



Ohio Revised Code Section 3750.11 Enforcement.

Effective: December 14, 1988

Legislation: Senate Bill 367 - 117th General Assembly

(A) Except as provided in division (E) of this section, no local emergency planning committee shall enforce any resolution, rule, or requirement for the reporting or providing of the names or amounts of extremely hazardous substances or hazardous chemicals produced, used, or stored at facilities under the jurisdiction of the committee; for the reporting or providing of information regarding locations where those substances or chemicals are stored at those facilities; or for the reporting of releases of extremely hazardous substances, hazardous substances, or oil, that is not consistent with and equivalent in scope, content, and coverage to the reporting and hazard communication provisions of this chapter and rules adopted under it, unless the committee first obtains a variance from the emergency response commission under division (B) of this section.

(B) A committee shall, prior to commencing enforcement of any such requirement, submit a copy of it to the commission along with an application for a variance from division (A) of this section in accordance with rules adopted under division (B)(2)(e) of section 3750.02 of the Revised Code. On or before the date that the committee submits the variance application to the commission, the committee shall mail by certified mail, return receipt requested, notice of the application and a summary of the reporting requirement to the owner or operator of each facility within the emergency planning district that the committee determines would be subject to the reporting requirement. If the commission finds that the resolution, rule, or requirement meets the criteria for issuance of a variance established in those rules, it shall approve the application and issue an order granting the variance in accordance with section 3750.18 of the Revised Code. The commission shall not issue any order approving a variance application unless at least sixty per cent of the voting members of the commission vote to approve the application and issuance of the order. If less than sixty per cent of the voting members of the commission vote to approve a variance application, the commission shall issue an order denying the variance.

(C) Except as provided in division (G) of this section, no political subdivision shall enforce any ordinance, resolution, rule, or requirement adopted on or after the effective date of this section, or any amendment adopted on or after the effective date of this section to any such ordinance,



resolution, rule, or requirement that was in effect on the effective date of this section, for the reporting or providing of the names or amounts of extremely hazardous substances or hazardous chemicals produced, used, or stored, at facilities within the political subdivision; for the reporting or providing of information regarding locations where those substances or chemicals are stored at those facilities; or for the reporting of releases of those extremely hazardous substances, hazardous substances, or oil that is not consistent with, equivalent to, and no more stringent than the reporting and hazard communication requirements of this chapter and rules adopted under it, unless the political subdivision first obtains a variance under this division.

A political subdivision that seeks to obtain a variance under this division shall submit a copy of the ordinance, resolution, rule, or requirement to the committee of the district in which the political subdivision is located along with an application for a variance in accordance with rules adopted under division (B)(2)(e) of section 3750.02 of the Revised Code. On or before the date that the political subdivision submits the variance application to the committee, the political subdivision shall mail by certified mail, return receipt requested, notice of the application and a summary of the reporting requirement to the owner or operator of each facility within the political subdivision that the political subdivision determines would be subject to the reporting requirement. If, in the opinion of the committee, the ordinance, resolution, rule, or requirement of the political subdivision meets the criteria for issuance of a variance established in those rules and does not conflict with any resolution, rule, or requirement adopted by the committee, the committee shall, by resolution, approve issuance of the variance and send a copy of its resolution, of the political subdivision's variance application, and of the ordinance, resolution, rule or requirement, to the commission. The committee shall not approve issuance of a variance under this division unless at least sixty per cent of the voting members of the committee vote to approve it. If the commission finds that the committee has approved issuance of a variance and that the ordinance, resolution, rule, or requirement of the political subdivision meets the criteria for issuance of a variance established in those rules, it shall approve the application and issue an order in accordance with section 3750.18 of the Revised Code granting the variance. The commission shall not issue any order approving a variance application unless at least sixty per cent of the voting members of the commission vote to approve the application and issuance of an order granting the variance. If less than sixty per cent of the voting members of the commission vote to approve a variance application, the commission shall issue an order denying the variance.



This division does not affect the validity or enforceability of any such ordinance, resolution, rule, or requirement of a political subdivision adopted prior to the effective date of this section. However, this division applies to any amendment to any such ordinance, resolution, rule, or requirement, which amendment is adopted on or after the effective date of this section and establishes a reporting requirement that is not consistent with, equivalent to, and no more stringent than the reporting and hazard communication requirements of this chapter and rules adopted under it.

