

**As Reported by the House Agriculture and Rural Development
Committee**

131st General Assembly

Regular Session

2015-2016

H. B. No. 131

**Representative Pelanda
Cosponsors: Representatives Hill, Buchy, Patmon**

A BILL

To amend sections 901.23, 921.12, 941.01, 941.03, 1
941.04, 941.06, 941.07, 941.09, 941.10, 941.11, 2
941.14, 943.02, 943.14, 1327.46, 1327.48, 3
1327.50, 1327.501, 1327.61, 1327.99, and 4707.02 4
and to enact section 1327.502 of the Revised 5
Code to include diseases of concern within the 6
scope of the Animal Diseases Law, and to make 7
changes to the laws governing weights and 8
measures, livestock dealers, and auctioneers, 9
the membership of the Farmland Preservation 10
Advisory Board, and the pesticide licensing 11
renewal process. 12

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

Section 1. That sections 901.23, 921.12, 941.01, 941.03, 13
941.04, 941.06, 941.07, 941.09, 941.10, 941.11, 941.14, 943.02, 14
943.14, 1327.46, 1327.48, 1327.50, 1327.501, 1327.61, 1327.99, 15
and 4707.02 be amended and section 1327.502 of the Revised Code 16
be enacted to read as follows: 17

Sec. 901.23. (A) There is hereby created the farmland 18

preservation advisory board consisting of twelve voting members 19
appointed by the director of agriculture as follows: 20

(1) One member who is a county commissioner or a 21
representative of a statewide organization that represents 22
county commissioners; 23

(2) One member who is a township trustee or a 24
representative of a statewide organization that represents 25
township trustees; 26

(3) One representative of ~~the~~an Ohio ~~state~~ university; 27

(4) One representative of a nonprofit organization 28
dedicated to the preservation of farmland; 29

(5) One representative each of development, environmental, 30
planning, and soil and water conservation interests; 31

(6) One farmer from each of the state's four quadrants. 32

Terms of office shall be staggered and shall be for three 33
years, with each term ending on the same day of the same month 34
as did the term that it succeeds. Each member shall hold office 35
from the date of appointment until the end of the term for which 36
the member was appointed, except that the term of any member who 37
is a county commissioner or township trustee shall end when the 38
member ceases to serve as a county commissioner or township 39
trustee. 40

Members may be reappointed. Vacancies shall be filled in 41
the manner provided for original appointments. Any member 42
appointed to fill a vacancy occurring prior to the expiration 43
date of the term for which the member was appointed shall serve 44
for the remainder of that term. A member shall continue to serve 45
subsequent to the expiration date of the member's term until the 46

member's successor takes office or until a period of sixty days 47
has elapsed, whichever occurs first. Members shall serve at the 48
pleasure of the director. 49

The executive director of the office of farmland 50
preservation in the department of agriculture or another 51
employee of the department who is designated by the director 52
shall serve as the nonvoting chairperson of the board. The 53
director annually shall designate one member of the board to 54
serve as its vice-chairperson. The board may adopt bylaws 55
governing its operation and shall meet at a time when the 56
director, or the director's designee, considers it appropriate 57
in order for the board to provide advice as required under 58
division (B) of this section. 59

(B) The board shall provide advice to the director 60
regarding all of the following: 61

(1) The design and implementation of an agricultural 62
easement purchase program; 63

(2) The selection of applications that will be awarded 64
matching grants under division (D) of section 901.22 of the 65
Revised Code for the purchase of agricultural easements; 66

(3) The design and implementation of any other statewide 67
farmland protection measures that the director considers 68
appropriate. 69

(C) Serving as a member of the board does not constitute 70
holding a public office or position of employment under the laws 71
of this state and does not constitute grounds for removal of 72
public officers or employees from their offices or positions of 73
employment. 74

(D) A board member shall be reimbursed for actual and 75

necessary expenses incurred in the discharge of duties as a 76
board member. 77

Sec. 921.12. (A) The director of agriculture shall require 78
each applicant for a license under section 921.06 or 921.11 of 79
the Revised Code to be examined on the applicant's knowledge and 80
competency in each of the following: 81

(1) This chapter and rules adopted under it; 82

(2) The proper use, handling, and application of 83
pesticides and, if the applicant is applying for a license under 84
section 921.06 of the Revised Code, in the conducting of 85
diagnostic inspections in the pesticide-use categories for which 86
the applicant has applied. 87

(B) Each application for renewal of a license provided for 88
in section 921.06 of the Revised Code shall be filed prior to 89
the deadline established by rule. If filed after the deadline, a 90
penalty of fifty per cent shall be assessed and added to the 91
original fee and shall be paid by the applicant before the 92
renewal license is issued. However, if a license issued under 93
section 921.06 or 921.11 of the Revised Code is not renewed 94
within one ~~year~~ of hundred eighty days after the date of 95
expiration, the licensee shall be required to take another 96
examination on this chapter and rules adopted under it and on 97
the proper use, handling, and application of pesticides and, if 98
applicable, the proper conducting of diagnostic inspections in 99
the pesticide-use categories for which the licensee has been 100
licensed. 101

(C) A person who fails to pass an examination under 102
division (A) or (B) of this section is not entitled to an 103
adjudication under Chapter 119. of the Revised Code for that 104

failure. 105

(D) The holder of a commercial applicator license may 106
renew the license within one ~~year of~~ hundred eighty days after 107
the date of expiration without re-examination unless the 108
director determines that a new examination is necessary to 109
insure that the holder continues to meet the requirements of 110
changing technology and to assure a continuing level of 111
competence and ability to use pesticides safely and properly. 112

