

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 115**

**Representatives Riedel, Roemer**

**Cosponsors: Representatives Antani, Jones, McClain, Jordan, Romanchuk, Lang,  
Becker, Seitz, Merrin, Stein, Hood, Lipps, Ginter, Dean, Wiggam, Butler, Kick,  
Carfagna, Scherer**

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**A BILL**

To amend sections 106.021 and 106.03 and to enact 1  
sections 101.354, 101.355, 121.031, 121.95, 2  
121.951, 121.952, and 121.953 of the Revised 3  
Code to require certain agencies to reduce the 4  
number of regulatory restrictions and to amend 5  
the versions of sections 106.021 and 106.03 of 6  
the Revised Code that are scheduled to take 7  
effect August 18, 2019, to continue the 8  
provision of this act on and after that 9  
effective date. 10

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

**Section 1.** That sections 106.021 and 106.03 be amended and 11  
sections 101.354, 101.355, 121.031, 121.95, 121.951, 121.952, 12  
and 121.953 of the Revised Code be enacted to read as follows: 13

**Sec. 101.354.** The joint committee on agency rule review 14  
shall advise and assist state agencies in preparing base and 15  
revised inventories of regulatory restrictions, and shall advise 16  
and assist state agencies in achieving specified percentage 17

reductions in regulatory restrictions in the Administrative Code 18  
in accordance with sections 121.95, 121.951, 121.952, and 19  
121.953 of the Revised Code. 20

Annually, not later than the fifteenth day of June, 21  
beginning in 2020, the executive director of the joint committee 22  
shall prepare an historical report aggregating the reports 23  
received from state agencies for the preceding year. In the 24  
report, the executive director also shall describe the work of 25  
the joint committee over the preceding year with respect to 26  
reduction of regulatory restrictions, and shall indicate, out of 27  
the total number of regulatory restrictions inventoried by state 28  
agencies, the percentage by which state agencies have reduced 29  
those regulatory restrictions. The report also shall provide 30  
recommendations for statutory changes, where appropriate, 31  
brought to the attention of the joint committee as contributing 32  
to the adoption of regulatory restrictions. The report shall be 33  
submitted to the members of the joint committee. 34

The joint committee shall publish the report on its web 35  
site, and shall transmit copies of the report electronically to 36  
the general assembly. 37

**Sec. 101.355.** The joint committee on agency rule review, 38  
in consultation with legislative information systems, shall 39  
create and maintain a system that state agencies shall use to 40  
enter regulatory restriction data, create required inventories, 41  
and transmit copies of inventories, reports, and any other 42  
documents to the joint committee and the general assembly under 43  
sections 121.95, 121.951, and 121.953 of the Revised Code, and 44  
that will assist the joint committee in aggregating reports and 45  
performing other prescribed duties under sections 101.354, 46  
121.95, 121.951, 121.952, and 121.953 of the Revised Code. 47

The joint committee, in consultation with legislative information systems, also shall develop a web site to convey information regarding the reduction of regulatory restrictions by state agencies to the public. 48  
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**Sec. 106.021.** If, upon reviewing a proposed rule or revised proposed rule, the joint committee on agency rule review makes any of the following findings with regard to the proposed rule or revised proposed rule, the joint committee may recommend to the senate and house of representatives the adoption of a concurrent resolution to invalidate the proposed rule or revised proposed rule or a part thereof: 52  
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(A) The proposed rule or revised proposed rule exceeds the scope of its statutory authority. 59  
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(B) The proposed rule or revised proposed rule conflicts with the legislative intent of the statute under which it was proposed. 61  
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(C) The proposed rule or revised proposed rule conflicts with another proposed or existing rule. 64  
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(D) The proposed rule or revised proposed rule incorporates a text or other material by reference and either the agency has failed to file the text or other material incorporated by reference as required by section 121.73 of the Revised Code or the incorporation by reference fails to meet the standards stated in sections 121.72, 121.75, and 121.76 of the Revised Code. 66  
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(E) The agency has failed to prepare a complete and accurate rule summary and fiscal analysis of the proposed rule or revised proposed rule as required by section 127.18 of the Revised Code. 73  
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(F) The agency has failed to demonstrate through the business impact analysis, recommendations from the common sense initiative office, and the memorandum of response that the regulatory intent of the proposed rule or revised proposed rule justifies its adverse impact on businesses in this state.

(G) The agency has failed to justify the proposed amendment or rescission of a rule containing a regulatory restriction.

