 04/04/2016 and 04/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3705.02](#)

Rule Amplifies: [3705.23](#)

Prior Effective Dates: 5/3/1997, 1/13/98 (Emer.), 5/8/98

**3701-5-14 Coroner's protocol.**

(A) The coroner shall investigate the death of and perform an autopsy on any child under two years of age that dies suddenly when in apparent good health unless a court with jurisdiction determines under section [313.131](#) of the Revised Code that an autopsy is contrary to the religious beliefs of the child. The coroner shall investigate the death and perform the autopsy by conducting the following:

(1) An investigation of the site where the child was found dead and indicating, if the information is available, whether the child was observed to die, when the child was last seen alive, the place of death, the circumstances under which the child was found dead and by whom, the position of the child when found, and the identity of all individuals who attempted to resuscitate the child;

(2) A complete medical history of the child, including, if the information is available, the child's date of birth, birth weight, type of delivery, number of well-baby visits, history of major illness including recent illness and any medical treatment, feeding history, birth mother's prenatal history and history of any drug use, whether any siblings have suddenly died under the age of two while in apparent good health or have died from any other cause;

(3) An external examination of the child including noting the child's state of nutrition and development, examining the nares and choanae, determining the age, race, sex, body length, and body weight of the child, and evaluating the child for evidence of rash, dehydration, anomalies, and injury;

(4) An internal examination including evaluating the epiglottis, larynx, and trachea, and noting the presence or absence of thymic petechiae, pleural petechiae, epicardial petechiae and fluid blood;

(5) A microscopic examination of any of the following that are indicated after conducting paragraphs (A)(1) through (A)(4) of this rule, provided that a specimen is possible to obtain:

(a) One vertical section of the heart including the left atrium and left ventricle;

(b) One section of each lobe of both lungs;

(c) Both kidneys and adrenals;

(d) The ileum including a Peyer's patch;

(e) The liver and pancreas;

(f) The larynx including the epiglottis;

(g) The brain, including the cortex, basal ganglia, mid-pons, and medulla, each to include meninges; and

(h) The thymus; and

(6) Any other examination or investigation that is indicated by the facts and circumstances of the case.

(B) The coroner shall perform the following procedures where indicated by the facts and circumstances of the case:

(1) A total body x-ray for evidence of repetitive battering;

(2) Biochemical determinations of sodium, potassium, and glucose, using vitreous humor;

(3) Bacterial cultures of heart blood, spleen, both lungs, stool, cerebrospinal fluid and larynx;

(4) Viral cultures of the heart, both lungs, one kidney, gastrointestinal tract and brain; and

(5) A collection for testing of spinal fluid, urine, and gastric contents, five to ten milliliters of whole blood, and approximately ten grams of the liver. These specimens shall be examined and the presence and levels of the following shall be determined:

- (a) Common agents acting upon the central nervous system;
  - (b) Salicylates;
  - (c) Alcohols;
  - (d) Carbon monoxide; and
  - (e) Any other agents as appropriate to the case.
- (6) Retention of frozen liver, brain, kidney, and lung specimens for a period of at least six months

(C) The coroner shall report to the Ohio department of health a preliminary diagnosis of the cause of death of any child under two years of age who died suddenly when in apparent good health. The preliminary diagnosis shall be reported to the Ohio department of health as soon as possible, but no later than seventy-two hours after the death of the child and shall be made either orally, or on a form prescribed by the director of the Ohio department of health containing the following information:

- (1) The child's name, sex, age, race, date of birth and date of death;
- (2) The child's county of residence and county of death; and
- (3) The mother's and father's name, age, and address.

If the preliminary diagnosis is orally made to the Ohio department of health, the coroner shall also report the preliminary diagnosis on the form prescribed by the director and shall submit the form to the Ohio department of health within fourteen days.

(D) If the child's parent makes a request for the preliminary results of the autopsy, the coroner or person designated by him shall give the parent an oral statement of the preliminary results after they are available.

(E) The coroner shall send written notice of the final results of the investigation and autopsy, including the final results of examinations, investigations and procedures required in paragraphs (A) and (B) of this rule, to the Ohio department of health, the health district or department with jurisdiction in the area in which the child's parent resides, and, upon a request of the parent of the child, to the child's attending physician, within a reasonable time after the final results are available. The coroner shall send written notice of the final results to a parent upon written request.

