
DEPARTMENT OF AGRICULTURE

Amusement rides

- Increases the permit fee for an amusement ride by \$75 (from \$150 to \$225).
- Requires the Advisory Council on Amusement Ride Safety, prior to submitting findings or recommendations to the Director of Agriculture, to vote on whether to submit the findings or recommendations.
- Specifies that the Advisory Council may submit only findings or recommendations that receive a majority vote.
- Requires the Director, annually by November 1, to submit a detailed financial report to the Speaker of the House and the Senate President regarding the amusement ride safety program.

Qualifications for pet stores

- Revises which retail stores qualify as a pet store and require licensure by doing the following:
 - Specifying that a store must sell 40 or more puppies or adult dogs in any calendar year to the public;
 - Clarifying that a high-volume dog breeder is not a pet store; and
 - Clarifying that a dog breeder that maintains and sells dogs from the same premises where the dogs are bred and reared is not a pet store.
- Authorizes the Director to reimburse the license application fee that a person pays for a pet store license if the person:
 - Holds a valid pet store license on October 17, 2019; and
 - No longer qualifies as a pet store owner or operator as a result of the above changes.

High-volume dog breeder – standards of care

- Revises certain standards of care for dogs that a high-volume dog breeder must maintain, including:
 - Regarding the primary enclosure requirements for housing a dog that will take effect on December 31, 2021, clarifies that a dog includes any dog that is 12 weeks or older; and
 - Regarding the flooring requirements for a dog enclosure that will take effect on December 31, 2021, requires coated metal wire (used for flooring) to measure six gauge or thicker.

Defense for nuisances

- Adds the following as complete defenses in civil nuisance actions that involve agricultural activities:

--Agricultural activities that are conducted on land devoted exclusively to agriculture that is taxed in accordance with the land's current agricultural use value; and

--Agricultural activities conducted by a person pursuant to a lease agreement.

Voluntary nutrient management plans – soil test results

- Increases, from three years to four years, the amount of time that soil test results are valid for inclusion in a Director-approved voluntary nutrient management plan.

Urban sediment and storm water runoff pollution

- Revises the law governing soil and water conservation districts and urban sediment and storm water runoff pollution as follows:

--Requires the Director to support development and implementation of cooperative programs and working agreements between districts and the Ohio Department of Natural Resources (DNR) and the Ohio Environmental Protection Agency (OEPA);

--Expands a soil and water conservation district's contracting authority by allowing contracts or agreements that address storm water runoff pollution, instead of addressing only urban sediment pollution as in former law;

--Regarding recommendations that the Ohio Soil and Water Conservation Commission provides to specified persons or entities, clarifies that the recommendations are to encourage proper soil, water, and other natural resource management *for farm, rural, suburban, and urban land*.

Tree syrup exemption

- Exempts a processor of any kind of tree syrup, rather than only maple syrup as in former law, from specified laws governing retail food establishments and food processing establishments.

Small wineries exemption

- Exempts small wineries from retail food establishment licensure requirements if the winery:

--Serves commercially prepackaged food and sales of that food do not exceed more than 5% of the total gross receipts of the establishment; and

--Annually produces 10,000 gallons or less of wine.

- Requires the winery owner to:

--Notify the Director that it is exempt from licensure because it qualifies under the above conditions; and

--Disclose to customers that the winery is exempt from licensure.

Wine tax diversion to Ohio Grape Industries Fund

- Extends – through June 30, 2021 – the extra 2¢ per-gallon earmark of wine tax revenue that is credited to the Ohio Grape Industries Fund.

Promotion of Ohio agricultural goods in alcohol

- Authorizes the Department of Agriculture (ODA), through voluntary promotional programs, to promote the use of Ohio-produced agricultural goods grown for inclusion in beer, cider, or spirituous liquor.

Agricultural Society Facilities Grant Program

- Creates the Agricultural Society Facilities Grant Program to provide grants in FY 2020 to county and independent agricultural societies to support capital projects that enhance the use and enjoyment of agricultural society facilities.
- Generally requires each agricultural society that applies for assistance to receive an equal amount appropriated for those purposes.
- Requires the Director or the Director's designee to establish requirements and procedures for the Program, including procedures for reviewing applications and awarding grants.
- Requires each agricultural society to provide a matching grant.
- Requires the Director or designee, after reviewing a grant application and matching grant documentation, to approve the application unless:
 - The project or facility is not a bondable capital improvement project; or
 - The agricultural society does not provide a matching grant.