**Sec. 106.03.** Prior to the review date of an existing rule, the agency that adopted the rule shall do both of the following:

(A) Review the rule to determine all of the following:

(1) Whether the rule should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted;

(2) Whether the rule needs amendment or rescission to give more flexibility at the local level;

(3) Whether the rule needs amendment or rescission to eliminate unnecessary paperwork;

(4) Whether the rule incorporates a text or other material by reference and, if so, whether the text or other material incorporated by reference is deposited or displayed as required by section 121.74 of the Revised Code and whether the incorporation by reference meets the standards stated in sections 121.72, 121.75, and 121.76 of the Revised Code;

(5) Whether the rule duplicates, overlaps with, or conflicts with other rules;

(6) Whether the rule has an adverse impact on businesses,

as determined under section 107.52 of the Revised Code; 105

(7) Whether the rule contains words or phrases having 106  
meanings that in contemporary usage are understood as being 107  
derogatory or offensive;~~and~~ 108

(8) Whether the rule requires liability insurance, a bond, 109  
or any other financial responsibility instrument as a condition 110  
of licensure; and 111

(9) Whether a rule that contains one or more regulatory 112  
restrictions should be amended or rescinded to reduce regulatory 113  
restrictions. 114

In making its review, the agency shall consider the 115  
continued need for the rule, the nature of any complaints or 116  
comments received concerning the rule, and any relevant factors 117  
that have changed in the subject matter area affected by the 118  
rule. 119

(B) On the basis of its review of the existing rule, the 120  
agency shall determine whether the existing rule needs to be 121  
amended or rescinded. 122

(1) If the existing rule needs to be amended or rescinded, 123  
the agency, on or before the review date of the existing rule, 124  
shall commence the process of amending or rescinding the 125  
existing rule in accordance with its review of the rule. 126

(2) If the existing rule does not need to be amended or 127  
rescinded, proceedings shall be had under section 106.031 of the 128  
Revised Code. 129

Upon the request of the agency that adopted an existing 130  
rule, the joint committee on agency rule review may extend the 131  
review date of the rule to a date that is not later than one 132

hundred eighty days after the review date assigned to the rule 133  
by the agency. Not more than two such extensions may be allowed. 134

Sec. 121.031. The administrative department head of an 135  
administrative department created under section 121.02 of the 136  
Revised Code, or an administrative department head appointed 137  
under section 121.03 of the Revised Code may direct an otherwise 138  
independent official or state agency that is organized under the 139  
administrative department or administrative department head as 140  
necessary to achieve reductions in regulatory restrictions in 141  
rules in compliance with sections 121.95, 121.951, 121.952, and 142  
121.953 of the Revised Code. 143

Sec. 121.95. As used in sections 121.95, 121.951, 121.952, 144  
and 121.953 of the Revised Code, "state agency" means an 145  
administrative department created under section 121.02 of the 146  
Revised Code or an administrative department head appointed 147  
under section 121.03 of the Revised Code, and state agencies 148  
organized under an administrative department or administrative 149  
department head. "State agency" also includes the offices of the 150  
attorney general, secretary of state, auditor of state, and 151  
treasurer of state, as well as the department of education, 152  
state lottery commission, Ohio casino control commission, state 153  
racing commission, and the public utilities commission of Ohio. 154  
Rules adopted by an otherwise independent official or entity 155  
organized under a state agency shall be attributed to the agency 156  
under which the official or entity is organized for the purposes 157  
of sections 121.95, 121.951, 121.952, and 121.953 of the Revised 158  
Code. 159

Not later than December 31, 2019, a state agency shall 160  
review its existing rules to identify rules having one or more 161  
regulatory restrictions that require or prohibit an action and 162

prepare an inventory of the regulatory restrictions in its 163  
existing rules. Examples of words suggesting that a rule 164  
incorporates a regulatory restriction include "shall," "must," 165  
"require," "shall not," "may not," and "prohibit." A rule of 166  
law, phrased in indicative mood, also may constitute a 167  
regulatory restriction. This inventory is the "base inventory." 168

In the inventory, the state agency shall indicate all of 169  
the following: 170

(A) The regulatory restriction; 171

(B) The rule number of the rule in which the regulatory 172  
restriction appears; 173

(C) The statute under which the regulatory restriction was 174  
adopted; 175

(D) Whether removing the regulatory restriction would 176  
require statutory change; 177

(E) Any other information the joint committee on agency 178  
rule review considers necessary. 179

The state agency shall compute and state the total number 180  
of regulatory restrictions indicated in the inventory. 181

The state agency shall post the inventory on its web site, 182  
and shall electronically transmit a copy of the inventory to the 183  
joint committee. The joint committee shall review the inventory, 184  
and shall transmit the inventory electronically to the general 185  
assembly after it has been reviewed. 186

The inventory requirement does not apply to an internal 187  
management rule or any rule required to be adopted verbatim by 188  
the controlling statute. 189

Sec. 121.951. (A) (1) A state agency shall amend or rescind 190  
rules identified in its inventory of regulatory restrictions as 191  
necessary to reduce the total number of regulatory restrictions 192  
by thirty per cent, according to the following schedule: 193

