

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 42

Representative Skindell

Cosponsors: Representatives McNally, Forhan, Isaacsohn, Brent



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. (A) The superintendent of industrial 16
compliance in the department of commerce shall do all of the 17
following: 18

(1) Administer and enforce the general laws of this state	19
pertaining to buildings, pressure piping, boilers, bedding,	20
upholstered furniture, and stuffed toys, steam engineering,	21
elevators, plumbing, licensed occupations regulated by the	22
department, and travel agents, as they apply to plans review,	23
inspection, code enforcement, testing, licensing, registration,	24
and certification.	25
(2) Exercise the powers and perform the duties delegated	26
to the superintendent by the director of commerce under Chapters	27
4109., 4111., and 4115. , and 4119. of the Revised Code.	28
(3) Collect and collate statistics as are necessary.	29
(4) Examine and license persons who desire to act as steam	30
engineers, to operate steam boilers, and to act as inspectors of	31
steam boilers, provide for the scope, conduct, and time of such	32
examinations, provide for, regulate, and enforce the renewal and	33
revocation of such licenses, inspect and examine steam boilers	34
and make, publish, and enforce rules and orders for the	35
construction, installation, inspection, and operation of steam	36
boilers, and do, require, and enforce all things necessary to	37
make such examination, inspection, and requirement efficient.	38
(5) Rent and furnish offices as needed in cities in this	39
state for the conduct of its affairs.	40
(6) Oversee a chief of construction and compliance, a	41
chief of operations and maintenance, a chief of licensing and	42
certification, a chief of worker protection, and other designees	43
appointed by the director to perform the duties described in	44
this section.	45
(7) Enforce the rules the board of building standards	46
adopts pursuant to division (A)(2) of section 4104.43 of the	47

Revised Code under the circumstances described in division (D) 48
of that section. 49

(8) Accept submissions, establish a fee for submissions, 50
and review submissions of certified welding and brazing 51
procedure specifications, procedure qualification records, and 52
performance qualification records for building services piping 53
as required by section 4104.44 of the Revised Code. 54

(B) The superintendent may enter into a contract with a 55
municipal corporation, township, or county building department 56
certified by the board of building standards pursuant to 57
division (E) of section 3781.10 of the Revised Code, or a 58
municipal or county health district, to do any of the following 59
on behalf of the building department or health district: 60

(1) Exercise enforcement authority pursuant to section 61
3781.03 of the Revised Code; 62

(2) Accept and approve plans and specifications, and make 63
inspections, pursuant to section 3791.04 of the Revised Code; 64

(3) Enforce the rules adopted pursuant to division (A) (2) 65
of section 4104.43 of the Revised Code. 66

Sec. 121.084. (A) All moneys collected under sections 67
3783.05, 3791.07, 4104.07, 4104.18, 4104.44, 4105.17, 4105.20, 68
4119.13, 4119.15, 4169.03, and 5104.051 of the Revised Code, and 69
any other moneys collected by the division of industrial 70
compliance shall be paid into the state treasury to the credit 71
of the industrial compliance operating fund, which is hereby 72
created. The department of commerce shall use the moneys in the 73
fund for paying the operating expenses of the division, the cost 74
of enforcing Chapter 4119. of the Revised Code, and the 75
administrative assessment described in division (B) of this 76

section. 77

(B) The director of commerce shall prescribe procedures 78
for assessing the industrial compliance operating fund a 79
proportionate share of the administrative costs of the 80
department of commerce. The assessment shall be made in 81
accordance with those procedures and be paid from the industrial 82
compliance operating fund to the division of administration fund 83
created in section 121.08 of the Revised Code. 84

Sec. 4119.01. As used in this chapter: 85

(A) "Alternate employer organization" has the same meaning 86
as in section 4133.01 of the Revised Code. 87

(B) "Confidential employee" means an employee who acts in 88
a confidential capacity to formulate, determine, and effectuate 89
management policies with regard to labor relations or who 90
regularly substitutes for an employee who has these duties. 91

(C) "Disposition" means the sale, assignment, transfer, 92
contribution, consolidation, merger, or reorganization that 93
causes a change in control of all or the majority of the assets 94
of, or the controlling interests in, a business. 95