(D) No political subdivision shall enforce any ordinance, resolution, rule, or requirement adopted on or after the effective date of this chapter requiring the placement of emergency response lock box units at any facility where an extremely hazardous substance, hazardous chemical, or hazardous substance is produced, used, or stored. The fire department of a political subdivision having jurisdiction over a facility and the owner or operator of such a facility may enter into an agreement under which the owner or operator will place and maintain an emergency response lock box unit at his facility in compliance with rules adopted under division (B)(6) of section 3750.02 of the Revised Code. If the fire department of a political subdivision and an owner or operator of such a facility are unable to enter into such an agreement and if the fire department believes that placement of a lock box unit at the facility is necessary to protect public health and safety and the environment or to protect emergency management personnel responding to a release of any such substance or chemical from the facility, the fire department, in accordance with rules adopted under division (B)(2)(f) of section 3750.02 of the Revised Code, may submit an application to the committee of the district in which the facility is located for issuance of an order requiring the owner or operator to place a lock box unit at his facility that complies with the rules adopted under division (B)(6) of section 3750.02 of the Revised Code. On or before the date that the fire department submits the application for issuance of such an order, the fire department shall mail by certified mail, return receipt requested, notice of the application to the owner or operator of the facility for which issuance of the order is sought. If, in the opinion of the committee, the application meets the criteria for issuance of such an order established in the rules adopted under division (B)(2)(f) of that section, the committee shall, by resolution, approve issuance of the order and send a copy of its resolution and the fire department's application to the commission. The committee shall not approve an application for issuance of such an order unless at least sixty per cent of the voting members of the committee vote to approve it. If the commission finds that the committee has approved the application and that the application meets the criteria for issuance of such an order established in rules adopted under division (B)(2)(f) of that section, it shall approve the application and issue an order in accordance with section 3750.18 of the



Revised Code requiring the owner or operator to place one or more emergency response lock box units at his facility in accordance with the approved application and rules adopted under division (B)(6) of that section. The commission shall not approve an application for issuance of such an order unless at least sixty per cent of the voting members of the commission vote to approve the application and issuance of the order. If less than sixty per cent of the voting members of the commission vote to approve the application, the commission shall issue an order denying the application. No person shall violate an order issued under this division.

(E) A committee may, by resolution, adopt rules requiring the placarding of bulk hazardous chemical storage areas within its district in accordance with rules adopted by the fire marshal under section 3750.12 of the Revised Code and rules establishing such procedures as are necessary to implement and enforce that requirement. The rules may exempt the owner or operator of a facility who, with the approval of the committee, installs and maintains an emergency lock box unit that complies with the rules adopted under division (B)(6) of section 3750.02 of the Revised Code from compliance with requirements for placarding of bulk hazardous chemical storage areas. As used in this division, "bulk hazardous chemical storage area" has the same meaning as in division (D) of section 3750.12 of the Revised Code. No person shall violate a rule adopted under this division.

(F) Except as provided in division (G) of this section, this section shall not be construed to authorize a political subdivision, other than a municipal corporation or county that has adopted a charter in accordance with Sections 3 and 4 of Article X, Ohio Constitution, to adopt or enforce any ordinance, resolution, rule, or requirement for the reporting or providing of the names or amounts of extremely hazardous substances or hazardous chemicals produced, used, or stored at facilities located within their boundaries; for the reporting or providing of information regarding locations where those substances or chemicals are stored at those facilities; or for the reporting of releases of extremely hazardous substances, hazardous substances, or oil. Nothing in this section or division (E)(5) of section 3750.03 of the Revised Code shall be construed to authorize a local emergency planning committee, municipal corporation, or charter county to enforce any ordinance, resolution, rule, or requirement that identifies or lists as an extremely hazardous substance any substance that is not so identified or listed in rules adopted under division (B)(1)(a) or (C)(5) of section 3750.02 of the Revised Code, that identifies as a hazardous chemical any chemical, other than a chemical identified in division (G)(3) of section 3750.01 of the Revised Code, that is not so identified or listed in rules adopted under division (B)(1)(b) or (C)(5) of that section, or that identifies as a hazardous substance



any substance that is not so identified in rules adopted under division (B)(1)(c) or (C)(5) of that section.

(G) A political subdivision that owns, operates, or is served by a public water system as defined in section 6109.01 of the Revised Code may establish and enforce requirements that provide for the protection of ground water resources that serve as a source of drinking water for its public water system and that are located within scientifically derived wellhead protection areas.