

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**S. B. No. 101**

**Senator Skindell**

**Cosponsors: Senators Thomas, Yuko, Schiavoni, Brown, Williams, Tavares**

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**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 certain employment 6  
practices of formula retail establishment 7  
employers, food services establishment 8  
employers, and contractors and to require the 9  
purchaser of a formula retail establishment or 10  
food services establishment to retain certain 11  
employees of the establishment on transfer of 12  
ownership. 13

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

**Section 1.** That sections 121.083 and 121.084 be amended 14  
and sections 4119.01, 4119.02, 4119.03, 4119.04, 4119.05, 15  
4119.06, 4119.07, 4119.08, 4119.09, 4119.10, 4119.11, 4119.12, 16  
4119.13, 4119.14, 4119.15, 4119.16, 4119.17, and 4119.18 of the 17  
Revised Code be enacted to read as follows: 18

**Sec. 121.083.** The superintendent of industrial compliance 19  
in the department of commerce shall do all of the following: 20

(A) Administer and enforce the general laws of this state 21  
pertaining to buildings, pressure piping, boilers, bedding, 22  
upholstered furniture, and stuffed toys, steam engineering, 23  
elevators, plumbing, licensed occupations regulated by the 24  
department, and travel agents, as they apply to plans review, 25  
inspection, code enforcement, testing, licensing, registration, 26  
and certification. 27

(B) Exercise the powers and perform the duties delegated 28  
to the superintendent by the director of commerce under Chapters 29  
4109., 4111., ~~and 4115.~~, and 4119. of the Revised Code. 30

(C) Collect and collate statistics as are necessary. 31

(D) Examine and license persons who desire to act as steam 32  
engineers, to operate steam boilers, and to act as inspectors of 33  
steam boilers, provide for the scope, conduct, and time of such 34  
examinations, provide for, regulate, and enforce the renewal and 35  
revocation of such licenses, inspect and examine steam boilers 36  
and make, publish, and enforce rules and orders for the 37  
construction, installation, inspection, and operation of steam 38  
boilers, and do, require, and enforce all things necessary to 39  
make such examination, inspection, and requirement efficient. 40

(E) Rent and furnish offices as needed in cities in this 41  
state for the conduct of its affairs. 42

(F) Oversee a chief of construction and compliance, a 43  
chief of operations and maintenance, a chief of licensing and 44  
certification, a chief of worker protection, and other designees 45  
appointed by the director to perform the duties described in 46  
this section. 47

(G) Enforce the rules the board of building standards 48  
adopts pursuant to division (A)(2) of section 4104.43 of the 49  
Revised Code under the circumstances described in division (D) 50  
of that section. 51

(H) Accept submissions, establish a fee for submissions, 52  
and review submissions of certified welding and brazing 53  
procedure specifications, procedure qualification records, and 54  
performance qualification records for building services piping 55  
as required by section 4104.44 of the Revised Code. 56

**Sec. 121.084.** (A) All moneys collected under sections 57  
3783.05, 3791.07, 4104.07, 4104.18, 4104.44, 4105.17, 4105.20, 58  
4119.13, 4119.15, 4169.03, and 5104.051 of the Revised Code, and 59  
any other moneys collected by the division of industrial 60  
compliance shall be paid into the state treasury to the credit 61  
of the industrial compliance operating fund, which is hereby 62  
created. The department of commerce shall use the moneys in the 63  
fund for paying the operating expenses of the division, the cost 64  
of enforcing Chapter 4119. of the Revised Code, and the 65  
administrative assessment described in division (B) of this 66  
section. 67

(B) The director of commerce, with the approval of the 68  
director of budget and management, shall prescribe procedures 69  
for assessing the industrial compliance operating fund a 70  
proportionate share of the administrative costs of the 71  
department of commerce. The assessment shall be made in 72  
accordance with those procedures and be paid from the industrial 73  
compliance operating fund to the division of administration fund 74  
created in section 121.08 of the Revised Code. 75