Five Year Review (FYR) Dates: 04/04/2016 and 04/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [313.122](#)

Rule Amplifies: [313.121](#), 312.16

Prior Effective Dates: 3/19/1993

### **3701-5-15 Adoption file fee.**

The fee to copy the contents of an adoption file pursuant to sections [3107.38](#) and [3107.47](#) of the Revised Code shall be twenty dollars.

Five Year Review (FYR) Dates: 04/04/2016 and 04/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3705.241](#)

Rule Amplifies: [3107.38](#), [3107.47](#)

Prior Effective Dates: 10/25/1996

### **3701-5-16 Registration of out of institution birth.**

(A) In any case where a birth occurs outside an institution and the birth certificate is filed within one year of the birth, documentation of the following shall be required in order to register an out of institution birth:

(1) Evidence of pregnancy, such as, but not limited to:

- (a) Prenatal or postnatal record, or
- (b) A statement from a physician or other health care provider qualified to determine pregnancy, or
- (c) A home visit by a public health nurse or other health care provider, or
- (d) Other evidence acceptable to the state registrar.

(2) Evidence that the infant was born alive, such as but not limited to:

- (a) A statement from the physician or other health care provider who saw or examined the infant, or
- (b) An observation of the infant during a home visit by a public health nurse, or
- (c) Other evidence acceptable to the state registrar.

(3) If the birth occurred in the mother's residence, evidence of the mother's presence in Ohio on the date of the birth, such as but not limited to:

- (a) A driver's license, or a state issued identification card, which includes the mother's current residence on the face of the license or card, or
- (b) A rent receipt or any type of utility, telephone or other bill that includes the mother's name and address.

(4) If the birth occurred outside of the mother's place of residence and the mother is a resident of this state, such evidence shall consist of:

- (a) An affidavit from the tenant of the premises where the birth occurred that the mother was present on those premises at the time of the birth and;
- (b) Evidence of the affiant's residence;
- (c) Evidence of the mother's residence;
- (d) Any other evidence acceptable to the state registrar.

(B) At the discretion of the state registrar, additional evidence may be required to verify the facts of birth. If the required evidence is not available and the local registrar is not able to verify the facts of birth, the out of institution birth may be filed at the state registrar's discretion.

(C) An out of institution birth that has not been filed within one year of date of birth, must be filed with the applicable probate court and forwarded to the state bureau of vital statistics for registration.

Effective: 7/3/2016

Five Year Review (FYR) Dates: 04/11/2016 and 04/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3705.02](#)

Rule Amplifies: [3705.09](#)

Prior Effective Dates: 12/1/2005

## **3701.045 Child fatality review boards conducting reviews.**

(A) The department of health, in consultation with the children's trust fund board established under section [3109.15](#) of the Revised Code and any bodies acting as child fatality review boards on October 5, 2000, shall adopt rules in accordance with Chapter 119. of the Revised Code that establish a procedure for county or regional child fatality review boards to follow in conducting a review of the death of a child. The rules shall do all of the following:

- (1) Establish the format for the annual reports required by section [307.626](#) of the Revised Code;
- (2) Establish guidelines for a county or regional child fatality review board to follow in compiling statistics for annual reports so that the reports do not contain any information that would permit any person's identity to be ascertained from a report;
- (3) Establish guidelines for a county or regional child fatality review board to follow in creating and maintaining the comprehensive database of child deaths required by section [307.623](#) of the Revised Code, including provisions establishing uniform record-keeping procedures;
- (4) Establish guidelines for reporting child fatality review data to the department of health or a national child death review database, either of which must maintain the confidentiality of information that would permit a person's identity to be ascertained;
- (5) Establish guidelines, materials, and training to help educate members of county or regional child fatality review boards about the purpose of the review process and the confidentiality of the information described in section [307.629](#) of the Revised Code and to make them aware that such information is not a public record under section [149.43](#) of the Revised Code.

(B) On or before the thirtieth day of September of each year, the department of health and the children's trust fund board jointly shall prepare and publish a report organizing and setting forth the data from the department of health child death review database or the national child death review database, data in all the reports provided by county or regional child fatality review boards in their annual reports for the previous calendar year, and recommendations for any changes to law and policy that might prevent future deaths. The department and the children's trust fund board jointly shall provide a copy of the report to the governor, the speaker of the house of representatives, the president of the senate, the minority leaders of the house of representatives and the senate, each county or regional child fatality review board, and each county or regional family and children first council.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 10-05-2000 .