Ohio Expositions Commission

- Adds the Ohio State University's Dean of the College of Food, Agricultural, and Environmental Sciences as a nonvoting member of the existing Ohio Expositions Commission.

Propane Marketing Program

- Establishes the Propane Marketing Program.
- Requires the Director to establish a Propane Council composed of members appointed by the Director, including propane retailers and propane wholesale distributors.
- Requires the Council to adopt procedures by which Ohio propane retailers may propose, develop, and operate a marketing program.
- Establishes an assessment on the volume of odorized propane purchased by a retailer from a wholesale distributor that is not more than 0.005 mills per gallon of odorized propane purchased.

- Requires the Director to perform certain duties and responsibilities, including monitoring the actions of the Council to ensure that a Propane Marketing Program is self-supporting.
- Establishes procedures for propane retailers to apply for and receive refunds for assessments levied for the program.

Amusement rides

Permit fee and inspection funding

(R.C. 1711.53; Section 211.10)

The act increases the permit fee for an amusement ride by \$75 (from \$150 to \$225). It also appropriates \$400,000 for FY 2020 and FY 2021 from the GRF for ride inspection purposes.

Advisory Council

(R.C. 1711.52)

The Advisory Council on Amusement Ride Safety studies subjects pertaining to amusement ride safety, including administrative, engineering, and technical subjects, and makes findings and recommendations to the Director of Agriculture. Additionally, the Advisory Council studies the Director's proposed rules, advises the Director, and makes findings and recommendations regarding the rules.

The act requires the Advisory Council to vote on whether to submit findings or recommendations to the Director. The Advisory Council may submit only findings or recommendations that receive a majority vote.

Safety program financial report

(R.C. 1711.532)

The act requires the Director, by November 1, 2019, and annually thereafter, to submit a detailed financial report to the Speaker of the House and the Senate President that includes:

- The revenue collected from fees for amusement ride permits, inspections, and reinspections and any other revenue collected for the Department of Agriculture's (ODA) amusement ride safety program applicable to the 12 months preceding the report's submission;
- Expenses related to ODA's amusement ride safety program in the 12-month period;
- Any proposed changes to the fee schedule that the Director determines is necessary for issuing permits and conducting amusement ride inspections and reinspections;
- The amount spent from any appropriation made for ODA's amusement ride safety program applicable to the 12 months preceding the report's submission;

- Any additional revenue that the Director determines is necessary to meet the expenses of the amusement ride safety program during the 12 months immediately following the submission of the report; and
- Any other necessary information.

Qualifications for pet stores

(R.C. 956.01, 956.051, and 956.20; Section 709.10)

The act specifies that a store must sell 40 or more puppies or adult dogs in any calendar year to the public in order to be subject to licensure as a pet store. Former law specified that a store was considered a pet store if it sold any dogs to the public.

The act also clarifies that a high-volume dog breeder or any other dog breeder – that maintains and sells dogs from the same premises where the dogs are bred and reared – does not need to be licensed as a pet store (and pay the annual \$500 license fee). Thus, dogs sold by high-volume breeders are not subject to the following, which apply to dogs sold at pet stores:

- A requirement that the dogs be obtained from specified sources, including a humane society, dog retailer, or qualified breeder;
- A requirement that the dogs must be eight weeks or older and the dog must have a certificate of veterinarian inspection signed by an accredited veterinarian; and
- A requirement that the dogs be microchipped.¹⁰

Although the requirements above no longer apply to high-volume dog breeders for pet store regulation purposes, similar requirements apply to those breeders under regulations for high-volume dog breeders.

Finally, the act authorizes the Director to reimburse the license application fee that a person pays for a pet store license if:

- The person holds a valid pet store license on October 17, 2019; and
- The person no longer qualifies as a pet store owner or operator as a result of the above changes.

High-volume dog breeders – standards of care

(R.C. 956.031)

The act revises the standards of care for dogs that a high-volume dog breeder must maintain, as follows:

- Clarifies that the primary enclosure requirements for housing dogs that will take effect December 31, 2021, apply to dogs that are 12 weeks or older.

¹⁰ R.C. 956.03 and 956.21, not in the act.

- Regarding the flooring requirements for dog enclosures that will take effect December 31, 2021, requires any coated metal wire (used for flooring) to measure six gauge or thicker. Former law did not address wire diameter.
- Regarding the requirement that a dog be provided with an opportunity to exercise daily for at least 30 minutes, excludes an expectant female dog beginning 52 days after the first breeding date and ending when the dog gives birth.
- Regarding the requirement that a dog be provided an opportunity to safely access the outdoors during daylight hours, excludes (1) an expectant female dog, beginning 52 days after the first breeding date and ending when the dog gives birth, (2) a female dog that is nursing, and (3) a puppy younger than 12 weeks.

