

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 216

Representatives Skindell, Kelly

Cosponsors: Representatives Boggs, Crossman, Crawley, Kent

A BILL

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

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

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

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

(A) Administer and enforce the general laws of this state 18

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

(B) Exercise the powers and perform the duties delegated 25
to the superintendent by the director of commerce under Chapters 26
4109., 4111., ~~and 4115.~~, and 4119. of the Revised Code. 27

(C) Collect and collate statistics as are necessary. 28

(D) Examine and license persons who desire to act as steam 29
engineers, to operate steam boilers, and to act as inspectors of 30
steam boilers, provide for the scope, conduct, and time of such 31
examinations, provide for, regulate, and enforce the renewal and 32
revocation of such licenses, inspect and examine steam boilers 33
and make, publish, and enforce rules and orders for the 34
construction, installation, inspection, and operation of steam 35
boilers, and do, require, and enforce all things necessary to 36
make such examination, inspection, and requirement efficient. 37

(E) Rent and furnish offices as needed in cities in this 38
state for the conduct of its affairs. 39

(F) Oversee a chief of construction and compliance, a 40
chief of operations and maintenance, a chief of licensing and 41
certification, a chief of worker protection, and other designees 42
appointed by the director to perform the duties described in 43
this section. 44

(G) Enforce the rules the board of building standards 45
adopts pursuant to division (A) (2) of section 4104.43 of the 46
Revised Code under the circumstances described in division (D) 47

of that section. 48

(H) Accept submissions, establish a fee for submissions, 49
and review submissions of certified welding and brazing 50
procedure specifications, procedure qualification records, and 51
performance qualification records for building services piping 52
as required by section 4104.44 of the Revised Code. 53

Sec. 121.084. (A) All moneys collected under sections 54
3783.05, 3791.07, 4104.07, 4104.18, 4104.44, 4105.17, 4105.20, 55
4119.13, 4119.15, 4169.03, and 5104.051 of the Revised Code, and 56
any other moneys collected by the division of industrial 57
compliance shall be paid into the state treasury to the credit 58
of the industrial compliance operating fund, which is hereby 59
created. The department of commerce shall use the moneys in the 60
fund for paying the operating expenses of the division, the cost 61
of enforcing Chapter 4119. of the Revised Code, and the 62
administrative assessment described in division (B) of this 63
section. 64

(B) The director of commerce, with the approval of the 65
director of budget and management, shall prescribe procedures 66
for assessing the industrial compliance operating fund a 67
proportionate share of the administrative costs of the 68
department of commerce. The assessment shall be made in 69
accordance with those procedures and be paid from the industrial 70
compliance operating fund to the division of administration fund 71
created in section 121.08 of the Revised Code. 72

Sec. 4119.01. As used in this chapter: 73

(A) "Confidential employee" means an employee who acts in 74
a confidential capacity to formulate, determine, and effectuate 75
management policies with regard to labor relations or who 76

regularly substitutes for an employee who has these duties. 77

(B) "Disposition" means the sale, assignment, transfer, 78
contribution, consolidation, merger, or reorganization that 79
causes a change in control of all or the majority of the assets 80
of, or the controlling interests in, a business. 81

(C) "Employee" means an individual who is entitled to 82
payment of a minimum wage from an employer or property services 83
contractor under Section 34a of Article II, Ohio Constitution. 84

(D) (1) "Employer" means a person who owns or operates 85
either of the following: 86

(a) A formula retail establishment with twenty or more 87
employees in this state; 88

(b) A food services establishment. 89

(2) "Employer" includes a corporate officer or executive 90
who, directly or indirectly, exercises control over the wages, 91
hours, or working conditions of an individual, including through 92
the services of a temporary agency or a professional employer 93
organization. 94

(3) "Employer" does not include any of the following: 95

(a) A nonprofit corporation that is exempt from federal 96
income taxation under subsection 501(c)(3) of the Internal 97
Revenue Code; 98