(E) ~~The director shall determine when holder of a private~~ 113
~~applicator license may renew the license within one hundred~~ 114
~~eighty days after the date of expiration without re-examination~~ 115
~~for unless the renewal of licenses for private applicators~~ 116
~~director determines that a new examination is required necessary~~ 117
to insure that ~~private applicators continue~~ the holder continues 118
to meet the requirements of changing technology and to assure a 119
continuing level of competence and ability to use pesticides 120
safely and properly. 121

(F) Instead of requiring a commercial applicator or 122
private applicator to complete re-examination successfully under 123
division (D) or (E) of this section, the director may require, 124
in accordance with criteria established by rule, the commercial 125
applicator or private applicator to participate in training 126
programs that are designed to foster knowledge of new technology 127
and to ensure a continuing level of competence and ability to 128
use pesticides safely and properly. The director or the 129
director's representative may provide the training or may 130
authorize a third party to do so. In order for such 131
authorization to occur, the third party and its training program 132
shall comply with standards and requirements established by 133
rule. 134

Sec. 941.01. As used in this chapter: 135

(A) "Dangerously contagious or infectious disease" means 136
any disease, including any foreign animal disease, or vector, 137
that the director of agriculture, ~~in his~~ the director's sound 138
discretion, determines to be of harmful effect on the animal or 139
poultry industry or the public health and to be capable of 140
transmission by any means from a carrier animal to a human or to 141
another animal. 142

(B) "Disease of concern" means any disease, including any 143
foreign animal disease, or vector, that the director determines 144
may have an adverse impact on the animal or poultry industry or 145
to the public health in this state, but that is not a disease 146
that is reportable to the United States department of 147
agriculture. 148

(C) "Geographic area" means any county or counties within 149
this state or parts thereof as may be designated by the 150
director. 151

~~(C)~~ (D) "Animal" means any animal that is a bird, reptile, 152
amphibian, fish, or mammal, other than humans. 153

~~(D)~~ (E) "Domestic animal" includes livestock; other 154
animals that through long association with humans have been bred 155
to a degree resulting in genetic changes affecting the 156
temperament, color, conformation, or other attributes of the 157
species to an extent that makes them different from nondomestic 158
animals of their kind; and other animals as defined by rule by 159
the director. 160

~~(E)~~ (F) "Foreign animal disease" means a contagious or 161
infectious disease that is not present in United States domestic 162
or nondomestic species populations and is listed by the United 163

States department of agriculture as a "foreign animal disease." 164

~~(F)~~(G) "Nondomestic animal" means any animal that is not 165
domestic, including at least nonindigenous animals and animals 166
usually not in captivity. 167

~~(G)~~(H) "Poultry" means any domesticated fowl kept in 168
confinement, except for doves and pigeons, that are bred for the 169
primary purpose of producing eggs or meat for human consumption. 170
"Poultry" includes chickens, turkeys, waterfowl, and game birds. 171

~~(H)~~(I) "Vector" means a disease carrier, usually from, 172
but not limited to, the arthropod class, ~~which that~~ transfers an 173
infectious agent that may transmit a dangerously contagious or 174
infectious disease from one host to another. 175

~~(I)~~(J) "Residue" means any poisonous or deleterious 176
pesticide governed by 40 C.F.R. 180, any poisonous or 177
deleterious substance governed by 21 C.F.R. 109.6, or any other 178
substance governed by 21 C.F.R. 556. 179

~~(J)~~(K) "Seal" means any band or object made of metal, 180
plastic, or other material placed on a vehicle or other means of 181
conveyance so that when the vehicle or conveyance is opened, the 182
band or object is affected, altered, or broken. 183

Sec. 941.03. (A) The director of agriculture, under 184
Chapter 119. of the Revised Code, may adopt and enforce rules to 185
carry out this chapter, including designating a disease or 186
vector as a dangerously contagious or infectious disease or as a 187
disease of concern. 188

(B) No person shall fail to comply with the rules adopted 189
by the director under division (A) of this section. 190

Sec. 941.04. (A) Whenever the director of agriculture or 191

~~his~~ the director's authorized representative reasonably suspects 192
that any premises or means of conveyance contains an animal that 193
is infected with or has been exposed to a dangerously contagious 194
or infectious disease or a disease of concern or is adulterated 195
with a residue, ~~he~~ the director or the director's authorized 196
representative shall have free access to those premises or that 197
means of conveyance at any reasonable time. 198

(B) Whenever the director of agriculture or ~~his~~ the 199
director's authorized representative reasonably suspects that 200
any vehicle or means of conveyance traveling into or through the 201
state contains an animal, ~~he~~ the director or the director's 202
authorized representative shall have free access to the vehicle 203
or means of conveyance, including the right to stop ~~such~~ the 204
vehicle or conveyance transporting animals into or through the 205
state. The director or ~~his~~ the director's authorized 206
representative may examine any certificate of veterinary 207
inspection, animal health certificate, waybill, yarding ~~receipt~~ 208
receipt, sale ticket, or other document required by this chapter 209
or rules adopted under it. The director or ~~his~~ the director's 210
authorized representative also may inspect the vehicle or 211
conveyance for the purposes of verifying the presence or 212
existence of any animal for which a document is required by this 213
chapter or rules adopted under it and verifying lawful 214
possession or ownership of the animal. This division does not 215
apply to animals transported intrastate. 216

Within the parameters of the United States and Ohio 217
constitutions, any person who operates a vehicle or means of 218
conveyance upon a roadway in this state is deemed to have 219
consented to the inspection of the vehicle or conveyance and the 220
documents as described in this section. 221

