



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Helena Volzer

### **H.B. 65**

132nd General Assembly  
(As Introduced)

**Reps.** Hill, Koehler, Seitz, Cera, Duffey, Blessing, DeVitis, Ryan, Hambley, Carfagna, Brenner, Miller, Kick

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## **BILL SUMMARY**

### **Reviews of food safety inspections**

- Establishes a method for reviewing the inspections of food service operations and retail food establishments that are conducted by registered sanitarians and sanitarians-in-training.
- Requires the Director of Agriculture and Director of Health to designate registered sanitarians who meet specified criteria to act as reviewers.
- Requires the Directors to adopt rules establishing requirements and procedures for reviewing the identification of critical and noncritical violations by registered sanitarians and sanitarians-in-training.
- Prohibits the Directors from evaluating the performance of a registered sanitarian or sanitarian-in-training based on the failure to identify noncritical violations.
- Incorporates reviews conducted under the bill into the surveys that the Directors must conduct to evaluate each board of health's food inspection program.
- Requires the Directors to produce an annual report identifying the violations most commonly missed by registered sanitarians and sanitarians-in-training.
- Exempts registered sanitarians and sanitarians-in-training who annually conduct five or fewer inspections or who solely and exclusively inspect vending food service operations, temporary food service operations, or temporary retail food establishments from the review requirements of the bill.

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## CONTENT AND OPERATION

### Reviews of food safety inspections

The bill requires the Director of Agriculture and the Director of Health to establish, by joint rules, a mechanism for reviewing the inspections of food service operations and retail food establishments that are conducted by registered sanitarians and sanitarians-in-training. The bill requires the reviews to be included in surveys of boards of health that are conducted to determine compliance with the laws governing food safety inspections and the Ohio Uniform Food Safety Code.<sup>1</sup> If a survey does not demonstrate that a board of health has the capacity to appropriately enforce these regulations, a board of health could lose its authority as the licensor of food service operations or retail food establishments.<sup>2</sup>

Under current law, a retail food establishment is a premises where food is stored, processed, prepared, manufactured, or otherwise held or handled for retail sale (for example, a grocery store). A food service operation is a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation (for example, a restaurant).<sup>3</sup> Generally, boards of health administer and enforce the food safety regulations that govern these facilities. If a board licenses retail food establishments, the Director of Agriculture is responsible for evaluating the board's licensure program. If a board licenses food service operations, the Director of Health is responsible for evaluating the board's licensure program.<sup>4</sup>

#### Reviewers

For purposes of the review process, the bill requires the Directors to designate registered sanitarians to act as reviewers. The designated reviewers must have conducted a minimum number of inspections as determined by the Directors, including the following types of inspections:

- (1) Standard food safety inspections;
- (2) Critical control point inspections designed to identify and prevent food handling procedures that epidemiological data have shown lead to outbreaks of foodborne illness; and

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<sup>1</sup> R.C. 3717.042(B).

<sup>2</sup> R.C. 3717.11, not in the bill.

<sup>3</sup> R.C. 3717.01, not in the bill.

<sup>4</sup> R.C. 3717.11, not in the bill.



(3) Process review inspections made to determine if a processing procedure is in compliance with the law governing retail food establishments and food service operations.<sup>5</sup>

## Review methodology

### Critical violations

The bill requires the Directors to establish a definition of "critical violation" in conjunction with the Ohio Environmental Health Association and the Association of Ohio Health Commissioners. The Directors then must establish a methodology of review to determine if a registered sanitarian or sanitarian-in-training has properly identified critical violations during an inspection. The chart below sets forth the review methodology required by the bill.<sup>6</sup>

Number of critical violations identified by reviewer	Number of critical violations identified by the reviewer that a registered sanitarian or sanitarian-in-training must not miss	Example
1-5	More than one critical violation documented by the reviewer.	If the reviewer documents three critical violations, the sanitarian or sanitarian-in-training must identify at least two of those violations.
6-10	More than two critical violations documented by the reviewer.	If the reviewer documents nine critical violations, the sanitarian or sanitarian-in-training must identify at least seven of those violations.
10 and up	More than two critical violations documented by the reviewer, or more than 10% of the critical violations documented by the reviewer, whichever is greater.	If the reviewer documents 40 critical violations, the sanitarian or sanitarian-in-training must identify at least 36 of those violations.

### Noncritical violations

The bill also requires the Directors to establish the following regarding the identification of noncritical violations:

(1) A requirement that a registered sanitarian or sanitarian-in-training must verbally identify or document any noncritical violations during an inspection;

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<sup>5</sup> R.C. 3717.042(C).

<sup>6</sup> R.C. 3717.042(B)(1) and (2).

(2) A requirement that a reviewer document all noncritical violations during an inspection on a form jointly approved by the Directors and compare the noncritical violations documented by the reviewer to noncritical violations identified by the registered sanitarian or sanitarian-in-training (the comparison must take place immediately after an inspection); and

(3) A requirement that a reviewer issue a report at the conclusion of an inspection conducted by a registered sanitarian or sanitarian-in-training that identifies noncritical violations that were not identified by the registered sanitarian or sanitarian-in-training.

While the bill requires the Directors to establish the above review process regarding noncritical violations, it prohibits the Directors from using the identification of noncritical violations for purposes of evaluating the performance of a registered sanitarian or sanitarian-in-training.<sup>7</sup> The bill makes no such specification regarding the identification of critical violations.

### **Annual report of violations**

The bill requires the Directors to jointly develop an annual report identifying the most common critical and noncritical violations that are missed by registered sanitarians or sanitarians-in-training. The Directors must provide the report to the President of the Senate, the Speaker of the House of Representatives, the Ohio Environmental Health Association, and the Association of Ohio Health Commissioners.<sup>8</sup>

### **Exemptions**

The following registered sanitarians or sanitarians-in-training are exempt from the review methodology established by the bill:

(1) Registered sanitarians or sanitarians-in-training who annually conduct five or fewer food safety inspections; and

(2) Registered sanitarians or sanitarians-in-training who solely and exclusively inspect vending food service operations, temporary food service operations, or temporary retail food establishments.<sup>9</sup>

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<sup>7</sup> R.C. 3717.042(B)(3), (4), and (5) and (D).

<sup>8</sup> R.C. 3717.042(B)(6).

<sup>9</sup> R.C. 3717.042(E).

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## HISTORY

ACTION

DATE

Introduced

02-15-17

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