(b) The state or any agency or instrumentality of the 99
state; 100

(c) Any municipal corporation, county, township, school 101
district, or other political subdivision or any agency or 102
instrumentality of a municipal corporation, county, township, 103

<u>school district, or other political subdivision.</u>	104
<u>(E) "Formula retail establishment" means a retail sales</u>	105
<u>establishment doing business in this state that has at least</u>	106
<u>twenty other retail sales establishments in operation worldwide</u>	107
<u>that maintain two or more of the following features:</u>	108
<u>(1) Fifty per cent or more of merchandise stocked by the</u>	109
<u>business comes from a single distributor and bears uniform</u>	110
<u>markings;</u>	111
<u>(2) A standardized facade;</u>	112
<u>(3) A standardized style of interior furnishings, which</u>	113
<u>may include the style of furniture, wall coverings, or permanent</u>	114
<u>fixtures;</u>	115
<u>(4) A standardized selection of colors used throughout the</u>	116
<u>business, such as on the furnishings, permanent fixtures, wall</u>	117
<u>coverings, and the facade;</u>	118
<u>(5) Standardized items of clothing worn by employees,</u>	119
<u>including standardized aprons, pants, shirts, smocks, dresses,</u>	120
<u>hats, and pins, and standardized colors of clothing worn by</u>	121
<u>employees;</u>	122
<u>(6) Standardized business signs;</u>	123
<u>(7) A trademark or service mark.</u>	124
<u>(F) "Food services establishment" means a food services</u>	125
<u>establishment doing business in this state that employs five</u>	126
<u>hundred or more employees worldwide, including a chain or</u>	127
<u>franchise associated with a franchisor or network of franchises</u>	128
<u>that employs five hundred or more employees in the aggregate.</u>	129
<u>(G) "Professional employer organization" has the same</u>	130

meaning as in section 4125.01 of the Revised Code. 131

(H) "Property services contractor" means any contractor or 132
subcontractor who enters into a contract with an employer to 133
provide janitorial or security services to the employer at a 134
formula retail establishment or food services establishment. 135

(I) "Successor employer" means an employer who owns, 136
controls, or operates a formula retail establishment or food 137
services establishment after a disposition of all or a majority 138
of the assets of the establishment. 139

(J) "Workweek" means a fixed, regularly recurring period 140
of one hundred sixty-eight hours, that an employer or property 141
services contractor expressly adopts for purposes of complying 142
with this chapter and the "Fair Labor Standards Act of 1938," 29 143
U.S.C. 207. 144

(K) "Normal hourly wage rate" means the following: 145

(1) For an employee who is paid on an hourly basis, the 146
hourly wage rate at which the employee is customarily paid when 147
working for the employer or property services contractor; 148

(2) For an employee who is not paid on an hourly basis, 149
one fortieth of the weekly wage rate at which the employee is 150
customarily paid when working for the employer or property 151
services contractor. 152

(L) "On-call shift" includes a shift where an employee is 153
not required to report to or remain at the employee's site of 154
work, but is required to be available to work the shift if 155
called upon to do so by the employer or property services 156
contractor who employs the employee. 157

Sec. 4119.02. No employer or property services contractor 158

shall fail to comply with sections 4119.03, 4119.04, 4119.05, 159
4119.06, 4119.08, 4119.11, and 4119.17 of the Revised Code. 160

No employer shall fail to comply with sections 4119.09 and 161
4119.10 of the Revised Code. 162

Sec. 4119.03. (A) (1) Except as otherwise provided in 163
division (B) of this section, an employer or property services 164
contractor shall not hire a new employee, coemploy an employee 165
with a professional employer organization, engage an independent 166
contractor, or lease an employee from a temporary agency to 167
perform work in a formula retail establishment or food services 168
establishment unless the employer or property services 169
contractor first offers that work to any employee of the 170
employer or property services contractor who is available to 171
perform the additional work as described in division (A) (2) of 172
this section. 173