**Sec. 4119.01.** As used in this chapter: 76

(A) "Confidential employee" means an employee who acts in a confidential capacity to formulate, determine, and effectuate management policies with regard to labor relations or who regularly substitutes for an employee who has these duties. 77  
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(B) "Disposition" means the sale, assignment, transfer, contribution, consolidation, merger, or reorganization that causes a change in control of all or the majority of the assets of, or the controlling interests in, a business. 81  
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(C) "Employee" means an individual who is entitled to payment of a minimum wage from an employer or property services contractor under Section 34a of Article II, Ohio Constitution. 85  
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(D) (1) "Employer" means a person who owns or operates either of the following: 88  
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(a) A formula retail establishment with twenty or more employees in this state; 90  
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(b) A food services establishment. 92

(2) "Employer" includes a corporate officer or executive who, directly or indirectly, exercises control over the wages, hours, or working conditions of an individual, including through the services of a temporary agency or a professional employer organization. 93  
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(3) "Employer" does not include any of the following: 98

(a) A nonprofit corporation that is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code; 99  
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(b) The state or any agency or instrumentality of the state; 102  
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(c) Any municipal corporation, county, township, school district, or other political subdivision or any agency or instrumentality of a municipal corporation, county, township, school district, or other political subdivision. 104  
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(E) "Formula retail establishment" means a retail sales establishment doing business in this state that has at least twenty other retail sales establishments in operation worldwide that maintain two or more of the following features: 108  
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(1) Fifty per cent or more of merchandise stocked by the business comes from a single distributor and bears uniform markings; 112  
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(2) A standardized facade; 115

(3) A standardized style of interior furnishings, which may include the style of furniture, wall coverings, or permanent fixtures; 116  
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(4) A standardized selection of colors used throughout the business, such as on the furnishings, permanent fixtures, wall coverings, and the facade; 119  
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(5) Standardized items of clothing worn by employees, including standardized aprons, pants, shirts, smocks, dresses, hats, and pins, and standardized colors of clothing worn by employees; 122  
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(6) Standardized business signs; 126

(7) A trademark or service mark. 127

(F) "Food services establishment" means a food services establishment doing business in this state that employs five hundred or more employees worldwide, including a chain or franchise associated with a franchisor or network of franchises 128  
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that employs five hundred or more employees in the aggregate. 132

(G) "Professional employer organization" has the same 133  
meaning as in section 4125.01 of the Revised Code. 134

(H) "Property services contractor" means any contractor or 135  
subcontractor who enters into a contract with an employer to 136  
provide janitorial or security services to the employer at a 137  
formula retail establishment or food services establishment. 138

(I) "Successor employer" means an employer who owns, 139  
controls, or operates a formula retail establishment or food 140  
services establishment after a disposition of all or a majority 141  
of the assets of the establishment. 142

(J) "Workweek" means a fixed, regularly recurring period 143  
of one hundred sixty-eight hours, that an employer or property 144  
services contractor expressly adopts for purposes of complying 145  
with this chapter and the "Fair Labor Standards Act of 1938," 29 146  
U.S.C. 207, as amended. 147

(K) "Normal hourly wage rate" means the following: 148

(1) For an employee who is paid on an hourly basis, the 149  
hourly wage rate at which the employee is customarily paid when 150  
working for the employer or property services contractor; 151

(2) For an employee who is not paid on an hourly basis, 152  
one fortieth of the weekly wage rate at which the employee is 153  
customarily paid when working for the employer or property 154  
services contractor. 155

(L) "On-call shift" includes a shift where an employee is 156  
not required to report to or remain at the employee's site of 157  
work, but is required to be available to work the shift if 158  
called upon to do so by the employer or property services 159

contractor who employs the employee. 160

Sec. 4119.02. No employer or property services contractor 161  
shall fail to comply with sections 4119.03, 4119.04, 4119.05, 162  
4119.06, 4119.08, 4119.11, and 4119.17 of the Revised Code. 163

No employer shall fail to comply with sections 4119.09 and 164  
4119.10 of the Revised Code. 165

Sec. 4119.03. (A)(1) Except as otherwise provided in 166  
division (B) of this section, an employer or property services 167  
contractor shall not hire a new employee, coemploy an employee 168  
with a professional employer organization, engage an independent 169  
contractor, or lease an employee from a temporary agency to 170  
perform work in a formula retail establishment or food services 171  
establishment unless the employer or property services 172  
contractor first offers that work to any employee of the 173  
employer or property services contractor who is available to 174  
perform the additional work as described in division (A)(2) of 175  
this section. 176