(C) In the event the owner of the animal or the operator 222
of the vehicle or conveyance fails to present any document 223
required by this chapter and rules adopted under it, or if the 224
documents indicate or the director or ~~his~~ the director's 225
authorized representative reasonably suspects that an animal is 226
infected with or has been exposed to a dangerously contagious or 227
infectious disease or a disease of concern or is adulterated 228
with a residue, the director or ~~his~~ the director's authorized 229
representative shall seal the vehicle or conveyance. A seal 230
shall not be broken or removed from a vehicle or conveyance 231
within this state or any other state except by the director or 232
~~his~~ the director's authorized representative or by a person 233
holding a similar position in another state, territory, or 234
country. 235

Once the vehicle or conveyance is sealed, its operator 236
shall choose a course of action to be taken under division (D) 237
of section 941.10 of the Revised Code. If the operator fails to 238
choose and the owner of the animal can be contacted, the owner 239
shall make the choice. If the owner cannot be contacted, the 240
director or ~~his~~ the director's authorized representative shall 241
make the choice. Any time that the director or ~~his~~ the 242
director's authorized representative determines that a course of 243
action under division (D) of section 941.10 of the Revised Code 244
is inappropriate, ~~he~~ the director or the director's authorized 245
representative may refuse to allow that course of action to be 246
taken or may limit it. The director or ~~his~~ the director's 247
authorized representative shall issue a permit designating and 248
requiring compliance with the course of action chosen under this 249
division. 250

If the director or ~~his~~ the director's authorized 251
representative reasonably suspects that an animal is stolen or 252

that the operator of the vehicle or conveyance is not in lawful possession of the animal, or while waiting for a search warrant to be issued under section 941.042 of the Revised Code, ~~he~~ the director or the director's authorized representative may detain or impound the vehicle or conveyance or detain the animal. If the director or ~~his~~ the director's authorized representative determines, during any detention or impoundment, that disposal of the animal is necessary, ~~he~~ the director or the director's authorized representative may provide for its disposal in accordance with section 941.043 of the Revised Code.

(D) The director or ~~his~~ the director's authorized representative, in performing ~~his~~ official duties under this section, may call on such law enforcement personnel and government officials as are necessary to ~~assist him~~ provide assistance. The director or ~~his~~ the director's authorized representative may detain or follow any vehicle or conveyance until those persons arrive.

(E) At the direction of the director and in ~~his~~ the director's discretion, an employee of the animal and plant health inspection service-veterinary services in the United States department of agriculture may be an authorized representative of the director for purposes of this chapter.

Sec. 941.06. (A) If any person has reason to suspect the existence of a dangerously contagious or infectious disease, a disease of concern, or a residue, ~~he~~ the person immediately shall give notice of that fact to the director of agriculture or to a licensed veterinarian.

(B) If a veterinarian receives notice of the existence or suspected existence of a dangerously contagious or infectious disease, a disease of concern, or a residue as provided in

division (A) of this section, ~~he~~ the veterinarian immediately 283
shall communicate that notice to the director. 284

(C) No person shall sell, attempt to sell, keep with 285
intent to sell, or otherwise transfer to another person an 286
animal that ~~he~~ the person knows, or has reason to know, is 287
infected with or exposed to any dangerously contagious or 288
infectious disease or a disease of concern or is adulterated 289
with a residue, except as otherwise provided in this chapter or 290
rules adopted under it. 291

(D) The offense established under division (C) of this 292
section is a strict liability offense and section 2901.20 of the 293
Revised Code does not apply. The designation of this offense as 294
a strict liability offense shall not be construed to imply that 295
any other offense, for which there is no specified degree of 296
culpability, is not a strict liability offense. 297

Sec. 941.07. (A) When the director of agriculture is 298
notified by any person of the possibility of the existence of a 299
dangerously contagious or infectious disease, a disease of 300
concern, or a residue, the director immediately shall order an 301
investigation to be made, ~~in~~. In order to conduct an 302
investigation, the director or ~~his~~ the director's designee may 303
quarantine the animal and, if ~~he~~ the director or the director's 304
designee considers it necessary, the geographic area in which 305
the animal was located immediately, so that ~~he~~ the director or 306
the director's designee is able to inspect, examine, and test 307
the animal and other animals within the geographic area. 308

(B) Except as otherwise provided in this chapter, if, as 309
the result of the investigation, an animal is found to be 310
infected with or exposed to a dangerously contagious or 311
infectious disease or a disease of concern or adulterated with a 312

residue, the director or ~~his~~ the director's authorized 313
representative may issue quarantine orders, without a prior 314
hearing, pursuant to this section in order to prevent 315
dangerously contagious or infectious diseases, diseases of 316
concern, or residues from affecting other animals in the state 317
or the public health. No person shall fail to comply with the 318
terms and conditions of the quarantine order. 319

(C) No animal or its means of conveyance shall be brought 320
to or removed from the premises or geographic area disclosed in 321
a quarantine order without written permission from the director 322
or ~~his~~ the director's authorized representative. 323

(D) The director, if possible, shall notify any person 324
owning or having custody of a quarantined animal either in 325
person or by certified mail, return receipt requested. Evidence 326
of the notification of a quarantine order shall be proved by 327
affidavit or by the certified mail return receipt. The director 328
also may post the quarantine order at two conspicuous places on 329
the quarantined premises. 330

(E) A quarantine order shall contain all of the following 331
information: 332

(1) The name and address of the person owning and having 333
custody of the quarantined animal, if known; 334