(D) "Employee" means an individual who is entitled to 96
payment of a minimum wage from an employer or property services 97
contractor under Section 34a of Article II, Ohio Constitution. 98

(E) (1) "Employer" means a person who owns or operates 99
either of the following: 100

(a) A formula retail establishment with twenty or more 101
employees in this state; 102

(b) A food services establishment. 103

(2) "Employer" includes a corporate officer or executive 104
who, directly or indirectly, exercises control over the wages, 105
hours, or working conditions of an individual, including through 106
the services of a temporary agency, a professional employer 107
organization, or an alternate employer organization. 108

(3) "Employer" does not include any of the following: 109

(a) A nonprofit corporation that is exempt from federal 110
income taxation under subsection 501(c)(3) of the Internal 111
Revenue Code; 112

(b) The state or any agency or instrumentality of the 113
state; 114

(c) Any municipal corporation, county, township, school 115
district, or other political subdivision or any agency or 116
instrumentality of a municipal corporation, county, township, 117
school district, or other political subdivision. 118

(F) "Formula retail establishment" means a retail sales 119
establishment doing business in this state that has at least 120
twenty other retail sales establishments in operation worldwide 121
that maintain two or more of the following features: 122

(1) Fifty per cent or more of merchandise stocked by the 123
business comes from a single distributor and bears uniform 124
markings; 125

(2) A standardized facade; 126

(3) A standardized style of interior furnishings, which 127
may include the style of furniture, wall coverings, or permanent 128
fixtures; 129

(4) A standardized selection of colors used throughout the 130
business, such as on the furnishings, permanent fixtures, wall 131

<u>coverings, and the facade;</u>	132
<u>(5) Standardized items of clothing worn by employees,</u>	133
<u>including standardized aprons, pants, shirts, smocks, dresses,</u>	134
<u>hats, and pins, and standardized colors of clothing worn by</u>	135
<u>employees;</u>	136
<u>(6) Standardized business signs;</u>	137
<u>(7) A trademark or service mark.</u>	138
<u>(G) "Food services establishment" means a food services</u>	139
<u>establishment doing business in this state that employs five</u>	140
<u>hundred or more employees worldwide, including a chain or</u>	141
<u>franchise associated with a franchisor or network of franchises</u>	142
<u>that employs five hundred or more employees in the aggregate.</u>	143
<u>(H) "Professional employer organization" has the same</u>	144
<u>meaning as in section 4125.01 of the Revised Code.</u>	145
<u>(I) "Property services contractor" means any contractor or</u>	146
<u>subcontractor who enters into a contract with an employer to</u>	147
<u>provide janitorial or security services to the employer at a</u>	148
<u>formula retail establishment or food services establishment.</u>	149
<u>(J) "Successor employer" means an employer who owns,</u>	150
<u>controls, or operates a formula retail establishment or food</u>	151
<u>services establishment after a disposition of all or a majority</u>	152
<u>of the assets of the establishment.</u>	153
<u>(K) "Workweek" means a fixed, regularly recurring period</u>	154
<u>of one hundred sixty-eight hours, that an employer or property</u>	155
<u>services contractor expressly adopts for purposes of complying</u>	156
<u>with this chapter and the "Fair Labor Standards Act of 1938," 29</u>	157
<u>U.S.C. 207.</u>	158
<u>(L) "Normal hourly wage rate" means the following:</u>	159

(1) For an employee who is paid on an hourly basis, the 160
hourly wage rate at which the employee is customarily paid when 161
working for the employer or property services contractor; 162

(2) For an employee who is not paid on an hourly basis, 163
one fortieth of the weekly wage rate at which the employee is 164
customarily paid when working for the employer or property 165
services contractor. 166

(M) "On-call shift" includes a shift where an employee is 167
not required to report to or remain at the employee's site of 168
work, but is required to be available to work the shift if 169
called upon to do so by the employer or property services 170
contractor who employs the employee. 171

Sec. 4119.02. No employer or property services contractor 172
shall fail to comply with sections 4119.03, 4119.04, 4119.05, 173
4119.06, 4119.08, 4119.11, and 4119.17 of the Revised Code. 174