(2) An employee is available to perform additional work 177  
for an employer or property services contractor if all of the 178  
following apply to the employee: 179

(a) The employee is scheduled to work fewer than thirty- 180  
five hours in a workweek. 181

(b) The employee is qualified to do the additional work as 182  
reasonably determined by the employer or property services 183  
contractor. 184

(c) The employee has performed work for the employer or 185  
property services contractor that is the same as or similar to 186  
the additional work to be performed. 187

(d) In a particular week, the employee performs at least 188  
two hours of work for an employer or property services 189  
contractor within this state or is scheduled to work at least 190  
one on-call shift for the employer or property services 191  
contractor within this state. 192

(B) An employer or property services contractor is not 193  
required to offer more hours of work to an employee than is 194  
necessary for that employee's total hours of work for that 195  
workweek to reach thirty-five hours. 196

(C) An employer or property services contractor may divide 197  
the additional hours of work offered under this section among 198  
the employer's or property services contractor's available 199  
employees. 200

(D) An employee who is offered additional hours of work 201  
under this section is not required to accept the additional 202  
hours. 203

(E) When an employer or property services contractor 204  
offers additional work hours to an employee, the employer or 205  
property services contractor shall make the offer in writing. 206

**Sec. 4119.04.** (A) Except as otherwise provided in division 207  
(B) of this section, an employer or property services contractor 208  
shall provide an employee of the employer or property services 209  
contractor with a written work schedule at least fourteen 210  
calendar days before the first day of the schedule. The employer 211  
or property services contractor shall include in the written 212  
schedule all regular and on-call shifts for a fourteen day 213  
period. The employer or property services contractor shall post 214  
the written schedule in a conspicuous and accessible location at 215  
the work site. 216

(B) An employer or property services contractor may 217  
provide a newly hired employee or employee who returns to work 218  
after a leave of absence with a written work schedule that runs 219  
through the last day of the work schedule in effect at the time 220  
employee is hired or returns to work. The employer or property 221  
services contractor shall include the employee on the next 222  
schedule posted in compliance with division (A) of this section 223  
and otherwise comply with division (A) of this section with 224  
respect to the employee at that time. 225

**Sec. 4119.05.** (A) As used in this section, "shift" 226  
includes an on-call shift. 227

(B) Except as provided in section 4119.07 of the Revised 228  
Code, an employer or property services contractor shall pay an 229  
employee of the employer or property services contractor for 230  
each scheduled shift that the employer or property services 231  
contractor changes or cancels or for each previously unscheduled 232  
shift that the employer or property services contractor requires 233  
the employee to work or be on call as follows: 234

(1) If the employer or property services contractor gives 235  
the employee less than fourteen days' notice, but more than 236  
twenty-four hours' notice, an amount equal to one hour of the 237  
employee's normal hourly wage rate; 238

(2) If the employer or property services contractor gives 239  
the employee less than twenty-four hours' notice and the 240  
changed, canceled, or required shift is four hours or less, an 241  
amount equal to two hours of the employee's normal hourly wage 242  
rate; 243

(3) If the employer or property services contractor gives 244  
the employee less than twenty-four hours' notice and the 245

changed, canceled, or required shift is more than four hours, an 246  
amount equal to four hours of the employee's normal hourly wage 247  
rate. 248

(C) An employer shall pay any amount required to be paid 249  
to an employee under division (B) of this section in addition 250  
to, and shall not consider that amount to be part of, any wage 251  
or salary paid to the employee for time worked. 252

**Sec. 4119.06.** (A) Except as provided in division (B) of 253  
this section or in section 4119.07 of the Revised Code, an 254  
employer or property services contractor shall pay an employee 255  
of the employer or property services contractor for each on-call 256  
shift that the employee is not called in to work as follows: 257

(1) If the on-call shift is four hours or less, an amount 258  
equal to two hours of the employee's normal hourly wage rate; 259

(2) If the on-call shift is more than four hours, an 260  
amount equal to four hours of the employee's normal hourly wage 261  
rate. 262

