



Ohio Revised Code

Section 918.28 License issuance, revocation, suspension.

Effective: October 16, 2009

Legislation: House Bill 1 - 128th General Assembly

(A) Except as provided in division (F) of section 918.08 of the Revised Code, application for a license to operate an establishment shall be made to the director of agriculture on forms provided by the department of agriculture. The director shall inspect the establishment and if, upon inspection, the establishment is found to be in compliance with this chapter and rules adopted under it, the director shall so notify the owner of the establishment and, upon receipt of the annual license fee of one hundred dollars, shall issue the owner a license. However, if after inspection the director finds that an establishment is not in compliance with this chapter and rules adopted under it, the director shall deny the license application. The applicant may appeal the denial of the license application in accordance with Chapter 119. of the Revised Code. The license shall expire on the thirty-first day of March of each year and, if the director finds that the establishment is in compliance with this chapter and rules adopted under it, shall be renewed according to the standard renewal procedures of sections 4745.01 to 4745.03 of the Revised Code.

(B) If after inspection the director determines that an establishment licensed under this section is operating in violation of this chapter or a rule or order adopted or issued under authority thereof, the director shall notify the licensee in writing of the violation, giving the licensee ten days from the date of the notice to correct the conditions causing the violation. If the conditions are not corrected within the ten-day period, the director may do either of the following:

(1) Impose progressive enforcement actions as provided in division (C)(1) of this section in the same manner as inspectors;

(2) Suspend or revoke the license in accordance with Chapter 119. of the Revised Code.

(C)(1) If an inspector determines that an establishment licensed under division (A) of this section is operating in violation of sections 918.21 to 918.31 of the Revised Code and rules adopted under those sections, the inspector may notify the licensee in writing of the violation. The inspector immediately may impose progressive enforcement actions, including withholding the mark of



inspection, suspension of inspection, suspension of inspection held in abeyance, and withdrawal of inspection. The progressive enforcement actions may be taken prior to affording the licensee an opportunity for a hearing. As authorized in division (C) of section 119.06 of the Revised Code, a decision to impose a progressive enforcement action is immediately appealable to a higher authority within the department who is classified by the director as a district supervisor and who is designated by the director to hear the appeal. If the district supervisor affirms the enforcement action of the inspector, the licensee may appeal the enforcement action in accordance with Chapter 119. of the Revised Code.

(2) As used in division (C)(1) of this section, "suspension of inspection held in abeyance" means a period of time during which a suspension of inspection is lifted because an establishment has presented the director with a corrective action plan that, if implemented properly, would bring the establishment into compliance with this chapter and rules adopted under it.

(D) If in the opinion of the director the establishment is being operated under such insanitary conditions as to be a hazard to public health, or if the director determines that an establishment is not in compliance with its hazard analysis critical control point plan as required by rules, the director may condemn or retain the product on hand and immediately withdraw inspection from the establishment until such time as the insanitary conditions are corrected or until the establishment is in compliance with its hazard analysis critical control point plan, as applicable.

(E) If the director determines that the owner or operator of or any person employed by an establishment licensed under division (A) of this section forcibly assaulted, resisted, opposed, impeded, intimidated, or interfered with any person while that person was engaged in, or because of the person's performance of, official duties under sections 918.21 to 918.31 of the Revised Code or the rules adopted under those sections, the director immediately may withdraw inspection from the establishment prior to an adjudication hearing as required under section 119.06 of the Revised Code.

(F) In addition to any remedies provided by law and irrespective of whether or not there exists an adequate remedy at law, the director may apply to the court of common pleas of the county in which a violation of sections 918.21 to 918.31 of the Revised Code or rules adopted under those sections occurs for a temporary or permanent injunction or other appropriate relief concerning the



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violation.