No employer shall fail to comply with sections 4119.09 and 175
4119.10 of the Revised Code. 176

Sec. 4119.03. (A) (1) Except as provided in division (B) of 177
this section, an employer or property services contractor shall 178
not hire a new employee, coemploy an employee with a 179
professional employer organization or alternate employer 180
organization, engage an independent contractor, or lease an 181
employee from a temporary agency to perform work in a formula 182
retail establishment or food services establishment unless the 183
employer or property services contractor first offers that work 184
to any employee of the employer or property services contractor 185
who is available to perform the additional work as described in 186
division (A) (2) of this section. 187

(2) An employee is available to perform additional work 188

<u>for an employer or property services contractor if all of the</u>	189
<u>following apply to the employee:</u>	190
<u>(a) The employee is scheduled to work fewer than thirty-</u>	191
<u>five hours in a workweek.</u>	192
<u>(b) The employee is qualified to do the additional work as</u>	193
<u>reasonably determined by the employer or property services</u>	194
<u>contractor.</u>	195
<u>(c) The employee has performed work for the employer or</u>	196
<u>property services contractor that is the same as or similar to</u>	197
<u>the additional work to be performed.</u>	198
<u>(d) In a particular week, the employee performs at least</u>	199
<u>two hours of work for an employer or property services</u>	200
<u>contractor within this state or is scheduled to work at least</u>	201
<u>one on-call shift for the employer or property services</u>	202
<u>contractor within this state.</u>	203
<u>(B) An employer or property services contractor is not</u>	204
<u>required to offer more hours of work to an employee than is</u>	205
<u>necessary for that employee's total hours of work for that</u>	206
<u>workweek to reach thirty-five hours.</u>	207
<u>(C) An employer or property services contractor may divide</u>	208
<u>the additional hours of work offered under this section among</u>	209
<u>the employer's or property services contractor's available</u>	210
<u>employees.</u>	211
<u>(D) An employee who is offered additional hours of work</u>	212
<u>under this section is not required to accept the additional</u>	213
<u>hours.</u>	214
<u>(E) When an employer or property services contractor</u>	215
<u>offers additional work hours to an employee, the employer or</u>	216

property services contractor shall make the offer in writing. 217

Sec. 4119.04. (A) Except as provided in division (B) of 218
this section, an employer or property services contractor shall 219
provide an employee of the employer or property services 220
contractor with a written work schedule at least fourteen 221
calendar days before the first day of the schedule. The employer 222
or property services contractor shall include in the written 223
schedule all regular and on-call shifts for a fourteen day 224
period. The employer or property services contractor shall post 225
the written schedule in a conspicuous and accessible location at 226
the work site. 227

(B) An employer or property services contractor may 228
provide a newly hired employee or employee who returns to work 229
after a leave of absence with a written work schedule that runs 230
through the last day of the work schedule in effect at the time 231
employee is hired or returns to work. The employer or property 232
services contractor shall include the employee on the next 233
schedule posted in compliance with division (A) of this section 234
and otherwise comply with division (A) of this section with 235
respect to the employee at that time. 236

Sec. 4119.05. (A) As used in this section, "shift" 237
includes an on-call shift. 238

(B) Except as provided in section 4119.07 of the Revised 239
Code, an employer or property services contractor shall pay an 240
employee of the employer or property services contractor for 241
each scheduled shift that the employer or property services 242
contractor changes or cancels or for each previously unscheduled 243
shift that the employer or property services contractor requires 244
the employee to work or be on call as follows: 245

