



Ohio Revised Code

Section 3717.49 Licensors may suspend or revoke food service operation licenses.

Effective: November 3, 1999

Legislation: House Bill 223 - 123rd General Assembly

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

(B)(1) Except in the case of a violation that presents an immediate danger to the public health, prior to initiating action to suspend or revoke a food service operation license, the licensor shall give the license holder written notice specifying each violation and a reasonable time within which each violation must be corrected to avoid suspension or revocation of the license. The licensor 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 licensor, the licensor may initiate action to suspend or revoke the food service operation license by giving the license holder written notice of the proposed suspension or revocation. The licensor 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 licensor. The license holder shall specify in the notice whether a hearing is requested. The appeal shall be conducted in accordance with division (B)(3) of this section.

Any action that may be taken by a licensor under division (B)(1) of this section may be taken by a health commissioner or other person employed by the licensor if the person or health commissioner is authorized by the licensor to take the action.

(2)(a) If actions are initiated to revoke or, except in the case of a violation that presents an immediate danger to the public health, to suspend a food service operation license, the licensor shall determine whether to revoke or suspend the license as follows:



(i) If the licensor is a board of health, by a majority vote of the members of the board present at a meeting at which there is a quorum;

(ii) If the director of health is acting as the licensor, by decision of the director.

(b) If the licensor determines to revoke or suspend the license, the licensor shall issue an order revoking or suspending the license.

(3) An appeal made under division (B)(1) of this section shall be conducted in accordance with procedures established in rules adopted by the director of health under section 3717.52 of the Revised Code. If a hearing is requested, it shall be held prior to the issuance of an order under division (B)(2) of this section, but may be conducted at the meeting at which issuance of the order is considered.

(C)(1) On determining that a license holder is in violation of any requirement of this chapter or the rules adopted under it applicable to food service operations and that the violation presents an immediate danger to the public health, the licensor may suspend the food service operation license without giving written notice or affording the license holder the opportunity to correct the violation. If the license holder is operating a mobile or catering food service operation, either the licensor that issued the license or the licensor for the health district in which the operation is being operated may suspend the license.

A suspension under division (C)(1) of this section takes effect immediately and remains in effect until the licensor lifts the suspension. When a mobile food service operation 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 food service operation.

After suspending a license under division (C)(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 licensor and specifying in the notice whether a hearing is requested. The appeal shall be conducted in accordance with division (C)(2) of this section.



Any action that may be taken by a licensor under division (C)(1) of this section may be taken by a health commissioner if the health commissioner is authorized by the licensor to take the action. A health commissioner who suspends a license under this authority may, on determining that there is no longer an immediate danger to the public health, lift the suspension without consulting the licensor.

(2)(a) If the license holder appeals a suspension under division (C)(1) of this section, the licensor shall determine whether the immediate danger to the public health continues to exist as follows:

(i) If the licensor is a board of health, by majority vote of the members of the board present at a meeting at which there is a quorum;

(ii) If the director of health is acting as the licensor, by decision of the director.

(b) If the licensor determines that there is no longer an immediate danger to the public health, the licensor shall lift the suspension. If the licensor determines that the immediate danger continues to exist, the licensor shall issue an order continuing the suspension.

(3) An appeal requested under division (C)(1) of this section shall be conducted in accordance with procedures established in rules adopted by the director of health under section 3717.52 of the Revised Code. If a hearing is requested, it shall be held not later than two business days after the request is received by the licensor. The hearing shall be held prior to the issuance of an order under division (C)(2) of this section, but may be conducted at the meeting at which issuance of the order is considered. In the case of a suspension of a mobile or catering food service operation license, the appeal shall be made to the licensor that suspended the license.

(D) A license holder may appeal an order issued under division (B) or (C) of this section as follows:

(1) If the order was issued by a board of health, to the common pleas court of the county in which the licensor is located;

(2) If the order was issued by the director of health, to the Franklin county court of common pleas.