(2) An employee is available to perform additional work 174
for an employer or property services contractor if all of the 175
following apply to the employee: 176

(a) The employee is scheduled to work fewer than thirty- 177
five hours in a workweek. 178

(b) The employee is qualified to do the additional work as 179
reasonably determined by the employer or property services 180
contractor. 181

(c) The employee has performed work for the employer or 182
property services contractor that is the same as or similar to 183
the additional work to be performed. 184

(d) In a particular week, the employee performs at least 185
two hours of work for an employer or property services 186
contractor within this state or is scheduled to work at least 187

one on-call shift for the employer or property services contractor within this state. 188
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(B) An employer or property services contractor is not required to offer more hours of work to an employee than is necessary for that employee's total hours of work for that workweek to reach thirty-five hours. 190
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(C) An employer or property services contractor may divide the additional hours of work offered under this section among the employer's or property services contractor's available employees. 194
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(D) An employee who is offered additional hours of work under this section is not required to accept the additional hours. 198
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(E) When an employer or property services contractor offers additional work hours to an employee, the employer or property services contractor shall make the offer in writing. 201
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Sec. 4119.04. (A) Except as otherwise provided in division (B) of this section, an employer or property services contractor shall provide an employee of the employer or property services contractor with a written work schedule at least fourteen calendar days before the first day of the schedule. The employer or property services contractor shall include in the written schedule all regular and on-call shifts for a fourteen day period. The employer or property services contractor shall post the written schedule in a conspicuous and accessible location at the work site. 204
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(B) An employer or property services contractor may provide a newly hired employee or employee who returns to work after a leave of absence with a written work schedule that runs 214
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through the last day of the work schedule in effect at the time 217
employee is hired or returns to work. The employer or property 218
services contractor shall include the employee on the next 219
schedule posted in compliance with division (A) of this section 220
and otherwise comply with division (A) of this section with 221
respect to the employee at that time. 222

Sec. 4119.05. (A) As used in this section, "shift" 223
includes an on-call shift. 224

(B) Except as provided in section 4119.07 of the Revised 225
Code, an employer or property services contractor shall pay an 226
employee of the employer or property services contractor for 227
each scheduled shift that the employer or property services 228
contractor changes or cancels or for each previously unscheduled 229
shift that the employer or property services contractor requires 230
the employee to work or be on call as follows: 231

(1) If the employer or property services contractor gives 232
the employee less than fourteen days' notice, but more than 233
twenty-four hours' notice, an amount equal to one hour of the 234
employee's normal hourly wage rate; 235

(2) If the employer or property services contractor gives 236
the employee less than twenty-four hours' notice and the 237
changed, canceled, or required shift is four hours or less, an 238
amount equal to two hours of the employee's normal hourly wage 239
rate; 240

(3) If the employer or property services contractor gives 241
the employee less than twenty-four hours' notice and the 242
changed, canceled, or required shift is more than four hours, an 243
amount equal to four hours of the employee's normal hourly wage 244
rate. 245

(C) An employer shall pay any amount required to be paid 246
to an employee under division (B) of this section in addition 247
to, and shall not consider that amount to be part of, any wage 248
or salary paid to the employee for time worked. 249

Sec. 4119.06. (A) Except as provided in division (B) of 250
this section or in section 4119.07 of the Revised Code, an 251
employer or property services contractor shall pay an employee 252
of the employer or property services contractor for each on-call 253
shift that the employee is not called in to work as follows: 254

(1) If the on-call shift is four hours or less, an amount 255
equal to two hours of the employee's normal hourly wage rate; 256

(2) If the on-call shift is more than four hours, an 257
amount equal to four hours of the employee's normal hourly wage 258
rate. 259

(B) An employer or property services contractor is not 260
required to pay the amount required by division (A) of this 261
section if the employee is paid the employee's normal hourly 262
wage rate for the on-call shift. 263

Sec. 4119.07. Sections 4119.05 and 4119.06 of the Revised 264
Code do not apply in any of the following circumstances: 265