## Chapter 3701-67 Child Fatality Review Board

### 3701-67-01 Definitions.

As used in this chapter:

(A) "Cause of death" means the classification of death as listed in box 30 on the Ohio death certificate, or an equivalent box on future forms. Examples of causes include, but are not limited to, birth defects, drowning and submersion, electrocution, extreme prematurity, falls, fire and burn, firearms and weapons, pneumonia, poisoning, shaken baby syndrome, sudden infant death syndrome, suffocation and strangulation, vehicular, and other cause.

(B) "Child" means any person under eighteen years of age.

(C) "Child fatality review (CFR) board" means a county or regional board established or appointed to review deaths of children residing in the county or region for the purpose of decreasing the incidence of preventable child deaths.

(D) "Circumstance of death" means any accompanying or surrounding details of the death beyond the cause and manner of death. Examples include, but are not limited to, drowning in a bucket or house fire in rental unit.

(E) "Contributing factors" mean other factors beyond the cause and manner of death that may be partly responsible for the child's death. Examples of contributing factors include medical factors; alcohol use by parent, caretaker or child; drug use by parent, caretaker or child; tobacco use by parent, caretaker or child; use or non-use of safety devices; level of supervision; environmental factors; and mental or behavioral factors of parent, caretaker or child.

(F) "County commissioners" means the board of county commissioners established under Chapter 305. of the Revised Code or an alternative form of county government established pursuant to Chapter 301. of the Revised Code with the responsibilities of county commissioners.

(G) "County of residence" means the county of residence as identified on the Ohio death certificate.

(H) "Department or director" means the director of the Ohio department of health or any official or employee of the department designated by the director of the Ohio department of health.

(I) "Geographic location of death" means the county in which the child was pronounced dead.

(J) "Health commissioner" means the health commissioner of a general, city or county health district or the individual with the responsibilities of a health commissioner in a city or county health district.

(K) "Manner of death" means the classification of death listed in box 32 on the Ohio death certificate, or equivalent box on future forms. The classification is limited to natural, accident, homicide, suicide, and undetermined.

(L) "Preventable" means the degree to which an individual or community could have reasonably done something that would have changed the circumstances that led to the child's death.

(M) "Public record" means any record defined in division (A)(1) of section [149.43](#) of the Revised Code.

(N) "Review" means a general assessment or examination of the death of a child. The review shall at least consider the cause of death; manner of death; circumstance of death; contributing factors; age; sex; race and ethnicity; and geographic location of death.

Five Year Review (FYR) Dates: 06/07/2016 and 06/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3701.045](#)

Rule Amplifies: [3701.045](#)

Prior Effective Dates: 6/28/2001

### **3701-67-02 Child fatality review boards.**

(A) In accordance with sections [307.621](#) and [307.622](#) of the Revised Code, each county in Ohio shall establish a CFR board or join a regional CFR board for the purpose of reviewing the deaths of children residing in that county.

(B) The purpose of the CFR board is to decrease the incidence of preventable child deaths by doing all of the following:

(1) Promoting cooperation, collaboration and communication between all groups, professions, agencies, or entities that serve families and children.

(2) Maintaining a comprehensive database of all child deaths that occur in the county or region served by the CFR board in order to develop an understanding of the causes and incidence of those deaths.

(3) Recommending and developing plans for implementing local service and program changes to the groups, professions, agencies or entities that serve families and children that might prevent child deaths.

(4) Advising the Ohio department of health of aggregate data, trends and patterns concerning child deaths.