(2) A description of the quarantined animal; 335

(3) A description of the premises and means of conveyance 336
affected by the quarantine; 337

(4) The reason for the quarantine; 338

(5) The terms and conditions applicable to the quarantine; 339

(6) A notice to the effect that persons adversely affected 340

by the quarantine order may request a hearing to review the 341
order. 342

(F) A person adversely affected by a quarantine order, 343
within thirty days after the order is issued, may request in 344
writing a hearing in accordance with Chapter 119. of the Revised 345
Code. A request for a hearing does not stay a quarantine order. 346

(G) A quarantine order shall remain in effect until a 347
written notice of release is issued by the department of 348
agriculture, or until ordered to be removed after a hearing 349
under division (F) of this section. 350

(H) All necessary and proper expenses incurred by the 351
director in the quarantine of an animal shall be paid by the 352
state. However, such expenses shall not include the maintenance, 353
feeding, and quartering of the animal while in quarantine. 354

(I) A copy of the results of any tests or method of 355
detection for a dangerously contagious or infectious disease or 356
a disease of concern, conducted by a person authorized by the 357
department of agriculture, shall be admitted in any court as 358
prima-facie proof of ~~such those~~ results when ~~such the~~ results 359
are certified by the department or authorized person. 360

Sec. 941.09. (A) The director of agriculture may adopt and 361
enforce rules in accordance with Chapter 119. of the Revised 362
Code governing the identification of an animal tested for, 363
vaccinated against, or infected with a dangerously contagious or 364
infectious disease or a disease of concern or adulterated with a 365
residue and the importation, use, dispensation, and reporting of 366
the use of vaccines for mitigating dangerously contagious or 367
infectious diseases or diseases of concern or other treatments 368
for residues. 369

(B) No person shall remove, alter, or replace an identification that is required by federal or state law and is placed upon an animal by a person authorized by the director.

Sec. 941.10. (A) The director of agriculture may adopt and enforce rules to govern the importation and movement of animals.

(B) Whenever the governor upon receipt of information from the director believes that any condition or disease, including a dangerously contagious or infectious disease or a disease of concern present in any other state, territory, or country, may endanger the health of livestock, animals, or persons of this state, ~~he~~ the governor may prohibit or regulate by proclamation, the importation from ~~such that~~ other state, territory, or country, of animals of a kind that could carry that disease or condition into this state.

(C) No person shall import, move, sell, or dispose of any animal contrary to a proclamation issued by the governor under division (B) of this section, without first obtaining written permission from the director.

(D) When an animal is moved into the state in violation of any applicable federal or state law, the director or ~~his~~ the director's authorized representative, without prior hearing, may take whichever of the following courses of action regarding the animal as ~~he~~ the director or the director's authorized representative determines is most appropriate:

(1) Quarantine the animal until it is brought into compliance;

(2) Order the animal returned to the point of origin;

(3) Order the animal moved to slaughter.

Sec. 941.11. (A) Except as otherwise provided in this 398
chapter, the director of agriculture, without prior hearing, may 399
order the destruction of any domestic or nondomestic animal 400
found to be adulterated with residues, infected with or exposed 401
to a dangerously contagious or infectious disease, infected with 402
or exposed to a disease of concern, or determined to endanger 403
the health or well-being of animal populations or public health 404
in the state. If the director determines that seizure and 405
destruction of a nondomestic animal is necessary, ~~he~~ the 406
director shall coordinate the seizure and destruction of that 407
animal with the department of natural resources. 408

(B) (1) No person shall fail to comply with the director's 409
order to destroy an animal found to be infected with or exposed 410
to a dangerously contagious or infectious disease or a disease 411
of concern or adulterated with residues. 412

(2) The offense established under division (B) (1) of this 413
section is a strict liability offense and section 2901.20 of the 414
Revised Code does not apply. The designation of this offense as 415
a strict liability offense shall not be construed to imply that 416
any other offense, for which there is no specified degree of 417
culpability, is not a strict liability offense. 418

(C) The director, if possible, shall notify any person 419
owning or having custody of an animal ordered destroyed, either 420
in person or by certified mail, return receipt requested, prior 421
to destruction. Evidence of the notification of a destruction 422
order shall be proved by an affidavit or by the certified mail 423
return receipt. 424