(B) An employer or property services contractor is not 263  
required to pay the amount required by division (A) of this 264  
section if the employee is paid the employee's normal hourly 265  
wage rate for the on-call shift. 266

**Sec. 4119.07.** Sections 4119.05 and 4119.06 of the Revised 267  
Code do not apply in any of the following circumstances: 268

(A) Operations of an employer or property services 269  
contractor cannot begin or continue for any of the following 270  
reasons: 271

(1) A threat to the safety of the employer or property 272  
services contractor's employees or property exists. 273

(2) A government authority recommends that the operations of an employer or property services contractor should not begin or continue. 274  
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(3) An act of God or another cause outside of the control of the employer or property services contractor prevents the operations of the employer or property services contractor from beginning or continuing. 277  
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(B) An employer or property services contractor requires the employee to work a shift or be on call under any of the following circumstances: 281  
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(1) Another employee does not report to work the shift on time. 284  
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(2) Another employee is unable to work the shift due to illness or the use of any paid or unpaid leave if the employee did not give the employer or property services contractor at least seven days' notice of the absence. 286  
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(3) Another employee is unable to work the shift because the employee's employment was terminated or the employee was prohibited from working the shift as a disciplinary action. 290  
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(C) An employee who would otherwise be entitled to receive an amount under section 4119.05 or 4119.06 of the Revised Code requested the schedule change or on-call shift or such a change or shift is the result of a shift trade between the employee and another employee of the employer or property services contractor. 293  
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**Sec. 4119.08.** (A) (1) An employer or property services contractor shall not consider the status of an employee as full-time or part-time in determining the starting normal hourly wage rate of an employee. 299  
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(2) Division (A) (1) of this section does not prohibit an 303  
employer or property services contractor from considering either 304  
of the following: 305

(a) Reasons other than part-time or full-time status in 306  
determining starting normal hourly wage rates of employees, 307  
including the use of a seniority system, merit system, or other 308  
system that determines earnings by quantity or quality of 309  
production, performance, or responsibility; 310

(b) Full-time or part-time status in determining 311  
requirements for the receipt of employee benefits, including 312  
health care benefits. 313

(B) An employer or property services contractor shall 314  
provide part-time and full-time employees in the same job 315  
classification with access to the same types of paid and unpaid 316  
leave. An employer or property services contractor may prorate 317  
the amount of any time off an employee may receive based on 318  
hours worked by the employee. 319

(C) (1) An employer or property services contractor shall 320  
not consider the status of an employee as full-time or part-time 321  
in determining eligibility for a promotion. 322

(2) Division (C) (1) of this section does not prohibit an 323  
employer or property services contractor from doing either of 324  
the following: 325

(a) Conditioning eligibility for a promotion on an 326  
employee's availability for full-time employment in the new 327  
position; 328

(b) Considering reasons other than full-time status in 329  
determining eligibility for a promotion, including the nature 330  
and amount of work experience. 331

Sec. 4119.09. (A) On the day an employer executes 332  
documents to transfer ownership of a formula retail 333  
establishment or food services establishment to a successor 334  
employer, the employer shall provide to the successor employer a 335  
list that includes all of the following information for each 336  
employee who is eligible to be retained for employment by the 337  
successor employer as determined under division (E) of this 338  
section: 339

(1) The employee's name; 340

(2) The employee's contact information; 341

(3) The employee's date of hire and rate of pay at the 342  
time of transfer; 343

(4) The average number of hours worked by the employee 344  
each week during the six months immediately before the transfer 345  
of ownership; 346

(5) The employee's position or title. 347

(B) (1) The employer shall post public notice of the 348  
transfer of ownership in a conspicuous place at the formula 349  
retail establishment or food services establishment within 350  
twenty-four hours after the transfer document is fully executed. 351  
The successor employer shall ensure that the notice remains 352  
posted for at least thirty days after the transfer. 353

(2) The employer shall include all of the following 354  
information in the notice required under division (B) (1) of this 355  
section: 356

(a) The name and contact information of the employer; 357

(b) The name and contact information of the successor 358  
employer; 359

(c) The postal address and electronic mail address that an 360  
employee may use to update the employee's contact information; 361

(d) The effective date of the transfer from the employer 362  
to the successor employer. 363