Five Year Review (FYR) Dates: 06/07/2016 and 06/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3701.045](#)

Rule Amplifies: [307.621](#), [307.622](#), [307.623](#), [3701.045](#)

Prior Effective Dates: 6/28/2001

### **3701-67-03 Child fatality review board meetings.**

(A) The board of county commissioners shall designate either the health commissioner that establishes the CFR board or a representative of the health commissioner to convene and be the chairperson of the CFR board. If a regional CFR board is established, the health commissioner appointed to establish the regional CFR board or his or her designee shall convene the CFR board meetings and be the chairperson of the CFR board. In any county that has a body acting as a CFR board on the effective date of this rule, the board of county commissioners of that county, in lieu of having a health commissioner establish a CFR board, shall appoint that body to function as the CFR board for the county. The body shall have the same duties, obligations, and protections as a CFR board appointed by the health commissioner. The board of county commissioners or an individual designated by the CFR board shall convene the body as required by section [307.624](#) of the Revised Code.

(B) If a regional CFR board includes a county with more than one health district, the CFR board meeting shall be convened in that county. If more than one of the counties participating in a regional CFR board has more than one health district, the person convening the meeting shall select one of the counties containing more than one health district as the county in which to convene the CFR board meeting.

(C) Each CFR board shall be convened at least once a year to review the deaths of all children who, at the time of death, were residents of the county or, in the case of a regional board, were residents of one of the participating counties.

(D) If a child dies in an Ohio county other than the child's county of residence, the review shall be conducted in accordance with this paragraph. For purposes of this paragraph, the CFR board with jurisdiction over the county of residence shall be referred to as the lead CFR board. The CFR board with jurisdiction over the county in which the child died shall be referred to as the secondary CFR board.

(1) Except as provided in paragraph (D)(2) of this rule, the lead CFR board shall conduct the child death review;

(2) The lead CFR board may delegate the responsibility for conducting a child death review to the secondary CFR board if the lead CFR board and the secondary CFR board both agree that the secondary CFR board will conduct



the review;

(3) The lead and secondary CFR boards shall cooperate with each other to make relevant information available for the review. The CFR board which conducts the review shall provide a complete copy of the review to the CFR board not conducting the review;

(4) Regardless of which CFR board conducts the review, only the lead CFR board shall include the review information in its annual report to the department.

(E) Meetings of CFR boards established under section [307.621](#) of the Revised Code shall not be considered public meetings and, as such, are not subject to section [121.22](#) of the Revised Code.

Effective: 8/21/2016

Five Year Review (FYR) Dates: 06/06/2016 and 06/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3701.045](#)

Rule Amplifies: [307.621](#), [307.622](#), [307.623](#), [3701.045](#)

Prior Effective Dates: 6/28/2001, 10/05/06

### **3701-67-04 Data collection; confidentiality of records.**

(A) Each CFR board shall implement a system for collecting information determined necessary by the CFR board to review the deaths of children who were residents of the county, or if a regional board, one of the participating counties, at the time of death.

(B) The CFR board shall use the data collection tool or national child death review data base as designated by the director in accordance with rule [3701-67-06](#) of the Administrative Code. The CFR board shall review at a minimum the information required to be reported in the annual report to the department under rule [3701-67-07](#) of the Administrative Code.

(C) The CFR board shall maintain the data collected and any work product of the CFR board in a confidential manner. All confidential information shall be used by the CFR board and its members only in the exercise of the proper functions of the CFR board.

(D) Each CFR board shall take measures to ensure the security and confidentiality of information obtained during the course of conducting child death reviews. The CFR board shall develop and maintain written policies and procedures that address the following:

(1) Confidentiality of information that is collected or obtained in the course of conducting child death reviews.

(2) A system to assure only authorized persons are allowed unsupervised access to an area where confidential records are stored, which includes access to records stored electronically.

(3) Security measures to prevent inadvertent or unauthorized access to any records containing sufficient information that could reasonably lead to the identity of the child whose death is being reviewed.

(4) Storing, processing, indexing, retrieving and destroying information obtained in the course of conducting child death reviews.

(E) Each CFR board shall maintain child death review records for the time period required by the CFR board's retention schedule or seven years if there is no retention schedule.

(F) The CFR board shall provide each CFR board member with a copy of the policies and procedures developed under paragraph (D) of this rule. If any task of the CFR board member is delegated to another person, the CFR board member is responsible for assuring that the person who is delegated a CFR board task is familiar with the policies and procedures and has access to such policies and procedures.