(A) Operations of an employer or property services 266
contractor cannot begin or continue for any of the following 267
reasons: 268

(1) A threat to the safety of the employer or property 269
services contractor's employees or property exists. 270

(2) A government authority recommends that the operations 271
of an employer or property services contractor should not begin 272
or continue. 273

(3) An act of God or another cause outside of the control 274
of the employer or property services contractor prevents the 275
operations of the employer or property services contractor from 276
beginning or continuing. 277

(B) An employer or property services contractor requires 278
the employee to work a shift or be on call under any of the 279
following circumstances: 280

(1) Another employee does not report to work the shift on 281
time. 282

(2) Another employee is unable to work the shift due to 283
illness or the use of any paid or unpaid leave if the employee 284
did not give the employer or property services contractor at 285
least seven days' notice of the absence. 286

(3) Another employee is unable to work the shift because 287
the employee's employment was terminated or the employee was 288
prohibited from working the shift as a disciplinary action. 289

(C) An employee who would otherwise be entitled to receive 290
an amount under section 4119.05 or 4119.06 of the Revised Code 291
requested the schedule change or on-call shift or such a change 292
or shift is the result of a shift trade between the employee and 293
another employee of the employer or property services 294
contractor. 295

Sec. 4119.08. (A) (1) An employer or property services 296
contractor shall not consider the status of an employee as full- 297
time or part-time in determining the starting normal hourly wage 298
rate of an employee. 299

(2) Division (A) (1) of this section does not prohibit an 300
employer or property services contractor from considering either 301
of the following: 302

(a) Reasons other than part-time or full-time status in 303
determining starting normal hourly wage rates of employees, 304
including the use of a seniority system, merit system, or other 305
system that determines earnings by quantity or quality of 306
production, performance, or responsibility; 307

(b) Full-time or part-time status in determining 308
requirements for the receipt of employee benefits, including 309
health care benefits. 310

(B) An employer or property services contractor shall 311
provide part-time and full-time employees in the same job 312
classification with access to the same types of paid and unpaid 313
leave. An employer or property services contractor may prorate 314
the amount of any time off an employee may receive based on 315
hours worked by the employee. 316

(C) (1) An employer or property services contractor shall 317
not consider the status of an employee as full-time or part-time 318
in determining eligibility for a promotion. 319

(2) Division (C) (1) of this section does not prohibit an 320
employer or property services contractor from doing either of 321
the following: 322

(a) Conditioning eligibility for a promotion on an 323
employee's availability for full-time employment in the new 324
position; 325

(b) Considering reasons other than full-time status in 326
determining eligibility for a promotion, including the nature 327
and amount of work experience. 328

Sec. 4119.09. (A) On the day an employer executes 329
documents to transfer ownership of a formula retail 330
establishment or food services establishment to a successor 331

employer, the employer shall provide to the successor employer a 332
list that includes all of the following information for each 333
employee who is eligible to be retained for employment by the 334
successor employer as determined under division (E) of this 335
section: 336

(1) The employee's name; 337

(2) The employee's contact information; 338

(3) The employee's date of hire and rate of pay at the 339
time of transfer; 340

(4) The average number of hours worked by the employee 341
each week during the six months immediately before the transfer 342
of ownership; 343

(5) The employee's position or title. 344

(B)(1) The employer shall post public notice of the 345
transfer of ownership in a conspicuous place at the formula 346
retail establishment or food services establishment within 347
twenty-four hours after the transfer document is fully executed. 348
The successor employer shall ensure that the notice remains 349
posted for at least thirty days after the transfer. 350

(2) The employer shall include all of the following 351
information in the notice required under division (B)(1) of this 352
section: 353

(a) The name and contact information of the employer; 354

(b) The name and contact information of the successor 355
employer; 356

(c) The postal address and electronic mail address that an 357
employee may use to update the employee's contact information; 358

(d) The effective date of the transfer from the employer 359
to the successor employer. 360