(C) For the transition period specified in division (H) of 364  
this section, a successor employer shall employ each employee 365  
identified on a list required under division (A) of this section 366  
under the same terms of employment with respect to position or 367  
title, compensation, and number of work hours that applied to 368  
the employee immediately before the date of the transfer. During 369  
the transition period, no successor employer shall discharge an 370  
employee identified on the list without just cause. 371

(D) (1) A successor employer offering employment to an 372  
employee included on the list required under division (A) of 373  
this section shall make the offer in writing. 374

(2) If an employee declines to accept an offer of 375  
employment made pursuant to division (D) (1) of this section, the 376  
successor employer who offered employment is deemed to have 377  
complied with division (B) of this section with respect to that 378  
employee. 379

(E) Except as provided in division (F) of this section, an 380  
employee is eligible to be retained for employment if the 381  
employee has been employed by the employer for at least ninety 382  
days before the date the employer executes documents to transfer 383  
ownership of the formula retail establishment or food services 384  
establishment. 385

(F) No managerial employee, supervisory employee, or 386  
confidential employee is eligible for retention under this 387  
section. 388

(G) The first time a successor employer pays wages to an 389  
employee retained under this section, the successor employer 390  
shall provide with that employee's paycheck a notice of the 391  
rights of retained employees under this chapter. 392

(H) (1) This section applies to a transfer of ownership of 393  
a formula retail establishment or food services establishment 394  
until the earlier of three years after the date that the 395  
employer executes documents to transfer ownership to the 396  
successor employer or ninety days after the successor employer 397  
takes control of the establishment. 398

(2) The ninety-day period described in division (H) (1) of 399  
this section shall not run for any period of time during which 400  
the formula retail establishment or food services establishment 401  
is not open to the public during regular business hours. 402

(3) This section applies regardless of whether the 403  
successor employer elects to operate the formula retail 404  
establishment or food services establishment in the same 405  
location or elects to relocate to another location in the state. 406

(I) Notwithstanding any provision of this section to the 407  
contrary, a successor employer may retain fewer employees than 408  
those included in the list created pursuant to division (A) of 409  
this section if the successor employer determines that the 410  
successor employer requires fewer employees than the former 411  
employer to operate the establishment. 412

(J) If a successor employer chooses to retain fewer 413  
employees as provided in division (I) of this section, the 414  
successor employer shall retain employees by seniority, based on 415  
the date of hire by the former employer or, if an applicable 416  
collective bargaining agreement exists, pursuant to that 417

agreement. 418

(K) For the transition period specified in division (H) of 419  
this section, no successor employer shall employ an individual 420  
who is not included on the list created pursuant to division (A) 421  
of this section in a position at the formula retail 422  
establishment or food services establishment held by an 423  
individual included on that list whom the successor employer 424  
does not retain pursuant to division (J) of this section. 425

**Sec. 4119.10.** (A) Not later than ninety days after the 426  
effective date of this section, the director of commerce shall 427  
publish and make available to all employers a notice suitable 428  
for posting by employers in the workplace informing employees of 429  
their rights under this chapter. The director shall publish the 430  
notice in English and Spanish. 431

(B) Every employer shall post the notice prepared by the 432  
director under division (A) of this section in a conspicuous 433  
place at any workplace or job site at which any of the 434  
employer's employees work. 435

**Sec. 4119.11.** (A) An employer or property services 436  
contractor who offers additional work hours to an employee in 437  
accordance with section 4119.03 of the Revised Code shall retain 438  
a copy of the written offer for at least three years after the 439  
date the offer is made. 440

(B) A successor employer shall keep a record of a list 441  
provided by an employer under section 4119.09 of the Revised 442  
Code until the transition period described in division (H) of 443  
section 4119.09 of the Revised Code has elapsed. 444

(C) A successor employer shall keep a record of a written 445  
retention offer made pursuant to section 4119.09 of the Revised 446

Code for at least three years after the date the offer is made. 447

**Sec. 4119.12.** (A) An individual who believes that a 448  
violation of section 4119.02 of the Revised Code has occurred 449  
may file a complaint with the director of commerce. If the 450  
director has reason to believe that a violation of that section 451  
has occurred, the director shall proceed with an investigation 452  
under section 4119.13 of the Revised Code. 453