Defense for nuisances

(R.C. 929.04)

Under continuing law, in a civil nuisance action brought against a person who conducts agricultural activities, there are several complete defenses the person may raise. The act expands the defense to include:

- Agricultural activities that are conducted on land devoted exclusively to agriculture that is taxed in accordance with the land's current agricultural use value (the act retains law that allows the defense to be claimed with regard to agricultural activities conducted within an agricultural district); and
- Agricultural activities conducted by a person pursuant to a lease agreement, written or otherwise.

It also eliminates the specification that the plaintiff in a nuisance action not be engaged in agricultural production, and defines "agricultural activities" to mean common agricultural practices, including crop cultivation and raising livestock. (Former law did not define "agricultural activities.")

Voluntary nutrient management plans – soil test results

(R.C. 905.31)

The act increases – from three years to four years – the time that soil test results are valid for inclusion in a voluntary nutrient management plan approved by the Director. Continuing law authorizes a person who owns or operates agricultural land to operate under a voluntary nutrient management plan, which is a plan for the application of commercial fertilizer on land. Operating in accordance with a plan provides the person applying fertilizer with an affirmative defense in a private civil action for damages caused by the application of fertilizer.

Urban sediment and storm water runoff pollution

(R.C. 939.02, 939.04, 940.01, 940.02, 940.06, 1501.20, repealed, and 6111.03)

The act does all of the following regarding the law governing soil and water conservation districts and urban sediment and storm water runoff pollution:

- Requires the Director to support the development and implementation of cooperative programs and working agreements between districts and the Ohio Department of Natural Resources (DNR) and the Ohio Environmental Protection Agency (OEPA).
- The act requires the cooperative programs and working agreements to be for the support of farm, rural, suburban, and urban conservation programs. (Former law only required the Director to coordinate those programs and working agreements between districts and ODA.)
- Allows a board of supervisors seek technical guidance and program support from OEPA to address urban sediment and storm water runoff.
- Allows a board of supervisors to enter into contracts or agreements with OEPA to address storm water runoff pollution (instead of only urban sediment pollution, as in former law).
- Adds that the OEPA Director may coordinate with a soil and water conservation district board to ensure compliance with rules adopted by the OEPA Director that pertain to urban sediment and storm water runoff pollution abatement.
- Adds that a board may enter into contracts or agreements with the DNR Director for partnership on state programs to assist with local needs relating to the management of wildlife, forestry, waterways, and other natural resources programs.
- Requires the Ohio Soil and Water Conservation Commission to add the Directors of OEPA and DNR to the list of people or entities that the Commission must make recommendations to regarding soil and water conservation district operations. The act specifies that those recommendations must encourage proper soil, water, and other natural resource management *for farm, rural, suburban, and urban land*. Former law did not specify the types of land that the recommendations applied to.

Tree syrup exemption

(R.C. 3715.021 and 3717.22)

The act exempts a processor of any kind of tree syrup, rather than only maple syrup as in prior law, from:

- The law governing retail food establishments; and
- The Director of Agriculture's rules governing standards and good manufacturing practices for food processing establishments.

Small wineries exemption

(R.C. 3717.22)

The act exempts small wineries from retail food establishment licensure requirements if the winery:

- Serves commercially prepackaged food and sales of that food do not exceed more than 5% of the total gross receipts of the winery; and

- Annually produces 10,000 gallons or less of wine.

The winery owner or operator must notify the Director that it is exempt from licensure because it qualifies under the above conditions, and must disclose to customers that the winery is exempt from licensure.

Wine tax diversion to Ohio Grape Industries Fund

(R.C. 4301.43)

The act extends – through June 30, 2021 – the extra 2¢ per-gallon earmark of wine tax revenue that is credited to the Ohio Grape Industries Fund. Continuing law imposes a tax on the distribution of wine, vermouth, and sparkling and carbonated wine and champagne at rates ranging from 30¢ per gallon to \$1.48 per gallon. From the taxes paid, a portion is credited to the fund for the encouragement of the state’s grape and wine industry. The remainder is credited to the GRF.

Promotion of Ohio agricultural goods in alcohol

(R.C. 901.172)

The act authorizes ODA to establish the following programs to promote the use of Ohio-produced agricultural goods grown for inclusion in beer, cider, and spirituous liquor:

- The “Ohio Proud Craft Beer” program for beer and cider; and
- The “Ohio Proud Craft Spirit” program for spirituous liquor.