(D) A destruction order shall contain all of the following 425
information: 426

- (1) The name and address of the person owning and having custody of the animal, if known; 427
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- (2) A description of the animal affected by the order; 429
- (3) The reason for the order; 430
- (4) A reasonable deadline for compliance with the order; 431
- (5) A notice to the effect that any person adversely affected by the destruction order may request a hearing to review the order. 432
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- (E) A person adversely affected by an order may request in writing, within thirty days after receiving the order, a hearing in accordance with Chapter 119. of the Revised Code. 435
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- Sec. 941.14.** (A) The owner shall burn the body of an animal that has died of, or been destroyed because of, a dangerously infectious or contagious disease, bury it not less than four feet under the surface of the ground, dissolve it by alkaline hydrolysis, remove it in a watertight tank to a rendering establishment, or otherwise dispose of it in accordance with section 953.26 or 1511.022 of the Revised Code within twenty-four hours after knowledge thereof or after notice in writing from the department of agriculture. 438
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- (B) The owner of premises that contain a dead animal shall burn the body of the animal, bury it not less than four feet beneath the surface of the ground, dissolve it by alkaline hydrolysis, remove it in a watertight tank to a rendering establishment, or otherwise dispose of it in accordance with section 953.26 or 1511.022 of the Revised Code within a reasonable time after knowledge thereof or after notice in writing from the department or from the township trustees of the township in which the owner's premises are located. 447
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(C) The director of agriculture may adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements and procedures governing the disposal of the body of an animal that has died of, or been destroyed because of, a disease of concern. 456
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(D) Notwithstanding division (A) or (B) of this section or rules adopted under division (C) of this section, the director 461
~~of agriculture,~~ in written notice sent to the owner of a dead 462
animal, may require the owner to employ a specific method of 463
disposition of the body, including burning, burying, rendering, 464
composting, or alkaline hydrolysis, when that method does not 465
conflict with any law or rule governing the disposal of 466
infectious wastes and, in the director's judgment, is necessary 467
for purposes of animal disease control. No person shall fail to 468
employ the method of disposition required under this division. 469
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~~(D)~~ (E) The director, in written notice sent to the owner 471
of a dead animal, may prohibit the owner from transporting the 472
body of the dead animal on any street or highway if that 473
prohibition does not conflict with any law or rule governing the 474
transportation of infectious wastes and, in the director's 475
judgment, is necessary for purposes of animal disease control. 476
No person shall fail to comply with a prohibition issued under 477
this division. 478

~~(E)~~ (F) As used in this section, "infectious wastes" has 479
the same meaning as in section 3734.01 of the Revised Code, and 480
"street" or "highway" has the same meaning as in section 4511.01 481
of the Revised Code. 482

Sec. 943.02. (A) No person shall act as a small dealer, 483
dealer, or broker without first being licensed. No person shall 484
be an employee of more than one small dealer, dealer, or broker. 485

Except as provided in division (B) of this section, no person 486
holding a license as a small dealer, dealer, or broker shall be 487
an employee. No employee shall act for any small dealer, dealer, 488
or broker unless the small dealer, dealer, or broker is 489
licensed, and has designated the employee to act in the small 490
dealer's, dealer's, or broker's behalf and has notified the 491
department of agriculture in the application for license or has 492
given official notice in writing of the appointment of the 493
employee. The small dealer, dealer, or broker shall be 494
accountable and responsible for all contracts pertaining to the 495
purchase, exchange, or sale of livestock made by the employee. 496
The small dealer, dealer, or broker who terminates the services 497
of an employee shall notify the department in writing of the 498
employee's termination. No person who is a licensed small 499
dealer, dealer, or broker shall have livestock exempted pursuant 500
to divisions (B)(1) to (6) of section 943.01 of the Revised 501
Code. 502

(B)(1) No person who has been convicted of or pleaded 503
guilty to a violation of this chapter or rules adopted under it 504
shall act as an owner, supervisor, employee, contractor, 505
volunteer, or agent of a person licensed under this chapter 506
unless specifically authorized to do so by the director of 507
agriculture. 508

(2) The offense established under division (B)(1) of this 509
section is a strict liability offense and section 2901.20 of the 510
Revised Code does not apply. The designation of this offense as 511
a strict liability offense shall not be construed to imply that 512
any other offense, for which there is no specified degree of 513
culpability, is not a strict liability offense. 514

~~(B)~~ (C) A small dealer, dealer, or broker may be an 515

employee of other small dealers, dealers, or brokers only when 516
the small dealer, dealer, or broker so employed is a soliciting 517
agent for a video auction. 518

~~(C)~~ (D) The director ~~of agriculture~~ shall define by rule 519
"soliciting agent" and "video auction" for the purposes of this 520
section. 521

Sec. 943.14. (A) The department of agriculture or any of 522
its authorized agents may inspect the records of any licensee or 523
employee at any time to determine the origin and destination of 524
any livestock handled by the licensee and to determine if 525
sections 943.01 to 943.18 of the Revised Code, or the rules 526
adopted thereunder, have been violated. 527

(B) A small dealer, dealer, or broker, employee, or person 528
described in division (B) (4) of section 943.01 of the Revised 529
Code, who acquires or disposes of an animal by any means, shall 530
make a record of the name and address of the person from whom 531
the animal was acquired and to whom disposed. The record also 532
shall show the individual identification of each animal at the 533
time of acquisition or disposal. These records shall be 534
maintained for a period of sixty months or longer from the date 535
of acquisition or disposal. 536

(C) The individual identification in division (B) of this 537
section shall be in a manner or form approved by the department. 538

(D) A person who is a soliciting agent for a video auction 539
pursuant to division ~~(B)~~ (C) of section 943.02 of the Revised 540
Code shall maintain records in a manner or form approved by the 541
department. 542

Sec. 1327.46. As used in sections 1327.46 to 1327.61 of 543
the Revised Code: 544

(A) "Weights and measures" means all weights and measures 545
of every kind, instruments and devices for weighing and 546
measuring, and any appliances and accessories associated with 547
any such instruments and devices, except that "weights and 548
measures" shall not be construed to include meters for the 549
measurement of electricity, gas, whether natural or 550
manufactured, or water when the same are operated in a public 551
utility system. Such electricity, gas, and water meters, and 552
appliances or accessories associated therewith, are specifically 553
excluded from the purview of the weights and measures laws. 554

(B) "Intrastate commerce" means all commerce or trade that 555
is begun, carried on, and completed wholly within the limits of 556
this state, and "introduced into intrastate commerce" defines 557
the time and place in which the first sale and delivery of a 558
commodity is made within the state, the delivery being made 559
either directly to the purchaser or to a common carrier for 560
shipment to the purchaser. 561