(1) If the employer or property services contractor gives the employee less than fourteen days' notice, but more than twenty-four hours' notice, an amount equal to one hour of the employee's normal hourly wage rate; 246
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(2) If the employer or property services contractor gives the employee less than twenty-four hours' notice and the changed, canceled, or required shift is four hours or less, an amount equal to two hours of the employee's normal hourly wage rate; 250
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(3) If the employer or property services contractor gives the employee less than twenty-four hours' notice and the changed, canceled, or required shift is more than four hours, an amount equal to four hours of the employee's normal hourly wage rate. 255
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(C) An employer shall pay any amount required to be paid to an employee under division (B) of this section in addition to, and shall not consider that amount to be part of, any wage or salary paid to the employee for time worked. 260
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Sec. 4119.06. (A) Except as provided in division (B) of this section or in section 4119.07 of the Revised Code, an employer or property services contractor shall pay an employee of the employer or property services contractor for each on-call shift that the employee is not called in to work as follows: 264
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(1) If the on-call shift is four hours or less, an amount equal to two hours of the employee's normal hourly wage rate; 269
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(2) If the on-call shift is more than four hours, an amount equal to four hours of the employee's normal hourly wage rate. 271
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(B) An employer or property services contractor is not 274

required to pay the amount required by division (A) of this 275
section if the employee is paid the employee's normal hourly 276
wage rate for the on-call shift. 277

Sec. 4119.07. Sections 4119.05 and 4119.06 of the Revised 278
Code do not apply in any of the following circumstances: 279

(A) Operations of an employer or property services 280
contractor cannot begin or continue for any of the following 281
reasons: 282

(1) A threat to the safety of the employer or property 283
services contractor's employees or property exists. 284

(2) A government authority recommends that the operations 285
of an employer or property services contractor should not begin 286
or continue. 287

(3) An act of God or another cause outside of the control 288
of the employer or property services contractor prevents the 289
operations of the employer or property services contractor from 290
beginning or continuing. 291

(B) An employer or property services contractor requires 292
the employee to work a shift or be on call under any of the 293
following circumstances: 294

(1) Another employee does not report to work the shift on 295
time. 296

(2) Another employee is unable to work the shift due to 297
illness or the use of any paid or unpaid leave if the employee 298
did not give the employer or property services contractor at 299
least seven days' notice of the absence. 300

(3) Another employee is unable to work the shift because 301
the employee's employment was terminated or the employee was 302

prohibited from working the shift as a disciplinary action. 303

(C) An employee who would otherwise be entitled to receive 304
an amount under section 4119.05 or 4119.06 of the Revised Code 305
requested the schedule change or on-call shift or such a change 306
or shift is the result of a shift trade between the employee and 307
another employee of the employer or property services 308
contractor. 309

Sec. 4119.08. (A) (1) An employer or property services 310
contractor shall not consider the status of an employee as full- 311
time or part-time in determining the starting normal hourly wage 312
rate of an employee. 313

(2) Division (A) (1) of this section does not prohibit an 314
employer or property services contractor from considering either 315
of the following: 316

(a) Reasons other than part-time or full-time status in 317
determining starting normal hourly wage rates of employees, 318
including the use of a seniority system, merit system, or other 319
system that determines earnings by quantity or quality of 320
production, performance, or responsibility; 321

(b) Full-time or part-time status in determining 322
requirements for the receipt of employee benefits, including 323
health care benefits. 324

(B) An employer or property services contractor shall 325
provide part-time and full-time employees in the same job 326
classification with access to the same types of paid and unpaid 327
leave. An employer or property services contractor may prorate 328
the amount of any time off an employee may receive based on 329
hours worked by the employee. 330

(C) (1) An employer or property services contractor shall 331

not consider the status of an employee as full-time or part-time 332
in determining eligibility for a promotion. 333

(2) Division (C) (1) of this section does not prohibit an 334
employer or property services contractor from doing either of 335
the following: 336

(a) Conditioning eligibility for a promotion on an 337
employee's availability for full-time employment in the new 338
position; 339

(b) Considering reasons other than full-time status in 340
determining eligibility for a promotion, including the nature 341
and amount of work experience. 342

Sec. 4119.09. (A) On the day an employer executes 343
documents to transfer ownership of a formula retail 344
establishment or food services establishment to a successor 345
employer, the employer shall provide to the successor employer a 346
list that includes all of the following information for each 347
employee who is eligible to be retained for employment by the 348
successor employer as determined under division (E) of this 349
section: 350

(1) The employee's name; 351

(2) The employee's contact information; 352

(3) The employee's date of hire and rate of pay at the 353
time of transfer; 354

(4) The average number of hours worked by the employee 355
each week during the six months immediately before the transfer 356
of ownership; 357

