



## Ohio Revised Code

### Section 3717.29 Board of health may suspend or revoke retail food establishment license.

Effective: November 21, 2001

Legislation: Senate Bill 136 - 124th General Assembly

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(A) This section applies when the licensor of retail food establishments is a board of health.

(B) A board of health may suspend or revoke a retail food establishment license on determining that the license holder is in violation of any requirement of this chapter or the rules adopted under it applicable to retail food establishments, including a violation evidenced by documented failure to maintain sanitary conditions within the establishment.

(C)(1) Except in the case of a violation that presents a clear and present danger to the public health, before initiating action to suspend or revoke a retail food establishment license, the board shall give the license holder written notice specifying each violation and a reasonable time within which the license holder must correct each violation to avoid suspension or revocation of the license. The board may extend the time specified in the notice for correcting a violation if the license holder is making a good faith effort to correct it.

If the license holder fails to correct the violation in the time granted by the board, the board may initiate action to suspend or revoke the retail food establishment license by giving the license holder written notice of the proposed suspension or revocation. The board shall include in the notice a description of the procedure for appealing the proposed suspension or revocation. The license holder may appeal the proposed suspension or revocation by giving written notice to the board. The license holder shall specify in the notice whether a hearing is requested. The appeal shall be conducted in accordance with division (C)(3) of this section.

A health commissioner or other person employed by the board, if the health commissioner or person is authorized by the board to take the action, may take any action that the board may take under division (C)(1) of this section.

(2) If a board initiates actions to revoke or, except in the case of a violation that presents a clear and



present danger to the public health, to suspend a retail food establishment license, the board shall determine whether to revoke or suspend the license by a majority vote of the board members who are present at a meeting at which there is a quorum.

If the board decides to revoke or suspend the license, the board shall issue a formal written order revoking or suspending the license.

(3) An appeal made under division (C)(1) of this section shall be conducted in accordance with procedures established in rules adopted by the director of agriculture under section 3717.33 of the Revised Code. If a license holder requests a hearing, the board shall hold the hearing before issuing an order under division (C)(2) of this section but may hold the hearing at the same meeting at which issuance of the order is considered.

(D)(1) On determining that a license holder is in violation of any requirement of this chapter or the rules adopted under it applicable to retail food establishments and that the violation presents a clear and present danger to the public health, the board may suspend the retail food establishment license without giving written notice or affording the license holder the opportunity to correct the violation. If the license holder is operating a mobile retail food establishment, either the licensor that issued the license or the licensor for the health district in which the establishment is being operated may suspend the license.

A suspension under division (D)(1) of this section takes effect immediately and remains in effect until the board rescinds the suspension. When a mobile retail food establishment license is suspended under this division, the licensor that suspended the license shall hold the license until the suspension is lifted and the licensor receives from the license holder written notice of the next location at which the license holder proposes to operate the retail food establishment.

After suspending a license under division (D)(1) of this section, the licensor shall give the license holder written notice of the procedure for appealing the suspension. The license holder may appeal the suspension by giving written notice to the board and specifying in the notice whether a hearing is requested. The appeal shall be conducted in accordance with division (D)(2) of this section.

A health commissioner, if authorized by the board to take the action, may take any action that may



be taken by the board under division (D)(1) of this section. A health commissioner who suspends a license under this authority, on determining that there is no longer a clear and present danger to the public health, may rescind the suspension without consulting the board.

(2) If the license holder appeals a suspension under division (D)(1) of this section, the board shall determine whether the clear and present danger to the public health continues to exist by majority vote of the board members who are present at a meeting at which there is a quorum.

If the board determines that there is no longer a clear and present danger to the public health, the board shall rescind the suspension. If the board determines that the clear and present danger continues to exist, the board shall issue an order continuing the suspension.

(3) An appeal requested under division (D)(1) of this section shall be conducted in accordance with procedures established in rules adopted by the director of agriculture under section 3717.33 of the Revised Code. If the license holder requests a hearing, the board shall hold the hearing not later than two business days after the board receives the request. The board shall hold the hearing before issuing an order under division (D)(2) of this section but may conduct the hearing at the same meeting at which issuance of the order is considered. In the case of a suspension of a mobile retail food establishment, the appeal shall be made to the licensor that suspended the license.

(E) A license holder may appeal an order issued under division (C) or (D) of this section to the common pleas court of the county in which the licensor is located.