(C) "Package" means any commodity put up or packaged in 562
any manner in advance of sale in units suitable for either 563
wholesale or retail sale. 564

(D) "Consumer package" means a package that is customarily 565
produced or distributed for sale through a retail sales agency 566
for consumption by an individual or use by an individual. 567

(E) "Weight" as used in connection with any commodity 568
means net weight. 569

(F) "Correct" as used in connection with weights and 570
measures means conformity with all applicable requirements of 571
sections 1327.46 to 1327.61 of the Revised Code and rules 572
adopted pursuant to those sections. 573

(G) "~~Primary-Reference~~ standards" means the physical 574
standards of the state that serve as the legal reference from 575
which all other standards and weights and measures are derived. 576

(H) "~~Secondary-Working~~ standards" means the physical 577
standards that are traceable to the ~~primary-reference~~ standards 578
through comparisons, using acceptable laboratory procedures, and 579
used in the enforcement of weights and measures laws and rules. 580

(I) "Sale from bulk" means the sale of commodities when 581
the quantity is determined at the time of sale. 582

(J) "Net weight" means the weight of a commodity, 583
excluding any materials, substances, or items not considered to 584
be a part of the commodity. Materials, substances, or items not 585
considered to be part of the commodity include, but are not 586
limited to, containers, conveyances, bags, wrappers, packaging 587
materials, labels, individual piece coverings, decorative 588
accompaniments, and coupons. 589

(K) "Random weight package" means a package that is one of 590
a lot, shipment, or delivery of packages of the same commodity 591
with no fixed pattern of weights. 592

(L) "Sold" includes keeping, offering, or exposing for 593
sale. 594

(M) "Commercially used weighing and measuring device" 595
means a device described in the national institute of standards 596
and technology handbook 44 or its supplements and revisions and 597
any other weighing and measuring device designated by rules 598
adopted under division (C) of section 1327.50 of the Revised 599
Code. "Commercially used weighing and measuring device" 600
includes, but is not limited to, a livestock scale, vehicle 601
scale, railway scale, vehicle tank meter, bulk rack meter, and 602

LPG meter. 603

(N) "Livestock scale" means a scale equipped with stock racks and gates that is adapted to weighing livestock standing on the scale platform. 604
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(O) "Vehicle scale" means a scale that is adapted to weighing highway, farm, or other large industrial vehicles other than railroad cars. 607
608
609

(P) "Railway scale" means a rail scale that is designed to weigh railroad cars. 610
611

(Q) "Vehicle tank meter" means a vehicle mounted device that is designed for the measurement and delivery of liquid products from a tank. 612
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(R) "Bulk rack meter" means a wholesale device, usually mounted on a rack, that is designed for the measurement and delivery of liquid products. 615
616
617

(S) "LPG meter" means a system, including a mechanism or machine of the meter type, that is designed to measure and deliver liquefied petroleum gas in the liquid state by a definite quantity whether installed in a permanent location or mounted on a vehicle. 618
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(T) "Service person" means an individual who installs, services, repairs, reconditions, or places into service a commercially used weighing and measuring device for any type of compensation. 623
624
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Sec. 1327.48. Weights and measures that are traceable to the United States prototype standards supplied by the federal government, or approved as being satisfactory by the national institute of standards and technology, shall be the state 627
628
629
630

~~primary reference~~ standards of weights and measures, and shall 631
be maintained in such calibration as is prescribed by the 632
national institute of standards and technology. All ~~secondary~~ 633
working standards may be prescribed by the director of 634
agriculture and shall be verified upon their initial receipt, 635
and as often as found necessary by the director. 636

Sec. 1327.50. The director of agriculture shall: 637

(A) Maintain traceability of the state standards to those 638
of the ~~national institute of standards and technology~~ 639
international system of units; 640

(B) Enforce sections 1327.46 to 1327.61 of the Revised 641
Code; 642

(C) Issue reasonable rules for the uniform enforcement of 643
sections 1327.46 to 1327.61 of the Revised Code, which rules 644
shall have the force and effect of law; 645

(D) Establish standards of weight, measure, or count, 646
reasonable standards of fill, and standards for the voluntary 647
presentation of cost per unit information for any package; 648

(E) Grant any exemptions from sections 1327.46 to 1327.61 649
of the Revised Code, or any rules adopted under those sections, 650
when appropriate to the maintenance of good commercial practices 651
in the state; 652

(F) Conduct investigations to ensure compliance with 653
sections 1327.46 to 1327.61 of the Revised Code; 654

(G) Delegate to appropriate personnel any of these 655
responsibilities for the proper administration of the director's 656
office; 657

(H) Test as often as is prescribed by rule the standards 658

of weight and measure used by any municipal corporation or 659
county within the state, and approve the same when found to be 660
correct; 661

(I) Inspect and test weights and measures that are sold; 662

(J) Inspect and test to ascertain if they are correct, 663
weights and measures commercially used either: 664

(1) In determining the weight, measure, or count of 665
commodities or things sold on the basis of weight, measure, or 666
count; 667

(2) In computing the basic charge or payment for goods or 668
services rendered on the basis of weight, measure, or count. 669

(K) Test all weights and measures used in checking the 670
receipt or disbursement of supplies in every institution, for 671
the maintenance of which funds are appropriated by the general 672
assembly; 673

(L) Approve for use, and may mark, such weights and 674
measures as the director finds to be correct, and shall reject 675
and mark as rejected such weights and measures as the director 676
finds to be incorrect. Weights and measures that have been 677
rejected may be seized if not corrected within the time 678
specified or if used or disposed of in a manner not specifically 679
authorized, and may be condemned and seized if found to be 680
incorrect and not capable of being made correct. 681

