

# Fiscal Note & Local Impact Statement

124<sup>th</sup> General Assembly of Ohio

Ohio Legislative Service Commission  
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BILL: **Am. Sub. S.B. 136** DATE: **November 14, 2001**

STATUS: **As Enacted – Effective on Nov. 21, 2001** SPONSOR: **Sen. Wachtmann**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **To modify the laws pertaining to the administration and enforcement of food safety programs, to require each board of health to have a member who represents the activities licensed by boards of health, and to declare an emergency**

## State Fiscal Highlights

STATE FUND	FY 2002	FY 2003	FUTURE YEARS
<b>General Revenue Fund</b>			
Revenues	Potential minimal increase	Potential minimal increase	Potential minimal increase
Expenditures	Potential increase	Potential increase	Potential increase
<b>Food Safety (Fund 4P7)</b>			
Revenues	Potential minimal increase	Potential minimal increase	Potential minimal increase
Expenditures	Potential increase	Potential increase	Potential increase
<b>General Operations (Fund 470)</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase of \$100,000 to \$113,000	Increase of \$150,000 to \$170,000	Increase of \$150,000 to \$170,000

Note: The state fiscal year is July 1 through June 30. For example, FY 2002 is July 1, 2001 – June 30, 2002.

- The Department of Agriculture shall establish standards for maple syrup or sorghum processors and beekeepers as a result of this bill. These standards must be followed if a processor or beekeeper wishes to place a seal of conformity on their product. The department must also clearly define the types of foods that a cottage food production operation may produce. The department shall establish procedures for registration of farm markets, farmers markets, and farm product auctions. The department states that the funding source for these activities would be from both the General Revenue Fund and Fund 4P7. Expenditures should increase in both funds due to the establishment and implementation of these guidelines and definitions. Revenues should increase due to the registration of farm markets, farmers markets, and farm product auctions. It is unknown at this time how much expenditures will be or how much revenue will be collected.
- The Department of Agriculture could lose minimal license fees from the exemptions to the retail food establishment licensing requirements. The state collects \$24 per license. If establishments are exempt from these requirements, the state will lose revenue. The revenue loss is expected to be minor. For example, Middletown City Health



Department estimates that the state will lose approximately \$72 from these exemptions in Middletown. Columbiana County Health Department estimates that the state will lose approximately \$240.

- An exempt maple syrup or sorghum processor or beekeeper is authorized to request that the Director of Agriculture conduct a voluntary inspection of the processor or beekeeper’s facilities. The department does not plan on assessing a fee for this service.
- The bill provides that all food products are subject to food sampling conducted by the Director of Agriculture to determine whether a food product is misbranded or adulterated. This extends to food products produced and packaged by a cottage food production operation and all packaged maple syrup, sorghum, and honey. The department states that sampling tests will follow standard laboratory sampling procedures. The department is considering testing for lead in maple syrup and pesticides in honey. The lead tests range from \$25 to \$30, while the pesticide testing is approximately \$400. At this time, the tests are still under consideration and no costs have been estimated for the department.
- The Department of Health estimates that 2 new staff members will need to be hired as a result of this bill. The additional staff would be responsible for reviewing the methodology of the local health departments’ licensing fee structure. The cost to the department should be between \$150,000 and \$170,000 per year for the two staff members. This includes fringes and benefits. The figure for fiscal year 2002 was adjusted to reflect that about eight months remain in FY 2002.

### *Local Fiscal Highlights*

LOCAL GOVERNMENT	FY 2002	FY 2003	FUTURE YEARS
<b>Counties and municipalities</b>			
Revenues	Minimal losses	Minimal losses	Minimal losses
Expenditures	Minimal decreases	Minimal decreases	Minimal decreases