The Department’s Division of Markets must develop logotypes (similar to the Department’s “Ohio Proud” logo for agricultural goods) and issue them to beer, cider, and spirituous liquor producers certified under the programs. ODA must adopt rules establishing reasonable fees and criteria for voluntary participation in the programs. The fees must be credited to the GRF and used to finance the programs.

Agricultural Society Facilities Grant Program

(Section 717.11)

The act creates the Agricultural Society Facilities Grant Program to provide grants in FY 2020 to county and independent agricultural societies to support capital projects that enhance the use and enjoyment of agricultural society facilities. Agricultural societies conduct various activities, including operating county fairs. Under the program, agricultural societies may apply to the Director for monetary assistance to acquire, construct, reconstruct, expand, improve, plan, and equip those facilities. Except as discussed below, each agricultural society that applies for assistance must receive an equal amount appropriated for those purposes.

By 90 days after the act’s effective date, the Director or the Director’s designee must establish requirements and procedures for the program, including an application form, procedures for reviewing applications and awarding grants, and any other requirements and procedures the Director or designee determines necessary. Under the program, each agricultural society must provide a matching grant unless the applicant demonstrates that it cannot provide the matching amount. The matching grant may be any combination of funding,

materials, and donated labor. An agricultural society must submit documentation of the matching grant along with the grant application by May 30, 2020.

The Director or designee must approve an application unless:

- The project or facility is not a bondable capital improvement project; or
- The agricultural society does not provide a matching grant (unless a demonstration shows that the applicant cannot provide the matching grant).

The Director or designee must award all grants by June 30, 2020, and notify each grant recipient.

Ohio Expositions Commission

(R.C. 991.02)

The act adds the Ohio State University's Dean of the College of Food, Agricultural, and Environmental Sciences as a nonvoting member of the Ohio Expositions Commission. The Dean is to serve on the Commission without compensation. As part of its duties, the Commission is responsible for conducting the Ohio State Fair.

Propane Marketing Program

(R.C. 936.01, 936.02, 936.03, 936.04, 936.05, 936.06, 936.07, 936.08, 936.09, 936.10, 936.11, 936.12, 936.13, and 936.99)

The act authorizes the creation of the Propane Marketing Program by Ohio propane retailers. Propane is liquefied petroleum gas—a material with a vapor pressure not exceeding that of commercial propane composed predominately of the following hydrocarbons or mixtures: (1) propane, (2) propylene, (3) butane, and (4) butylene.

Background

Continuing law provides a mechanism that allows producers of certain agricultural commodities to establish programs to promote the sale and use of their products, develop new uses and markets, improve the methods of distributing them to consumers, and standardize their quality for specific uses. These agricultural commodity marketing programs (including the Ohio Beef Council and Ohio Egg Marketing Program) are established by producers through the Department. They are funded through assessments on the producers of the commodities. Additionally, the General Assembly has enacted legislation establishing separate Grain and Soybean Marketing Programs.

Creation and administration of program

The act:

- Requires the Director to establish a Propane Council composed of members appointed by the Director, including propane retailers (primary business involves the sale of odorized propane to the ultimate consumer or to a retail propane dispenser) and wholesale distributors (primary business involves the sale of propane to a retailer);

- Requires the Council to adopt procedures by which Ohio propane retailers may propose, develop, and operate a marketing program to do specified tasks, including promoting the safe and efficient use of propane and demonstrating to the general public the importance and economic significance of propane;
- Establishes requirements and procedures by which propane retailers may create a Propane Marketing Program, including doing both of the following:
 - Establishing an assessment on the volume of odorized propane purchased by a retailer from a wholesale distributor that is not more than .005 mills per gallon of odorized propane purchased; and
 - Establishing procedures for retailers to vote on the creation of a marketing program.
- Requires the Director to perform certain duties and responsibilities, including monitoring the Council's actions to ensure that a Propane Marketing Program is self-supporting;
- Establishes procedures for propane retailers to apply for and receive a refund for assessments levied for the program;
- Requires the Council to deposit assessments either in a state fund created by the Council or a private bank account provided that certain requirements are met;
- Establishes requirements and procedures for the temporary suspension or termination of the propane marketing program; and
- Prohibits a propane retailer from knowingly failing or refusing to withhold or remit any assessment levied by the Council, and specifies that a violator is guilty of a fourth degree misdemeanor.