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OHIO LEGISLATIVE SERVICE COMMISSION

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Office

S.B. 278**
134th General Assembly

Bill Analysis

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Version: As Reported by House State and Local Government

Primary Sponsor: Sen. Peterson

Alyssa Bethel, Attorney, and other LSC staff

SUMMARY

Evaluations of registered EHSs and EHSs in training

- Requires the Directors of Agriculture and Health to each adopt rules establishing a method for evaluating a registered environmental health specialist's (EHS) and EHS in training's knowledge of the laws governing food safety, including the Ohio Uniform Food Safety Code.
- Specifies that the evaluations must solely use an objective written or electronic assessment that complies with specified requirements.
- Requires the evaluations to be part of board of health surveys that determine if individual boards are qualified to administer and enforce the laws governing retail food establishments and food service operations.
- Prohibits the Directors from using any other assessment than that established by the rules.
- Allows the Directors to require a registered EHS or EHS in training to participate in a field review portion of the survey for training and educational purposes, but prohibits the Directors from using that participation for evaluation purposes.

* This analysis was prepared before the report of the House State and Local Government Committee appeared in the House Journal. Note that the legislative history may be incomplete.

Public water system asset management program

- Eliminates the requirement that a transient noncommunity water system demonstrate the technical, managerial, and financial capability to comply with the Safe Drinking Water Law through implementation of an asset management program.
- Prohibits the Director of Environmental Protection from adopting or enforcing any rules requiring a transient noncommunity system to implement, prepare, or complete an asset management program.
- Eliminates the requirement that the operator of a transient noncommunity water system include information regarding the system's asset management program when applying to install a new water well.

D-9 liquor permit

- Authorizes the Division of Liquor Control to issue a D-9 liquor permit to an establishment to sell beer, wine, or mixed beverages in disposable containers at retail for on-premises consumption (annual permit fee is \$500), provided the premises for which the permit is sought:
 - Complies with specified criteria, including hosting automobile sports as its primary activity (e.g., drag racing); and
 - Has a fixed seating capacity for at least 2,000 people.
- Requires the establishment's owner to ensure a licensed food truck serves food during the same hours that alcohol is sold (owner can sell alcohol between 5:30 a.m. and 2:30 a.m. of the next day).
- States that the establishment's premises need not have specified permanent sanitation equipment, which generally is required for retail liquor permit holders, including hot and cold running water and separate toilets for men and women.
- Exempts a person with an opened container of beer, wine, or mixed beverages that is purchased for consumption on a D-9 permit premises from the Open Container Law.

Miscellaneous

- Creates the Chardon High School Football State Champs license plate.
- Makes multiple designations.

DETAILED ANALYSIS

Evaluations of registered EHSs and EHSs in training

Background

Under current law, the Directors of Agriculture and Health administer the law governing retail food establishments and food service operations. The Director of Agriculture has

responsibility over retail food establishments, and the Director of Health has responsibility over food service operations.

A retail food establishment is a place where food is stored, processed, prepared, manufactured, or otherwise held or handled for retail sale (for example, a grocery store). A food service operation is 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 (for example, a restaurant). Generally, boards of health license these facilities and administer and enforce the food safety regulations that govern them. Registered environmental health specialists (EHS) and environmental health specialists in training (EHS in training) employed by or contracting with boards of health conduct inspections of these facilities. If a board licenses retail food establishments, the Director of Agriculture is responsible for evaluating the board's licensure and inspection program. If a board licenses food service operations, the Director of Health is responsible for evaluating the board's licensure and inspection program.¹

Evaluations

The bill requires the Director of Agriculture and the Director of Health to each adopt rules establishing a method for evaluating a registered EHS's and EHS in training's knowledge of the laws governing food safety, including the Ohio Uniform Food Safety Code.²

It requires the evaluations to be included in the surveys that are conducted to assess a board of health to determine if the board is qualified to administer and enforce the laws governing retail food establishments and food service operations respectively.³ If a survey demonstrates that a board of health does not have the capacity to appropriately enforce these regulations, a board of health could lose its authority as the licenser of food service operations or retail food establishments.⁴