(M) Weigh, measure, or inspect packaged commodities that 682
are sold or in the process of delivery to determine whether they 683
contain the amounts represented and whether they are sold in 684
accordance with sections 1327.46 to 1327.61 of the Revised Code 685
or rules adopted under those sections. In carrying out this 686
section, the director shall employ recognized sampling 687

procedures, such as those designated in the national institute 688
of standards and technology handbook 133 "checking the net 689
contents of packaged goods." 690

(N) Prescribe by rule the appropriate term or unit of 691
weight or measure to be used, whenever the director determines 692
in the case of a specific commodity that an existing practice of 693
declaring the quantity by weight, measure, numerical count, or 694
combination thereof, does not facilitate value comparisons by 695
consumers, or offers an opportunity for consumer confusion; 696

(O) Allow reasonable variations from the stated quantity 697
of contents, which shall include those caused by unavoidable 698
deviations in good manufacturing practice and by loss or gain of 699
moisture during the course of good distribution practice, only 700
after the commodity has entered intrastate commerce; 701

(P) Provide for the weights and measures training of 702
inspector personnel and establish minimum training requirements, 703
which shall be met by all inspector personnel, whether county, 704
municipal, or state; 705

(Q) Prescribe the methods of tests and inspections to be 706
employed in the enforcement of sections 1327.46 to 1327.61 of 707
the Revised Code. The director may prescribe the official test 708
and inspection forms to be used. 709

(R) Provide by rule for ~~voluntary~~ registration with the 710
director of private-service persons who are employed by 711
commercially used weighing and measuring device servicing 712
agencies, ~~and personnel~~; 713

(S) In conjunction with the national institute of 714
standards and technology, operate a type evaluation program for 715
certification of weighing and measuring devices as part of the 716

national type evaluation program. The director shall establish a schedule of fees for services rendered by the department of agriculture for type evaluation services. The director may require any weighing or measuring instrument or device to be traceable to a national type evaluation program certificate of conformance prior to use for commercial or law enforcement purposes.

(T) Verify advertised prices, price representations, and point-of-sale systems, as necessary, to determine both the accuracy of prices and computations and the correct use of the equipment and the accuracy of prices printed or recalled from a database if a system utilizes scanning or coding in lieu of manual entry. In order to implement this division, the director shall do all of the following:

(1) Employ recognized procedures such as those designated in the national institute of standards and technology handbook 130, uniform laws and regulations, "examination procedures for price verification";

(2) Adopt rules establishing requirements governing the accuracy of advertised prices and point-of-sale systems and establishing requirements and procedures for the enforcement of this division;

(3) Conduct necessary inspections.

Sec. 1327.501. (A) No person shall operate in this state a commercially used weighing and measuring device that provides the ~~final~~ quantity ~~and final~~ or cost of a final transaction and for which a fee is established in division (G) of this section unless the operator of the device obtains a permit issued by the director of agriculture or the director's designee.

(B) An application for a permit shall be submitted to the 746
director on a form that the director prescribes and provides. 747
The applicant shall include with the application any information 748
that is specified on the application form as well as the 749
application fee established in this section. 750

(C) Upon receipt of a completed application and the 751
required fee from an applicant, the director or the director's 752
designee shall issue or deny the permit to operate the 753
commercially used weighing and measuring device that was the 754
subject of the application. 755

(D) A permit issued under this section expires on the 756
thirtieth day of June of the year following its issuance and may 757
be renewed annually on or before the first day of July of that 758
year upon payment of a permit renewal fee established in this 759
section. 760

(E) If a permit renewal fee is more than sixty days past 761
due, the director may assess a late penalty in an amount 762
established under this section. 763

(F) The director shall do both of the following: 764

(1) Establish procedures and requirements governing the 765
issuance or denial of permits under this section; 766

(2) Establish late penalties to be assessed for the late 767
payment of a permit renewal fee and fees for the replacement of 768
lost or destroyed permits. 769

(G) An applicant for a permit to operate under this 770
section shall pay an application fee in the following applicable 771
amount: 772

(1) Seventy-five dollars for a livestock scale; 773

- (2) Seventy-five dollars for a vehicle scale; 774
- (3) Seventy-five dollars for a railway scale; 775
- (4) Seventy-five dollars for a vehicle tank meter; 776
- (5) Seventy-five dollars for a bulk rack meter; 777
- (6) Seventy-five dollars for ~~a~~ an LPG meter. 778

A person who is issued a permit under this section and who 779
seeks to renew that permit shall pay an annual permit renewal 780
fee. The amount of a permit renewal fee shall be equal to the 781
application fee for that permit established in this division. 782

(H) All money collected through the payment of fees and 783
the imposition of penalties under this section shall be credited 784
to the metrology and scale certification and device permitting 785
fund created in section 1327.511 of the Revised Code. 786

Sec. 1327.502. A service person who is employed by a 787
commercially used weighing and measuring device servicing agency 788
shall register with the director of agriculture in accordance 789
with rules adopted under section 1327.50 of the Revised Code. 790

Sec. 1327.61. No person shall do any of the following: 791

(A) Use or have in possession for use in commerce any 792
incorrect weight or measure; 793

(B) Wrap, package, label, or advertise any product or 794
service contrary to this chapter, or any rules adopted under it, 795
or sell, offer, hold, or expose for sale any service or product 796
wrapped, packaged, labeled, or offered for sale contrary to this 797
chapter or any rules adopted under it, or misrepresent the 798
quantity or price or service contrary to this chapter, or any 799
rules adopted under it; 800

(C) Remove any tag, seal, or mark from any weight or
measure without specific written authorization from the proper
authority;

(D) Recklessly install for use, repair, service, or place
into service a commercially used weighing and measuring device
unless the installation, repair, service, or placement is
performed by one of the following:

(1) A department of agriculture division of weights and
measures inspector;

(2) A service person registered with the department;

(3) A county or municipal weights and measures inspector.