(C) For the transition period specified in division (H) of 361
this section, a successor employer shall employ each employee 362
identified on a list required under division (A) of this section 363
under the same terms of employment with respect to position or 364
title, compensation, and number of work hours that applied to 365
the employee immediately before the date of the transfer. During 366
the transition period, no successor employer shall discharge an 367
employee identified on the list without just cause. 368

(D) (1) A successor employer offering employment to an 369
employee included on the list required under division (A) of 370
this section shall make the offer in writing. 371

(2) If an employee declines to accept an offer of 372
employment made pursuant to division (D) (1) of this section, the 373
successor employer who offered employment is deemed to have 374
complied with division (C) of this section with respect to that 375
employee. 376

(E) Except as provided in division (F) of this section, an 377
employee is eligible to be retained for employment if the 378
employee has been employed by the employer for at least ninety 379
days before the date the employer executes documents to transfer 380
ownership of the formula retail establishment or food services 381
establishment. 382

(F) No managerial employee, supervisory employee, or 383
confidential employee is eligible for retention under this 384
section. 385

(G) The first time a successor employer pays wages to an 386
employee retained under this section, the successor employer 387

shall provide with that employee's paycheck a notice of the 388
rights of retained employees under this chapter. 389

(H) (1) This section applies to a transfer of ownership of 390
a formula retail establishment or food services establishment 391
until the earlier of three years after the date that the 392
employer executes documents to transfer ownership to the 393
successor employer or ninety days after the successor employer 394
takes control of the establishment. 395

(2) The ninety-day period described in division (H) (1) of 396
this section shall not run for any period of time during which 397
the formula retail establishment or food services establishment 398
is not open to the public during regular business hours. 399

(3) This section applies regardless of whether the 400
successor employer elects to operate the formula retail 401
establishment or food services establishment in the same 402
location or elects to relocate to another location in the state. 403

(I) Notwithstanding any provision of this section to the 404
contrary, a successor employer may retain fewer employees than 405
those included in the list created pursuant to division (A) of 406
this section if the successor employer determines that the 407
successor employer requires fewer employees than the former 408
employer to operate the establishment. 409

(J) If a successor employer chooses to retain fewer 410
employees as provided in division (I) of this section, the 411
successor employer shall retain employees by seniority, based on 412
the date of hire by the former employer or, if an applicable 413
collective bargaining agreement exists, pursuant to that 414
agreement. 415

(K) For the transition period specified in division (H) of 416

this section, no successor employer shall employ an individual 417
who is not included on the list created pursuant to division (A) 418
of this section in a position at the formula retail 419
establishment or food services establishment held by an 420
individual included on that list whom the successor employer 421
does not retain pursuant to division (J) of this section. 422

Sec. 4119.10. (A) Not later than ninety days after the 423
effective date of this section, the director of commerce shall 424
publish and make available to all employers a notice suitable 425
for posting by employers in the workplace informing employees of 426
their rights under this chapter. The director shall publish the 427
notice in English and Spanish. 428

(B) Every employer shall post the notice prepared by the 429
director under division (A) of this section in a conspicuous 430
place at any workplace or job site at which any of the 431
employer's employees work. 432

Sec. 4119.11. (A) An employer or property services 433
contractor who offers additional work hours to an employee in 434
accordance with section 4119.03 of the Revised Code shall retain 435
a copy of the written offer for at least three years after the 436
date the offer is made. 437

(B) A successor employer shall keep a record of a list 438
provided by an employer under section 4119.09 of the Revised 439
Code until the transition period described in division (H) of 440
section 4119.09 of the Revised Code has elapsed. 441

(C) A successor employer shall keep a record of a written 442
retention offer made pursuant to section 4119.09 of the Revised 443
Code for at least three years after the date the offer is made. 444

Sec. 4119.12. (A) An individual who believes that a 445

violation of section 4119.02 of the Revised Code has occurred 446
may file a complaint with the director of commerce. If the 447
director has reason to believe that a violation of that section 448
has occurred, the director shall proceed with an investigation 449
under section 4119.13 of the Revised Code. 450