(B) The director shall keep confidential, to the maximum 454  
extent possible, any information that identifies an individual 455  
who files a complaint pursuant to division (A) of this section 456  
unless the individual has consented to disclosure of that 457  
information as necessary for the enforcement of section 4119.02 458  
of the Revised Code or for other appropriate purposes. 459

**Sec. 4119.13.** (A) The director of commerce shall take 460  
appropriate steps to enforce and coordinate enforcement of this 461  
chapter, including investigation of possible violations of this 462  
chapter. 463

(B) If the director has reason to believe that a violation 464  
of section 4119.02 of the Revised Code has occurred, the 465  
director shall order any appropriate temporary or interim relief 466  
to mitigate the alleged violation or to maintain the status quo 467  
pending completion of a full investigation. 468

(C) If, after investigating an alleged violation of 469  
section 4119.02 of the Revised Code, the director determines 470  
that a violation has occurred, the director shall issue a 471  
determination. The determination shall identify the violation 472  
and the factual basis for the determination and shall order any 473  
appropriate relief, including any of the following: 474

(1) Requiring an employer or property services contractor 475

<u>to offer additional hours of work to an employee as required</u>	476
<u>under section 4119.03 of the Revised Code;</u>	477
<u>(2) Requiring an employer or property services contractor</u>	478
<u>to pay an amount required to be paid to an employee under</u>	479
<u>section 4119.05 or 4119.06 of the Revised Code;</u>	480
<u>(3) Reinstatement;</u>	481
<u>(4) Payment of lost wages;</u>	482
<u>(5) Assessment of an administrative penalty not to exceed</u>	483
<u>the amount of lost wages included in the determination;</u>	484
<u>(6) Requiring the violator to pay to the department of</u>	485
<u>commerce any costs of the enforcement action.</u>	486
<u>(D) The director shall deposit all moneys received from</u>	487
<u>administrative penalties and costs paid under this section into</u>	488
<u>the industrial compliance operating fund created in section</u>	489
<u>121.084 of the Revised Code.</u>	490
<u>(E) A property services contractor and an employer who</u>	491
<u>contracts with the property services contractor shall be jointly</u>	492
<u>and severally liable for any determination against a property</u>	493
<u>services contractor under this section.</u>	494
<b><u>Sec. 4119.14.</u></b> (A) <u>The director shall serve a determination</u>	495
<u>made under section 4119.13 of the Revised Code on the employer</u>	496
<u>or property services contractor by regular mail.</u>	497
<u>(B) An employer or property services contractor may appeal</u>	498
<u>that determination within fifteen days after the date the</u>	499
<u>determination is mailed to the employer or property services</u>	500
<u>contractor. The employer or property services contractor shall</u>	501
<u>file the appeal in writing with the director of commerce. If a</u>	502
<u>party fails to submit a timely written appeal, the determination</u>	503

is considered final upon expiration of the fifteen-day period. 504

(C) The director shall, within thirty days after an appeal 505  
is filed under division (B) of this section, make an effort to 506  
meet and confer in good faith with the employer or property 507  
services contractor regarding possible resolution of the 508  
determination in advance of further proceedings under this 509  
section. 510

(D) Beginning on the thirty-first day after an appeal is 511  
filed pursuant to division (B) of this section, the employer or 512  
property services contractor may request the attorney general to 513  
appoint a hearing officer to hear and decide the appeal. If the 514  
employer or property services contractor does not request a 515  
hearing officer, the determination is considered final upon 516  
expiration of the sixtieth day following the date the appeal was 517  
filed. 518

(E) Within fifteen days after the attorney general 519  
receives a request for the appointment of a hearing officer, the 520  
attorney general shall appoint an impartial hearing officer who 521  
is not part of the department of commerce and shall immediately 522  
notify the director and the employer or property services 523  
contractor of the appointment. The appointed hearing officer 524  
shall be an administrative law judge or attorney with at least 525  
five years of experience in labor and employment law or wage and 526  
hour matters. 527