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Local health departments could lose licensing revenue due to the provisions within this bill. The losses would be minor for the most part. Also, the local departments would also realize a decrease in expenditures since health inspectors would inspect fewer facilities. The Columbiana County Health Department will license 10 fewer establishments, which will result in a loss of approximately \$1100. The Middletown City Health Department has three retail food establishment licenses that would be exempt due to the elimination of the provision that classifies persons or public entities that sell over-the-counter drugs, nutrients used in lieu of pharmaceuticals, and dietary supplements classification as retail food establishments. This exemption would cost the department approximately \$440 per year. The City of Columbus Local Health Department estimated that the exemptions would not apply to their department. This is because the establishments that sell over-the-counter drugs, nutrients used in lieu of pharmaceuticals, and dietary supplements usually sell other goods such as milk, which is a perishable good. As such, the places already have a license to sell perishable goods. Local health departments situated in rural counties may realize more of an impact due to the exemptions of farm markets farmers markets, and farm products auctions.

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## *Detailed Fiscal Analysis*

### *The Department of Agriculture*

In this bill, the Director of Agriculture is required to establish or adopt rules regarding food safety programs. The requirements the Director of Agriculture must fulfill are the following:

- Adopt good manufacturing practices for food processing establishments that conform with standards for foods established by the United States Food and Drug Administration;
- Adopt rules to establish standards for food sampling and procedures for administration. This is due to the fact that all packaged maple syrup, sorghum, and honey are subject to food sampling conducted by the Department of Agriculture to determine if the food is misbranded or adulterated.
- Adopt rules that establish the standards that maple syrup or sorghum processors and beekeepers must satisfy in order to be permitted to place on the label of their food products a seal of conformity and inspection;
- Adopt rules that clearly outline the food items that a cottage food production operation may produce;
- Prescribe forms for use in calculating the licensing fees that may be charged;
- Review forms from local health departments regarding methodology of fees for retail food establishment licenses;
- Request audits of local health departments to determine if fees are appropriate;
- Issue letters of opinion with the Director of Health. These letters are binding unless rules are adopted that override the letters of opinion;
- Conduct inspections of registered farm markets, farmers markets, and farm product auctions at a frequency deemed appropriate by the director.

These provisions will create an increase in expenditures for the Department of Agriculture. At this time, an estimate of these costs has not been calculated. The department may also see a minimal decrease in revenues. This is due to the fact that exemptions may reduce the number of retail food establishment licenses granted by the local health departments. On the other hand, the department will be able to register farm markets, farmers markets, and farm product auctions. This registration should bring in revenue for the department.

### *The Department of Health*

The Director of Health must also issue a joint letter of opinion along with the Director of Agriculture. This letter shall provide a detailed interpretation of the rules that are the subject of the Retail Food Safety Advisory Council's recommendation. This letter shall be binding uniformly throughout this state unless rules are adopted that override these. The Director of Health must also prescribe forms for use in calculating the licensing fees. The Department of Health must review these forms in the case of fees being charged for food service licenses. The director may request an audit of a local health department

to ensure the licensing fees are appropriate. The department stated that the only costs associated with this bill would be to fund two new staff. The staff will be responsible for reviewing the licensing methodology of the local health departments. The cost will be approximately \$150,000 to \$170,000 per fiscal year. This includes benefits.

### *Local Health Departments*

This bill makes many changes to the retail food establishment law. Many establishments will be exempt from retail food licensing requirements with the passage of this bill. Persons and public entities that sell over-the-counter drugs, nutrients used in lieu of pharmaceuticals, and dietary supplements are exempt from the licensing requirement. Some cottage food producers, as well as some beekeepers, maple syrup producers and sorghum producers are also exempt. Also, farm markets, farmers markets, and farm product auctions are also exempt if they are registered with the Director of Agriculture. The local departments are required to submit annually to the Departments of Agriculture and Health a copy of the forms it uses to calculate its licensing fee. Fines will result in a failure to submit.

The Middletown City Health Department and the Columbus City Health Department responded to inquiries regarding fiscal impacts with this bill. Both departments replied that exemptions should affect them minimally if at all. Middletown City Health Department will lose approximately \$440 in revenues, while Columbus City Health Department will lose nothing. Local health departments in small, rural counties may be more affected by these exemptions. Columbiana County Health Department estimates that they will license 10 fewer establishments due to this bill. The lost revenue to Columbiana will be approximately \$1100.

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