(E) Hinder or obstruct any weights and measures official
in the performance of his official duties;

~~(E)~~ (F) Sell or offer for use in commerce any incorrect
weight or measure.

Sec. 1327.99. Whoever violates section 1327.501 or 1327.54
or division (A), (B), (C), ~~or (D)~~, or (E) of section 1327.61 of
the Revised Code or a rule adopted under sections 1327.46 to
1327.61 of the Revised Code is guilty of a misdemeanor of the
second degree on a first offense; on each subsequent offense
within seven years after the first offense, ~~such the~~ person is
guilty of a misdemeanor of the first degree.

Sec. 4707.02. (A) No person shall act as an auction firm,
auctioneer, apprentice auctioneer, or special auctioneer within
this state without a license issued by the department of
agriculture. No auction shall be conducted in this state except
by an auctioneer licensed by the department.

The department shall not issue or renew a license if the

applicant or licensee has been convicted of a felony or crime 829
involving fraud or theft in this or another state at any time 830
during the ten years immediately preceding application or 831
renewal. 832

(B) Division (A) of this section does not apply to any of 833
the following: 834

(1) Sales at auction that either are required by law to be 835
at auction, other than sales pursuant to a judicial order or 836
decree, or are conducted by or under the direction of a public 837
authority; 838

(2) The owner of any real or personal property desiring to 839
sell the property at auction, provided that the property was not 840
acquired for the purpose of resale; 841

(3) An auction mediation company; 842

(4) An auction that is conducted in a course of study for 843
auctioneers that is approved by the state auctioneers commission 844
created under section 4707.03 of the Revised Code for purposes 845
of student training and is supervised by a licensed auctioneer; 846

(5) (a) An auction that is sponsored by a nonprofit or 847
charitable organization that is registered in this state under 848
Chapter 1702. or Chapter 1716. of the Revised Code, 849
respectively, if the auction only involves the property of the 850
members of the organization and the auction is part of a fair 851
that is organized by an agricultural society under Chapter 1711. 852
of the Revised Code or by the Ohio expositions commission under 853
Chapter 991. of the Revised Code at which an auctioneer who is 854
licensed under this chapter physically conducts the auction; or 855

(b) Sales at an auction sponsored by a charitable, 856
religious, or civic organization that is tax exempt under 857

subsection 501(c)(3) of the Internal Revenue Code, or by a 858
public school, chartered nonpublic school, or community school, 859
if no person in the business of organizing, arranging, or 860
conducting an auction for compensation and no consignor of 861
consigned items sold at the auction, except such organization or 862
school, receives compensation from the proceeds of the auction. 863
As used in division (B)(5)(b) of this section, "compensation" 864
means money, a thing of value other than participation in a 865
charitable event, or a financial benefit. 866

(6) A person licensed as a livestock dealer under Chapter 867
943. of the Revised Code who exclusively sells livestock and 868
uses an auctioneer who is licensed under this chapter to conduct 869
the auction; 870

(7) A person licensed as a motor vehicle auction owner 871
under Chapter 4517. of the Revised Code who exclusively sells 872
motor vehicles to a person licensed under Chapter 4517. of the 873
Revised Code and who uses an auctioneer who is licensed under 874
this chapter to conduct the auction; 875

(8) ~~A person who sells~~ Sales of real or personal property 876
conducted by means of the internet, provided that they are not 877
conducted in conjunction with a live auction; 878

(9) A bid calling contest that is approved by the 879
commission and that is conducted for the purposes of the 880
advancement or promotion of the auction profession in this 881
state, provided that no compensation is paid to the sponsor of 882
or participants in the contest other than a prize or award for 883
winning the contest; 884

(10) An auction at which the champion of a national or 885
international bid calling contest appears, provided that both of 886

the following apply: 887

(a) The champion is not paid a commission. 888

(b) The auction is conducted under the direct supervision 889
of an auctioneer licensed under this chapter in order to ensure 890
that the champion complies with this chapter and rules adopted 891
under it. 892

(C) (1) No person shall advertise or hold oneself out as an 893
auction firm, auctioneer, apprentice auctioneer, or special 894
auctioneer without a license issued by the department of 895
agriculture. 896

(2) Division (C) (1) of this section does not apply to an 897
individual who is the subject of an advertisement regarding an 898
auction conducted under division (B) (5) (b) of this section. 899

Section 2. That existing sections 901.23, 921.12, 941.01, 900
941.03, 941.04, 941.06, 941.07, 941.09, 941.10, 941.11, 941.14, 901
943.02, 943.14, 1327.46, 1327.48, 1327.50, 1327.501, 1327.61, 902
1327.99, and 4707.02 of the Revised Code are hereby repealed. 903

Section 3. The member who is serving on the Farmland 904
Preservation Advisory Board on the effective date of this 905
section who was appointed under division (A) (3) of section 906
901.23 of the Revised Code as that section existed prior to its 907
amendment by this act shall continue serving on the Board until 908
the end of the term for which the member was appointed. The 909
Director of Agriculture then shall appoint a member of the Board 910
under division (A) (3) of that section as amended by this act. 911