(a) A ten per cent reduction not later than December 31, 194  
2020; 195

(b) A twenty per cent reduction not later than December 196  
31, 2021; and 197

(c) The thirty per cent reduction not later than December 198  
31, 2022. 199

When a reduction of any percentage in regulatory 200  
restrictions, whether or not as specified in this section, has 201  
been achieved, the state agency may not adopt or maintain 202  
regulatory restrictions that would negate the reduction. 203

(2) If a specified percentage reduction has not been 204  
achieved according to the schedule, the state agency may not 205  
adopt a new regulatory restriction unless it simultaneously 206  
removes two or more other existing regulatory restrictions, 207  
until the specified thirty per cent reduction has been achieved. 208  
The state agency may not fulfill this requirement by merging two 209  
or more existing regulatory restrictions into a single surviving 210  
regulatory restriction. 211

(3) The state agency is encouraged to continue to reduce 212  
regulatory restrictions after the specified thirty per cent 213  
reduction has been achieved. 214

(B) Not later than March 15, 2021, and annually 215  
thereafter, the state agency shall prepare an historical report 216  
of its progress in reducing regulatory restrictions over the 217  
preceding year under divisions (A) (1) and (2) of this section. 218

The state agency shall include a revised inventory of regulatory 219  
restrictions with the report. 220

In the revised inventory, in addition to the information 221  
required by section 121.95 of the Revised Code, the state agency 222  
shall compute the net reduction in regulatory restrictions by 223  
adding the number of regulatory restrictions carried forward 224  
from the previous inventory to the number of regulatory 225  
restrictions added since the previous inventory, and then 226  
subtracting from the sum of the carried over and new regulatory 227  
restrictions the number of regulatory restrictions eliminated 228  
since the previous inventory. The state agency then shall 229  
subtract the net reduction from the number of regulatory 230  
restrictions in the base inventory, and divide the result by the 231  
number of regulatory restrictions in the base inventory to 232  
determine the percentage reduction in regulatory restrictions. 233

The state agency shall transmit the report electronically 234  
to the joint committee on agency rule review. The joint 235  
committee shall review the report, and shall transmit it 236  
electronically to the general assembly. The state agency shall 237  
continue preparing and transmitting a report until it has 238  
reported that it has achieved the specified thirty per cent 239  
reduction in regulatory restrictions. 240

**Sec. 121.952.** If a state agency fails to reduce regulatory 241  
restrictions by a required percentage within one hundred twenty 242  
days after a reduction deadline in section 121.951 of the 243  
Revised Code, the joint committee on agency rule review shall 244  
afford the state agency an opportunity to appear before the 245  
joint committee to show cause why the agency has not achieved 246  
the required reduction in regulatory restrictions. If the state 247  
agency appears before the joint committee at the time scheduled 248

for the state agency to show cause, and the joint committee, by 249  
vote of a majority of its members present in a meeting at which 250  
a quorum of its members are present, determines that the state 251  
agency has shown cause, the joint committee shall provide to the 252  
general assembly recommendations of statutory changes as 253  
determined necessary to accommodate the state agency's inability 254  
to achieve a required reduction in regulatory restrictions. 255

**Sec. 121.953.** Effective January 1, 2023, the state is 256  
limited in the number of regulatory restrictions that may be 257  
effective at any one time to a number that is seventy per cent 258  
of the aggregate total of regulatory restrictions identified by 259  
all state agencies in the base inventories prepared under 260  
section 121.95 of the Revised Code, as determined by the joint 261  
committee on agency rule review. A state agency shall contact 262  
the joint committee before submitting a proposed rule containing 263  
a regulatory restriction, and the joint committee shall 264  
determine whether adopting the regulatory restriction would 265  
cause the state to exceed the number of regulatory restrictions 266  
permitted under this section. A state agency may not adopt a 267  
rule if by adopting the rule the state agency would cause the 268  
number of regulatory restrictions to exceed the state limit as 269  
determined by the joint committee. 270

**Section 2.** That existing sections 106.021 and 106.03 of 271  
the Revised Code are hereby repealed. 272

**Section 3.** That the versions of sections 106.021 and 273  
106.03 of the Revised Code that are scheduled to take effect 274  
August 18, 2019, be amended to read as follows: 275