(5) The employee's position or title. 358

(B) (1) The employer shall post public notice of the 359
transfer of ownership in a conspicuous place at the formula 360
retail establishment or food services establishment within 361
twenty-four hours after the transfer document is fully executed. 362
The successor employer shall ensure that the notice remains 363
posted for at least thirty days after the transfer. 364

(2) The employer shall include all of the following 365
information in the notice required under division (B) (1) of this 366
section: 367

(a) The name and contact information of the employer; 368

(b) The name and contact information of the successor 369
employer; 370

(c) The postal address and electronic mail address that an 371
employee may use to update the employee's contact information; 372

(d) The effective date of the transfer from the employer 373
to the successor employer. 374

(C) For the transition period specified in division (H) of 375
this section, a successor employer shall employ each employee 376
identified on a list required under division (A) of this section 377
under the same terms of employment with respect to position or 378
title, compensation, and number of work hours that applied to 379
the employee immediately before the date of the transfer. During 380
the transition period, no successor employer shall discharge an 381
employee identified on the list without just cause. 382

(D) (1) A successor employer offering employment to an 383
employee included on the list required under division (A) of 384
this section shall make the offer in writing. 385

(2) If an employee declines to accept an offer of 386

employment made pursuant to division (D)(1) of this section, the 387
successor employer who offered employment is deemed to have 388
complied with division (C) of this section with respect to that 389
employee. 390

(E) Except as provided in division (F) of this section, an 391
employee is eligible to be retained for employment if the 392
employee has been employed by the employer for at least ninety 393
days before the date the employer executes documents to transfer 394
ownership of the formula retail establishment or food services 395
establishment. 396

(F) No managerial employee, supervisory employee, or 397
confidential employee is eligible for retention under this 398
section. 399

(G) The first time a successor employer pays wages to an 400
employee retained under this section, the successor employer 401
shall provide with that employee's paycheck a notice of the 402
rights of retained employees under this chapter. 403

(H)(1) This section applies to a transfer of ownership of 404
a formula retail establishment or food services establishment 405
until the earlier of three years after the date that the 406
employer executes documents to transfer ownership to the 407
successor employer or ninety days after the successor employer 408
takes control of the establishment. 409

(2) The ninety-day period described in division (H)(1) of 410
this section shall not run for any period of time during which 411
the formula retail establishment or food services establishment 412
is not open to the public during regular business hours. 413

(3) This section applies regardless of whether the 414
successor employer elects to operate the formula retail 415

establishment or food services establishment in the same 416
location or elects to relocate to another location in the state. 417

(I) Notwithstanding any provision of this section to the 418
contrary, a successor employer may retain fewer employees than 419
those included in the list created pursuant to division (A) of 420
this section if the successor employer determines that the 421
successor employer requires fewer employees than the former 422
employer to operate the establishment. 423

(J) If a successor employer chooses to retain fewer 424
employees as provided in division (I) of this section, the 425
successor employer shall retain employees by seniority, based on 426
the date of hire by the former employer or, if an applicable 427
collective bargaining agreement exists, pursuant to that 428
agreement. 429

(K) For the transition period specified in division (H) of 430
this section, no successor employer shall employ an individual 431
who is not included on the list created pursuant to division (A) 432
of this section in a position at the formula retail 433
establishment or food services establishment held by an 434
individual included on that list whom the successor employer 435
does not retain pursuant to division (J) of this section. 436

Sec. 4119.10. (A) Not later than ninety days after the 437
effective date of this section, the director of commerce shall 438
publish and make available to all employers a notice suitable 439
for posting by employers in the workplace informing employees of 440
their rights under this chapter. The director shall publish the 441
notice in English and Spanish. 442

(B) Every employer shall post the notice prepared by the 443
director under division (A) of this section in a conspicuous 444

place at any workplace or job site at which any of the 445
employer's employees work. 446

Sec. 4119.11. (A) An employer or property services 447
contractor who offers additional work hours to an employee in 448
accordance with section 4119.03 of the Revised Code shall retain 449
a copy of the written offer for at least three years after the 450
date the offer is made. 451

