MEMORANDUM

TO: Kaye Norton, Ohio Department of Health

FROM: Sydney King, Regulatory Policy Advocate

DATE: August 1, 2013

RE: **CSI Review- Ohio Uniform Food Safety Code (OAC 3717-1-01)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package consists of one amended rule being submitted by the Ohio Department of Health (ODH). Rule 3717-1-01 addresses the Ohio Uniform Food Safety Code. The rule package was filed with the CSI office on June 26, 2013 and the comment period for the rule closed on July 26, 2013. No comments were received during the public comment period.

The Ohio Uniform Food Safety Code provides the standard for safe food handling and sanitation in retail food establishments and food service operations. Rule 3717-1-01 defines terms used throughout the Ohio Uniform Food Safety Code, and the proposed amendment modifies the definition of "micro markets" to allow additional food items to be sold at locations deemed micro markets. Micro markets are self-checkout installations with a variety of vending food options. Micro markets can now offer for sale food items that are allowable in a risk level one operation.

Examples of risk level one operations include but are not limited to coffee, self-service fountain drinks, prepackaged beverages not controlled for time/temperature; pre-packaged refrigerated or frozen foods that are time/temperature controlled; pre-packaged foods not time/temperature controlled; or baby food or formula.

Rule 3717-1-01, in its entirety, has an impact on businesses because through the definition of terms, the rule helps establish a framework of regulations placed on the restaurant and food service industry. However, because the rule is not being reviewed under the five-year requirement of ORC 119.032, ODH was only required to analyze the impact of the amended changes to the definition of "micro markets," which in this case reduces the adverse impact of the original rule. The amendments do not restrict the affected industry and allow for more food items to be sold at micro markets.

According to the BIA, the Department reached out to stakeholders to discuss the change and to gather information about how the change will impact the industry. The proposed change was discussed with micro market operators (vending industry), the National Automatic Merchandising Association, and the Ohio Council of Retail Merchants with no objections.

The CSI Office is not suggesting any changes with respect to the rules or the BIA for the following reasons:

- The amendment does not have an adverse impact on business.
- No comments were received from the public during the public comment period.
- The BIA submitted by ODH is accurate and complete and does not raise any ongoing issues.
- Generally, the rule package satisfactorily meets the standards espoused by the CSI Office.

Recommendation

For the reasons explained above, this office does not have any recommendations regarding this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Department should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office