**Sec. 106.021.** If, upon reviewing a proposed rule or 276  
revised proposed rule, the joint committee on agency rule review 277  
makes any of the following findings with regard to the proposed 278

rule or revised proposed rule, the joint committee may recommend	279
to the senate and house of representatives the adoption of a	280
concurrent resolution to invalidate the proposed rule or revised	281
proposed rule or a part thereof:	282
(A) The proposed rule or revised proposed rule exceeds the	283
scope of its statutory authority.	284
(B) The proposed rule or revised proposed rule conflicts	285
with the legislative intent of the statute under which it was	286
proposed.	287
(C) The proposed rule or revised proposed rule conflicts	288
with another proposed or existing rule.	289
(D) The proposed rule or revised proposed rule	290
incorporates a text or other material by reference and:	291
(1) The accompanying citation is not such as reasonably	292
would enable a reasonable person to whom the proposed rule or	293
revised proposed rule applies readily and without charge to find	294
and inspect the incorporated text or other material;	295
(2) The accompanying citation is not such as reasonably	296
would enable the joint committee readily and without charge to	297
find and inspect the incorporated text or other material, and	298
the agency did not file or otherwise make the incorporated text	299
or other material available without charge to the joint	300
committee; or	301
(3) The agency has treated the proposed rule or revised	302
proposed rule in whole or in part as exempt from sections 121.71	303
to 121.74 of the Revised Code on grounds the incorporated text	304
or other material has one or more of the characteristics	305
described in division (B) of section 121.75 of the Revised Code,	306
but the incorporated text or other material actually does not	307

have any of those characteristics.	308
(E) The agency has failed to prepare a complete and accurate rule summary and fiscal analysis of the proposed rule or revised proposed rule as required by section 106.024 of the Revised Code.	309 310 311 312
(F) The agency has failed to demonstrate through the business impact analysis, recommendations from the common sense initiative office, and the memorandum of response that the regulatory intent of the proposed rule or revised proposed rule justifies its adverse impact on businesses in this state.	313 314 315 316 317
<u>(G) The agency has failed to justify the proposed amendment or rescission of a rule containing a regulatory restriction.</u>	318 319 320
<b>Sec. 106.03.</b> Prior to the review date of an existing rule, the agency that adopted the rule shall do both of the following:	321 322
(A) Review the rule to determine all of the following:	323
(1) Whether the rule should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted;	324 325 326 327
(2) Whether the rule needs amendment or rescission to give more flexibility at the local level;	328 329
(3) Whether the rule needs amendment or rescission to eliminate unnecessary paperwork;	330 331
(4) Whether the rule incorporates a text or other material by reference and, if so:	332 333
(a) Whether the citation accompanying the incorporation by	334

reference is such as reasonably would enable a reasonable person 335  
to whom the rule applies readily and without charge to find and 336  
inspect the incorporated text or other material; 337

(b) Whether the citation accompanying the incorporation by 338  
reference is such as reasonably would enable the joint committee 339  
on agency rule review readily and without charge to find and 340  
inspect the incorporated text or other material; and 341

(c) If the rule has been exempted in whole or in part from 342  
sections 121.71 to 121.74 of the Revised Code on grounds the 343  
incorporated text or other material has one or more of the 344  
characteristics described in division (B) of section 121.75 of 345  
the Revised Code, whether the incorporated text or other 346  
material actually has any of those characteristics. 347

(5) Whether the rule duplicates, overlaps with, or 348  
conflicts with other rules; 349

(6) Whether the rule has an adverse impact on businesses, 350  
as determined under section 107.52 of the Revised Code; 351

(7) Whether the rule contains words or phrases having 352  
meanings that in contemporary usage are understood as being 353  
derogatory or offensive; ~~and~~ 354

(8) Whether the rule requires liability insurance, a bond, 355  
or any other financial responsibility instrument as a condition 356  
of licensure; and 357

(9) Whether a rule that contains one or more regulatory 358  
restrictions should be amended or rescinded to reduce regulatory 359  
restrictions. 360

In making its review, the agency shall consider the 361  
continued need for the rule, the nature of any complaints or 362

comments received concerning the rule, and any relevant factors 363  
that have changed in the subject matter area affected by the 364  
rule. 365

(B) On the basis of its review of the existing rule, the 366  
agency shall determine whether the existing rule needs to be 367  
amended or rescinded. 368

(1) If the existing rule needs to be amended or rescinded, 369  
the agency, on or before the review date of the existing rule, 370  
shall commence the process of amending or rescinding the 371  
existing rule in accordance with its review of the rule. 372

(2) If the existing rule does not need to be amended or 373  
rescinded, proceedings shall be had under section 106.031 of the 374  
Revised Code. 375

Upon the request of the agency that adopted an existing 376  
rule, the joint committee on agency rule review may extend the 377  
review date of the rule to a date that is not later than one 378  
hundred eighty days after the review date assigned to the rule 379  
by the agency. Not more than two such extensions may be allowed. 380

**Section 4.** That the existing versions of sections 106.021 381  
and 106.03 of the Revised Code that are scheduled to take effect 382  
August 18, 2019, are hereby repealed. 383