Effective: 8/21/2016

Five Year Review (FYR) Dates: 06/06/2016 and 06/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3701.045](#)

Rule Amplifies: 307.045, [307.629](#)

Prior Effective Dates: 6/28/2001, 8/11/11

### **3701-67-05 Training guidelines.**

(A) Each CFR board shall require at least one member of the CFR board attend the annual training sponsored by the department of health. Each CFR board shall encourage all CFR board members to attend. If not all members of the CFR board attend the training, the chairperson of the CFR board shall be responsible for assuring that those CFR board members who did not attend are trained or given access to the training.

(B) The CFR training curriculum will be a combination of lectures, discussions, and team review of actual case studies and may include, but not be limited to, the following topics found in the standardized protocols and guidelines developed by the Ohio department of health and the state CFR advisory council:

- (1) Overview of the CFR law and rules;
- (2) CFR board membership and maintenance;
- (3) CFR board operating procedures (including conducting an effective meeting);
- (4) Death reviews;
- (5) Role of courts and prosecutors;
- (6) Data collection;
- (7) Database guidelines;
- (8) Annual reporting guidelines;
- (9) Preventing child deaths.

Five Year Review (FYR) Dates: 06/07/2016 and 06/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3701.045](#)

Rule Amplifies: [3701.045](#)

Prior Effective Dates: 6/28/2001

### **3701-67-06 Child fatality review information system.**

(A) The director shall provide a data collection tool for the review of child deaths or arrange for the use of a national child death review database. The individual data collected shall be maintained in a confidential manner.

(B) Each CFR board shall use the director's data collection tool or the national child death review database to record the following information:

- (1) Demographic information that includes:
  - (a) Age of the child
  - (b) Sex of the child, identified as male or female;
  - (c) Race of the child, identified as black, white, native American, Asian, Alaskan native, native Hawaiian, Pacific islander, unknown or multiple; and
  - (d) Ethnicity of the child, identified as Hispanic or Latino origin.
- (2) Death related information, that includes:

- (a) Year of child's death;
  - (b) Geographic location of death;
  - (c) Cause of death; and
  - (d) Contributing factors to death.
- (3) Any other information the CFR board considers relevant to the review.

(C) Individual data related to a child death review that is reported on the data collection tool or the national child death review database is not a public record under section [149.43](#) of the Revised Code.

Replaces: 3701-67-06

Five Year Review (FYR) Dates: 06/07/2016 and 06/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3701.045](#)

Rule Amplifies: [307.623](#), [3701.045](#)

Prior Effective Dates: 6/28/2001, 8/11/11

### **3701-67-07 Annual report filed with the Ohio department of health.**

(A) By April first of each year, each CFR board shall prepare and submit an annual report to the department of health in a manner and format that is prescribed by the director. The report shall include all of the following with respect to the child deaths in the calendar year specified by the director.

- (1) The total number of child deaths in the county or region, whichever is applicable to the CFR board submitting the report;
- (2) The total number of child death reviews completed by the CFR board;
- (3) The total number of child death reviews not completed by the CFR board; and
- (4) A summary of the demographic and death related information as specified in rule [3701-67-06](#) of the Administrative Code.

(B) The annual report may include recommendations for actions that might prevent other deaths, as well as any other information the CFR board determines should be included.

(C) Annual reports prepared under this section are public record and subject to section [149.43](#) of the Revised Code.

Replaces: 3701-67-07

Five Year Review (FYR) Dates: 06/07/2016 and 06/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3701.045](#)

Rule Amplifies: [307.626](#), [3701.045](#), 3701.623

Prior Effective Dates: 6/28/2001, 8/11/11

### **3701-67-08 Joint annual report by Ohio department of health and children's trust fund board.**

(A) On or before September thirtieth of each year, the Ohio department of health and the children's trust fund board shall jointly prepare and publish a report organizing and setting forth the data contained in all reports provided by CFR boards in their annual reports from the previous calendar year. The report shall also contain any recommended changes to law and policy that might prevent future deaths.

(B) A copy of the report shall be provided to the governor, the speaker of the Ohio house of representatives, the president of the Ohio senate, the minority leaders of the Ohio house of representatives and Ohio senate, each Ohio county or regional CFR board and each Ohio county or regional family and children first council.

Five Year Review (FYR) Dates: 06/07/2016 and 06/01/2021

Promulgated Under: [119.03](#)

Statutory Authority: [3701.045](#)

Rule Amplifies: 307.045, [307.629](#)

Prior Effective Dates: 6/28/2001