Under the bill, the Directors may only evaluate a registered EHS or EHS in training through the use of an objective written or electronic assessment that complies with all of the following:

1. It is developed by the appropriate Director in consultation with representatives from the Ohio Environmental Health Association and the Association of Ohio Health Commissioners;
2. It does not exceed 50 questions in length;
3. In order to pass the assessment, the individual must correctly answer 80% or more of the questions in the assessment. Questions on the exam must be derived from the most common violations cited during the previous inspection year; and

¹ R.C. 3717.01, not in the bill; R.C. 3717.11, not in the bill.

² R.C. 3717.33 and 3717.52.

³ R.C. 3717.33(H)(2) and 3717.52(B)(2).

⁴ R.C. 3717.11, not in the bill.

4. The individual is allowed to review the Ohio Uniform Food Safety Code during the assessment.⁵

For purposes of any field review portion of the survey, the Directors may require a registered EHS or EHS in training to participate in the field review for training and educational purposes. However, the bill prohibits the Director from using that participation to evaluate whether the registered EHS or EHS in training has sufficient knowledge of the laws governing food safety and of the Ohio Uniform Food Safety Code.⁶

The bill requires the Directors, in consultation with representatives from the Ohio Environmental Health Association and the Association of Ohio Health Commissioners, to review and update the assessment on at least a biennial basis.⁷ The Directors must complete the initial development and implementation of the assessment within 180 days after the bill's effective date.⁸

Public water system asset management program

Under current law, all public water systems must demonstrate the technical, managerial, and financial capability of the system to comply with the Ohio Safe Drinking Water Law by implementing an asset management program. An asset management program must include certain elements, including an inventory of system assets, emergency preparedness and contingency planning, and long-term funding strategies. The Director of Environmental Protection, at any time, can request that a public water system submit a written description of the system's asset management program. The system must comply with the request within 30 days. If a system fails to demonstrate its compliance capability, the Director may take any enforcement actions authorized for Safe Drinking Water Law violations, including suspending the system's ability to operate.⁹

The bill eliminates the requirement that transient noncommunity water systems demonstrate technical, managerial, and financial capability and implement an asset management program.¹⁰ A transient noncommunity water system is a noncommunity public water system that does not regularly serve at least 25 of the same persons over six months per year and is not a community water system or a nontransient noncommunity water system.¹¹

⁵ R.C. 3717.33(H)(1) and 3717.52(B)(1).

⁶ R.C. 3717.33(H)(3) and 3717.52(B)(3).

⁷ R.C. 3717.33(H)(2) and 3717.52(B)(2).

⁸ Section 3.

⁹ R.C. 6109.24.

¹⁰ R.C. 6109.24(G)(2).

¹¹ R.C. 6109.01(L).

The bill also prohibits the Director from adopting or enforcing rules requiring a transient noncommunity system to prepare, implement, or complete an asset management program.¹² Finally, it eliminates the requirement that the operator of a transient noncommunity water system include information regarding the system's asset management program when applying to install a new water well.¹³

D-9 liquor permit

The bill authorizes the Division of Liquor Control to issue a D-9 liquor permit to an establishment to sell beer, wine, or mixed beverages in disposable containers at retail for on-premises consumption.¹⁴ To qualify for a D-9 permit, an establishment must:

1. Host automobile sports as its primary activity, including drag racing, with a fixed seating capacity for at least 2,000 people;
2. Be located on at least 90 acres of land in the unincorporated area of a township with a population of less than 15,000 and in a county with a population of less than 130,000 (according to the most recent federal census); and
3. Be located in an election precinct, or at a particular location in a precinct, in which the sale of beer, wine, and mixed beverages is otherwise permitted by law.¹⁵