(F) Upon appointment, the hearing officer shall promptly 528  
set a date for a hearing that is not later than forty-five days 529  
after the date the attorney general provides the notice of the 530  
appointment under division (E) of this section. The hearing 531  
shall conclude within seventy-five days after the date that 532  
notice is provided. The hearing officer shall conduct a fair and 533

impartial hearing in accordance with the time limitations set 534  
forth in this division, except that the hearing officer shall 535  
have the discretion to extend the time limitations upon a 536  
determination of good cause. 537

(G) An employer or property services contractor who 538  
appeals has the burden of proving, by a preponderance of the 539  
evidence, that the basis for a determination, or any calculation 540  
of lost wages, interest, or penalty payments at issue in the 541  
appeal, is incorrect. 542

(H) Within thirty days after the hearing, the hearing 543  
officer shall issue a written decision affirming, modifying, or 544  
dismissing the determination. The decision of the hearing 545  
officer shall consist of findings and a determination and shall 546  
constitute the final administrative determination. 547

(I) An employer or property services contractor may appeal 548  
a decision issued under division (H) of this section to the 549  
court of common pleas of the county in which the violation is 550  
alleged to have occurred. 551

(J) Failure to appeal a determination as provided in this 552  
section shall constitute a failure to exhaust administrative 553  
remedies, which shall serve as a complete defense to any 554  
petition or claim brought by an employer or property services 555  
contractor against the state regarding the determination. 556

(K) If an employer or property services contractor fails 557  
to comply with a final order of the director or hearing officer, 558  
the director shall petition the court of common pleas of the 559  
county in which the underlying violation occurred for 560  
enforcement of the order. 561

Sec. 4119.15. (A) The director of commerce, in accordance 562

with Chapter 119. of the Revised Code, shall impose an 563  
administrative fine on an employer or property services 564  
contractor as follows: 565

(1) For a violation of section 4119.02 of the Revised Code 566  
due to an employer's failure to comply with section 4119.10 or 567  
division (A) of section 4119.11 of the Revised Code, up to five 568  
hundred dollars for each offense; 569

(2) For a violation of section 4119.02 of the Revised Code 570  
due to an employer's or property services contractor's failure 571  
to comply with division (B) or (C) of section 4119.11 of the 572  
Revised Code, up to five hundred dollars for each employee who 573  
was eligible for retention under section 4119.09 of the Revised 574  
Code. 575

(B) The director shall deposit all moneys received from 576  
finest paid under this section into the industrial compliance 577  
operating fund created in section 121.084 of the Revised Code. 578

**Sec. 4119.16.** The director of commerce may bring a civil 579  
action in any court of competent jurisdiction on behalf of an 580  
employee against an employer or property services contractor for 581  
violating section 4119.02 of the Revised Code. If the court 582  
determines that a violation has occurred, the court shall make 583  
the following awards: 584

(A) To the employee on behalf of whom the action was 585  
brought, any legal or equitable relief as may be appropriate to 586  
remedy the violation, including the payment of lost wages, the 587  
payment of a civil penalty not to exceed the amount awarded for 588  
lost wages, and reinstatement of employment or other injunctive 589  
relief; 590

(B) To the director, reasonable attorney's fees and costs. 591

Sec. 4119.17. (A) No employer or property services contractor shall take adverse action against an individual in retaliation for exercising rights protected under this chapter. 592  
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(B) The protections provided by this section shall apply to any individual who mistakenly, but in good faith, alleges noncompliance with this chapter. 595  
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(C) If an employer or property services contractor takes an adverse action against an individual within ninety days after the individual exercises a right protected under this chapter, a rebuttable presumption exists that the action was taken by the employer or property services contractor in retaliation because the individual exercised those rights. 598  
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Sec. 4119.18. The director of commerce may adopt rules in accordance with Chapter 119. of the Revised Code to implement this chapter. The director may establish in those rules procedures for ensuring fair, efficient, and cost-effective implementation and enforcement of this chapter, including supplementary procedures for notifying employees of their rights under this chapter and for monitoring compliance. 604  
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Nothing in this chapter shall be construed to limit the rights and remedies otherwise available to an employee, including any right the employee may have to remedies for an unlawful discriminatory practice or unlawful discharge. 611  
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**Section 2.** That existing sections 121.083 and 121.084 of the Revised Code are hereby repealed. 615  
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**Section 3.** Sections 1 and 2 of this act take effect six months after the effective date of this act. 617  
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