(B) The director shall keep confidential, to the maximum 451
extent possible, any information that identifies an individual 452
who files a complaint pursuant to division (A) of this section 453
unless the individual has consented to disclosure of that 454
information as necessary for the enforcement of section 4119.02 455
of the Revised Code or for other appropriate purposes. 456

Sec. 4119.13. (A) The director of commerce shall take 457
appropriate steps to enforce and coordinate enforcement of this 458
chapter, including investigation of possible violations of this 459
chapter. 460

(B) If the director has reason to believe that a violation 461
of section 4119.02 of the Revised Code has occurred, the 462
director shall order any appropriate temporary or interim relief 463
to mitigate the alleged violation or to maintain the status quo 464
pending completion of a full investigation. 465

(C) If, after investigating an alleged violation of 466
section 4119.02 of the Revised Code, the director determines 467
that a violation has occurred, the director shall issue a 468
determination. The determination shall identify the violation 469
and the factual basis for the determination and shall order any 470
appropriate relief, including any of the following: 471

(1) Requiring an employer or property services contractor 472
to offer additional hours of work to an employee as required 473
under section 4119.03 of the Revised Code; 474

(2) Requiring an employer or property services contractor to pay an amount required to be paid to an employee under section 4119.05 or 4119.06 of the Revised Code; 475
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(3) Reinstatement; 478

(4) Payment of lost wages; 479

(5) Assessment of an administrative penalty not to exceed the amount of lost wages included in the determination; 480
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(6) Requiring the violator to pay to the department of commerce any costs of the enforcement action. 482
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(D) The director shall deposit all moneys received from administrative penalties and costs paid under this section into the industrial compliance operating fund created in section 121.084 of the Revised Code. 484
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(E) A property services contractor and an employer who contracts with the property services contractor shall be jointly and severally liable for any determination against a property services contractor under this section. 488
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Sec. 4119.14. (A) The director of commerce shall serve a determination made under section 4119.13 of the Revised Code on the employer or property services contractor by regular mail. 492
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(B) An employer or property services contractor may appeal that determination within fifteen days after the date the determination is mailed to the employer or property services contractor. The employer or property services contractor shall file the appeal in writing with the director. If a party fails to submit a timely written appeal, the determination is considered final on expiration of the fifteen-day period. 495
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(C) The director shall, within thirty days after an appeal 502

is filed under division (B) of this section, make an effort to 503
meet and confer in good faith with the employer or property 504
services contractor regarding possible resolution of the 505
determination in advance of further proceedings under this 506
section. 507

(D) Beginning on the thirty-first day after an appeal is 508
filed pursuant to division (B) of this section, the employer or 509
property services contractor may request the attorney general to 510
appoint a hearing officer to hear and decide the appeal. If the 511
employer or property services contractor does not request a 512
hearing officer, the determination is considered final on 513
expiration of the sixtieth day following the date the appeal was 514
filed. 515

(E) Within fifteen days after the attorney general 516
receives a request for the appointment of a hearing officer, the 517
attorney general shall appoint an impartial hearing officer who 518
is not part of the department of commerce and shall immediately 519
notify the director and the employer or property services 520
contractor of the appointment. The appointed hearing officer 521
shall be an administrative law judge or attorney with at least 522
five years of experience in labor and employment law or wage and 523
hour matters. 524

(F) Upon appointment, the hearing officer shall promptly 525
set a date for a hearing that is not later than forty-five days 526
after the date the attorney general provides the notice of the 527
appointment under division (E) of this section. The hearing 528
shall conclude within seventy-five days after the date that 529
notice is provided. The hearing officer shall conduct a fair and 530
impartial hearing in accordance with the time limitations set 531
forth in this division, except that the hearing officer shall 532

have the discretion to extend the time limitations upon a 533
determination of good cause. 534