Operational requirements

The D-9 permit holder can sell beer, wine, and mixed beverages for up to 105 days per year. The days need not be consecutive. The establishment's owner must ensure that a food truck licensed by the local board of health of the health district in which the premises is located (local board of health) serves food on the premises of the D-9 permit holder during the same hours that beer, wine, or mixed beverages are sold by the D-9 permit holder. In addition, the permit holder can sell beer, wine, or mixed beverages between 5:30 a.m. and 2:30 a.m. of the next day.¹⁶

Under current Liquor Control Commission rules, all retail liquor permit establishments are required to comply with certain sanitation requirements. The bill exempts the premises of a D-9 permit holder from several of those requirements. Specifically, the permit holder need not:

1. Have an adequate supply of hot and cold running water from a source satisfactory to the local board of health;

¹² R.C. 6109.24(G)(1).

¹³ R.C. 6109.072(B).

¹⁴ A disposable container is a receptacle that is disposable and that has a capacity to hold up to 16 ounces of beer or 12 ounces of wine or mixed beverage. Disposable container includes a bottle or can of beer, wine, or mixed beverage produced by the original manufacturer. R.C. 4303.186(A).

¹⁵ R.C. 4303.186(C).

¹⁶ R.C. 4303.186(B).

2. Have separate toilet facilities for men and women;
3. Have water-flushed toilets. In place of water-flushed toilets, the D-9 permit holder must install portable toilets on the premises. The portable toilets must be installed in accordance with the local board of health.
4. Have a wash bowl with running water for each portable toilet. In place of a wash bowl with running water, the D-9 permit holder must install hand sanitizer stations outside each portable toilet.¹⁷

The annual fee for the D-9 permit is \$500.¹⁸

Open Container Law

The bill exempts a person with an opened container of beer, wine, or mixed beverages that is purchased for consumption on a D-9 permit premises from the Open Container Law.¹⁹

License plate

The bill creates the Chardon High School Football State Champs license plate.²⁰ Detailed information about the license plate appears in the following table:

License Plate	Chardon High School Football State Champs license plate, which must display an appropriate logo and words selected by the representatives of Chardon High School and approved by the Registrar of Motor Vehicles.
Recipients	Available to all applicants.
Eligible Vehicles	Any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle approved by the Registrar.
Contribution; Additional BMV Fee; Use of Contribution	<p>\$20 required contribution.</p> <p>\$10 additional administrative BMV fee.</p> <p>Contributions must be paid to Chardon Hilltopper Gridiron Club, which must use the contributions for college and career technical training scholarships for students.</p>
Requirements for Issuance	<ol style="list-style-type: none"> 1. Submission of an application; 2. Payment of the regular license tax, any local tax, contribution, administrative fee, any special reserved license plate fee if necessary; and

¹⁷ R.C. 4303.186(D); Ohio Administrative Code 4301:1-1-17.

¹⁸ R.C. 4303.186(E).

¹⁹ R.C. 4301.62(C)(1)(a).

²⁰ R.C. 4503.964 and R.C. 4501.21.

	3. Compliance with all other relevant laws relating to motor vehicle registration.
Combined with Special Reserved License Plate	May be combined with a special reserved license plate provided in current law.

Designations

The bill designates the following:

- The sugar cookie as the state cookie;²¹
- August 17th as Eugene ‘Gene’ F. Kranz Day’;²²
- The last Saturday of September as “Ohio Public Lands Day.”²³
- The last full week of June as “Pollinator Week”;²⁴
- The first full week of February as “Ohio Burn Awareness Week.”²⁵

The goals of Ohio Burn Awareness Week are as follows:

- Serve as a week of remembrance for all who have lost their lives or been injured as a result of a burn.
- Raise awareness of accidental burn injuries and fatalities in the state.

Educate the public on effective preventative measures to avoid accidental burn injuries or fatalities.

HISTORY

Action	Date
Introduced	12-22-21
Reported, S. Health	03-23-22
Passed Senate (31-0)	05-18-22
Reported, H. State & Local Gov’t	---

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²¹ R.C. 5.083.

²² R.C. 5.294.

²³ R.C. 5.2533.

²⁴ R.C. 5.2534.

²⁵ R.C. 5.2532.