(B) A successor employer shall keep a record of a list 452
provided by an employer under section 4119.09 of the Revised 453
Code until the transition period described in division (H) of 454
section 4119.09 of the Revised Code has elapsed. 455

(C) A successor employer shall keep a record of a written 456
retention offer made pursuant to section 4119.09 of the Revised 457
Code for at least three years after the date the offer is made. 458

Sec. 4119.12. (A) An individual who believes that a 459
violation of section 4119.02 of the Revised Code has occurred 460
may file a complaint with the director of commerce. If the 461
director has reason to believe that a violation of that section 462
has occurred, the director shall proceed with an investigation 463
under section 4119.13 of the Revised Code. 464

(B) The director shall keep confidential, to the maximum 465
extent possible, any information that identifies an individual 466
who files a complaint pursuant to division (A) of this section 467
unless the individual has consented to disclosure of that 468
information as necessary for the enforcement of section 4119.02 469
of the Revised Code or for other appropriate purposes. 470

Sec. 4119.13. (A) The director of commerce shall take 471
appropriate steps to enforce and coordinate enforcement of this 472
chapter, including investigation of possible violations of this 473

chapter. 474

(B) If the director has reason to believe that a violation of section 4119.02 of the Revised Code has occurred, the director shall order any appropriate temporary or interim relief to mitigate the alleged violation or to maintain the status quo pending completion of a full investigation. 475
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(C) If, after investigating an alleged violation of section 4119.02 of the Revised Code, the director determines that a violation has occurred, the director shall issue a determination. The determination shall identify the violation and the factual basis for the determination and shall order any appropriate relief, including any of the following: 480
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(1) Requiring an employer or property services contractor to offer additional hours of work to an employee as required under section 4119.03 of the Revised Code; 486
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(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; 489
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(3) Reinstatement; 492

(4) Payment of lost wages; 493

(5) Assessment of an administrative penalty not to exceed the amount of lost wages included in the determination; 494
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(6) Requiring the violator to pay to the department of commerce any costs of the enforcement action. 496
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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. 498
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(E) A property services contractor and an employer who 502
contracts with the property services contractor shall be jointly 503
and severally liable for any determination against a property 504
services contractor under this section. 505

Sec. 4119.14. (A) The director of commerce shall serve a 506
determination made under section 4119.13 of the Revised Code on 507
the employer or property services contractor by regular mail. 508

(B) An employer or property services contractor may appeal 509
that determination within fifteen days after the date the 510
determination is mailed to the employer or property services 511
contractor. The employer or property services contractor shall 512
file the appeal in writing with the director. If a party fails 513
to submit a timely written appeal, the determination is 514
considered final on expiration of the fifteen-day period. 515

(C) The director shall, within thirty days after an appeal 516
is filed under division (B) of this section, make an effort to 517
meet and confer in good faith with the employer or property 518
services contractor regarding possible resolution of the 519
determination in advance of further proceedings under this 520
section. 521

(D) Beginning on the thirty-first day after an appeal is 522
filed pursuant to division (B) of this section, the employer or 523
property services contractor may request the attorney general to 524
appoint a hearing officer to hear and decide the appeal. If the 525
employer or property services contractor does not request a 526
hearing officer, the determination is considered final on 527
expiration of the sixtieth day following the date the appeal was 528
filed. 529

(E) Within fifteen days after the attorney general 530

receives a request for the appointment of a hearing officer, the 531
attorney general shall appoint an impartial hearing officer who 532
is not part of the department of commerce and shall immediately 533
notify the director and the employer or property services 534
contractor of the appointment. The appointed hearing officer 535
shall be an administrative law judge or attorney with at least 536
five years of experience in labor and employment law or wage and 537
hour matters. 538

(F) Upon appointment, the hearing officer shall promptly 539
set a date for a hearing that is not later than forty-five days 540
after the date the attorney general provides the notice of the 541
appointment under division (E) of this section. The hearing 542
shall conclude within seventy-five days after the date that 543
notice is provided. The hearing officer shall conduct a fair and 544
impartial hearing in accordance with the time limitations set 545
forth in this division, except that the hearing officer shall 546
have the discretion to extend the time limitations upon a 547
determination of good cause. 548