(G) An employer or property services contractor who 535
appeals has the burden of proving, by a preponderance of the 536
evidence, that the basis for a determination, or any calculation 537
of lost wages, interest, or penalty payments at issue in the 538
appeal, is incorrect. 539

(H) Within thirty days after the hearing, the hearing 540
officer shall issue a written decision affirming, modifying, or 541
dismissing the determination. The decision of the hearing 542
officer shall consist of findings and a determination and shall 543
constitute the final administrative determination. 544

(I) An employer or property services contractor may appeal 545
a decision issued under division (H) of this section to the 546
court of common pleas of the county in which the violation is 547
alleged to have occurred. 548

(J) Failure to appeal a determination as provided in this 549
section shall constitute a failure to exhaust administrative 550
remedies, which shall serve as a complete defense to any 551
petition or claim brought by an employer or property services 552
contractor against the state regarding the determination. 553

(K) If an employer or property services contractor fails 554
to comply with a final order of the director or hearing officer, 555
the director shall petition the court of common pleas of the 556
county in which the underlying violation occurred for 557
enforcement of the order. 558

Sec. 4119.15. (A) The director of commerce, in accordance 559
with Chapter 119. of the Revised Code, shall impose an 560
administrative fine on an employer or property services 561

contractor as follows: 562

(1) For a violation of section 4119.02 of the Revised Code 563
due to an employer's failure to comply with section 4119.10 or 564
division (A) of section 4119.11 of the Revised Code, up to five 565
hundred dollars for each offense; 566

(2) For a violation of section 4119.02 of the Revised Code 567
due to an employer's or property services contractor's failure 568
to comply with division (B) or (C) of section 4119.11 of the 569
Revised Code, up to five hundred dollars for each employee who 570
was eligible for retention under section 4119.09 of the Revised 571
Code. 572

(B) The director shall deposit all moneys received from 573
finances paid under this section into the industrial compliance 574
operating fund created in section 121.084 of the Revised Code. 575

Sec. 4119.16. The director of commerce may bring a civil 576
action in any court of competent jurisdiction on behalf of an 577
employee against an employer or property services contractor for 578
violating section 4119.02 of the Revised Code. If the court 579
determines that a violation has occurred, the court shall make 580
the following awards: 581

(A) To the employee on behalf of whom the action was 582
brought, any legal or equitable relief as may be appropriate to 583
remedy the violation, including the payment of lost wages, the 584
payment of a civil penalty not to exceed the amount awarded for 585
lost wages, and reinstatement of employment or other injunctive 586
relief; 587

(B) To the director, reasonable attorney's fees and costs. 588

Sec. 4119.17. (A) No employer or property services 589
contractor shall take adverse action against an individual in 590

retaliation for exercising rights protected under this chapter. 591

(B) The protections provided by this section shall apply 592
to any individual who mistakenly, but in good faith, alleges 593
noncompliance with this chapter. 594

(C) If an employer or property services contractor takes 595
an adverse action against an individual within ninety days after 596
the individual exercises a right protected under this chapter, a 597
rebuttable presumption exists that the action was taken by the 598
employer or property services contractor in retaliation because 599
the individual exercised those rights. 600

Sec. 4119.18. The director of commerce may adopt rules in 601
accordance with Chapter 119. of the Revised Code to implement 602
this chapter. The director may establish in those rules 603
procedures for ensuring fair, efficient, and cost-effective 604
implementation and enforcement of this chapter, including 605
supplementary procedures for notifying employees of their rights 606
under this chapter and for monitoring compliance. 607

Nothing in this chapter shall be construed to limit the 608
rights and remedies otherwise available to an employee, 609
including any right the employee may have to remedies for an 610
unlawful discriminatory practice or unlawful discharge. 611

Section 2. That existing sections 121.083 and 121.084 of 612
the Revised Code are hereby repealed. 613

Section 3. Sections 1 and 2 of this act take effect six 614
months after the effective date of this act. 615