(G) An employer or property services contractor who 549
appeals has the burden of proving, by a preponderance of the 550
evidence, that the basis for a determination, or any calculation 551
of lost wages, interest, or penalty payments at issue in the 552
appeal, is incorrect. 553

(H) Within thirty days after the hearing, the hearing 554
officer shall issue a written decision affirming, modifying, or 555
dismissing the determination. The decision of the hearing 556
officer shall consist of findings and a determination and shall 557
constitute the final administrative determination. 558

(I) An employer or property services contractor may appeal 559
a decision issued under division (H) of this section to the 560

court of common pleas of the county in which the violation is 561
alleged to have occurred. 562

(J) Failure to appeal a determination as provided in this 563
section shall constitute a failure to exhaust administrative 564
remedies, which shall serve as a complete defense to any 565
petition or claim brought by an employer or property services 566
contractor against the state regarding the determination. 567

(K) If an employer or property services contractor fails 568
to comply with a final order of the director or hearing officer, 569
the director shall petition the court of common pleas of the 570
county in which the underlying violation occurred for 571
enforcement of the order. 572

Sec. 4119.15. (A) The director of commerce, in accordance 573
with Chapter 119. of the Revised Code, shall impose an 574
administrative fine on an employer or property services 575
contractor as follows: 576

(1) For a violation of section 4119.02 of the Revised Code 577
due to an employer's failure to comply with section 4119.10 or 578
division (A) of section 4119.11 of the Revised Code, up to five 579
hundred dollars for each offense; 580

(2) For a violation of section 4119.02 of the Revised Code 581
due to an employer's or property services contractor's failure 582
to comply with division (B) or (C) of section 4119.11 of the 583
Revised Code, up to five hundred dollars for each employee who 584
was eligible for retention under section 4119.09 of the Revised 585
Code. 586

(B) The director shall deposit all moneys received from 587
finest paid under this section into the industrial compliance 588
operating fund created in section 121.084 of the Revised Code. 589

Sec. 4119.16. The director of commerce may bring a civil 590
action in any court of competent jurisdiction on behalf of an 591
employee against an employer or property services contractor for 592
violating section 4119.02 of the Revised Code. If the court 593
determines that a violation has occurred, the court shall make 594
the following awards: 595

(A) To the employee on behalf of whom the action was 596
brought, any legal or equitable relief as may be appropriate to 597
remedy the violation, including the payment of lost wages, the 598
payment of a civil penalty not to exceed the amount awarded for 599
lost wages, and reinstatement of employment or other injunctive 600
relief; 601

(B) To the director, reasonable attorney's fees and costs. 602

Sec. 4119.17. (A) No employer or property services 603
contractor shall take adverse action against an individual in 604
retaliation for exercising rights protected under this chapter. 605

(B) The protections provided by this section shall apply 606
to any individual who mistakenly, but in good faith, alleges 607
noncompliance with this chapter. 608

(C) If an employer or property services contractor takes 609
an adverse action against an individual within ninety days after 610
the individual exercises a right protected under this chapter, a 611
rebuttable presumption exists that the action was taken by the 612
employer or property services contractor in retaliation because 613
the individual exercised those rights. 614

Sec. 4119.18. The director of commerce may adopt rules in 615
accordance with Chapter 119. of the Revised Code to implement 616
this chapter. The director may establish in those rules 617
procedures for ensuring fair, efficient, and cost-effective 618

implementation and enforcement of this chapter, including 619
supplementary procedures for notifying employees of their rights 620
under this chapter and for monitoring compliance. 621

Notwithstanding any provision of section 121.95 of the 622
Revised Code to the contrary, a regulatory restriction contained 623
in a rule adopted under this section is not subject to sections 624
121.95 to 121.953 of the Revised Code. 625

Nothing in this chapter shall be construed to limit the 626
rights and remedies otherwise available to an employee, 627
including any right the employee may have to remedies for an 628
unlawful discriminatory practice or unlawful discharge. 629

Section 2. That existing sections 121.083 and 121.084 of 630
the Revised Code are hereby repealed. 631

Section 3. Sections 1 and 2 of this act take effect six 632
months after the effective date of this section. 633