

Baldwin's Ohio Revised Code Annotated [Currentness](#)

Title XXXVII. Health--Safety--Morals

→ [Chapter 3723. Radon \(Refs & Annos\)](#)

→ **3723.01 Definitions**

As used in this chapter:

(A) “Radon” means both the radioactive, gaseous element produced by the disintegration of radium, and the short-lived radionuclides that are decay products of radon.

(B) “Building” means a publicly or privately owned structure consisting of any combination of foundations, walls, columns, girders, beams, floors, or roofs, with or without other elements or appurtenances.

(C) “Radon test” means the act of examining a building, air, soil, or water for the presence of radon, including taking air, soil, or water samples, or the act of diagnosing the cause of radon contamination in a building.

(D) “Business entity” means a corporation, partnership, association, firm, sole proprietorship, or other entity engaged in business.

(E) “Government entity” means the state, a state agency as defined in [section 1.60 of the Revised Code](#), a political subdivision, or any entity of local government.

(F) “Radon mitigation” means the application or installation of methods or materials to reduce airborne radon concentrations in a building or to prevent the entry of radon into the indoor atmosphere.

(G) “Radon laboratory” means a business entity or government entity that analyzes air, soil, water, or passive radon detection devices to determine the presence and concentration of radon in them.

3723.02 Required licenses; exemptions

(A) Except as otherwise provided in this section:

(1) No individual shall perform radon testing, or hold himself out as performing radon testing, without a valid radon tester or mitigation specialist license.

(2) No individual shall provide professional or expert advice on radon testing, radon exposure, or health risks related to radon exposure, or hold himself out as providing such advice, without a radon tester or mitigation specialist license.

(3) No individual shall provide on-site supervision of radon mitigation, or hold himself out as providing such supervision, without a radon mitigation specialist license.

(4) No individual shall provide professional or expert advice on radon mitigation or radon entry routes, or hold himself out as providing such advice, without a radon mitigation specialist license.

(5) No business entity or government entity shall perform or authorize any individual employed by it to perform radon mitigation, or hold itself out as performing radon mitigation, without a valid radon mitigation contractor license.

(B) Division (A) of this section does not apply to any of the following:

(1) An individual, business entity, or government entity using techniques during new construction designed to prevent or reduce radon infiltration in the new construction;

(2) An individual, business entity, or government entity performing radon tests or mitigation on a building or real property that the individual, business entity, or government entity owns or leases;

(3) An individual, business entity, or government entity practicing in accordance with [section 3723.03 of the Revised Code](#) as a radon tester, mitigation specialist, or mitigation contractor under a license issued by another state;

(4) An individual, business entity, or government entity conducting research regarding radon testing or mitigation in accordance with [section 3723.04 of the Revised Code](#).

(C) Division (A)(5) of this section does not apply to an employee of a licensed radon mitigation contractor, or a general contractor that subcontracts for radon mitigation to be performed by a licensed radon mitigation contractor.

3723.03 Out-of-state licenses

Pursuant to [division \(B\) of section 3723.02 of the Revised Code](#), an individual, business entity, or government entity that holds a valid license issued by another state authorizing practice as a radon tester, mitigation spe-

cialist, or mitigation contractor under the laws of that state may practice in this state without a license issued under this chapter for not more than ninety days in any calendar year as a radon tester, mitigation specialist, or mitigation contractor, if the director of health finds that the requirements for licensure in that state are comparable to the requirements for licensure under this chapter and the rules adopted under it and the individual, business entity, or government entity provides notice to the director of health, in accordance with rules adopted under [section 3723.09 of the Revised Code](#), prior to commencing practice in this state.

3723.05 Prohibitions

(A) No licensed radon tester shall use the services of a radon laboratory that has not been approved under [section 3723.07 of the Revised Code](#).

(B) No licensed radon mitigation contractor shall do any of the following:

(1) Perform radon mitigation without the direct on-site supervision of a licensed radon mitigation specialist;

(2) Provide radon testing services other than through the employment of a licensed radon tester or mitigation specialist;

(3) Provide advice regarding radon testing, radon exposure, or health risks associated with radon exposure other than through the employment of a licensed radon tester or mitigation specialist;

(4) Provide advice regarding radon mitigation or radon entry routes other than through the employment of a licensed radon mitigation specialist.

(C) No licensed radon tester, licensed radon mitigation specialist, or licensed radon mitigation contractor involved in the testing of a particular building, or in the provision of advice with respect to a particular building, shall be involved in the performance of mitigation on that building unless the contract for mitigation is in writing and clearly and conspicuously states both of the following:

(1) That the radon tester, mitigation specialist, or mitigation contractor was involved in the testing or provision of advice that led to the mitigation contract;

(2) The advantages of long-term testing and the value of a second opinion as ways to verify test results and to assure that the proposed mitigation is appropriate, especially when the mitigation is to be performed by the tester, mitigation specialist, or mitigation contractor that was involved in the testing or provision of advice that led to the mitigation contract.

(D) No licensed radon tester, licensed radon mitigation specialist, or licensed radon mitigation contractor shall perform radon testing or mitigation or provide any advice related to radon, radon testing, or radon mitigation unless it is performed in accordance with the requirements of this chapter and the rules adopted under it.

(E) No licensed radon tester, licensed radon mitigation specialist, or licensed radon mitigation contractor shall violate any requirement of this chapter or any rule adopted under it.

3723.06 Licensure

(A) The director of health shall license radon testers, mitigation specialists, and mitigation contractors. Each applicant for a license shall submit a completed application to the director on a form the director shall prescribe and furnish.

(B) In accordance with rules adopted by the public health council under [section 3723.09 of the Revised Code](#), the director shall issue the appropriate license to each applicant that pays the license fee prescribed by the council, meets the licensing criteria established by the council, and complies with any other licensing and training requirements established by the council. An individual, business entity, or government entity may hold more than one license issued under this section, but a separate application is required for each license.

(C) Notwithstanding division (B) of this section, the director shall issue a radon mitigation contractor license on request to the holder of a radon mitigation specialist license if the license holder is the owner or chief stockholder of a business entity for which he is the only individual who will work as a radon mitigation specialist. The licensing criteria and any other licensing and training requirements the individual was required to meet to qualify for the radon mitigation specialist license are hereby deemed to satisfy any and all criteria and requirements for a radon mitigation contractor license. A license issued under this division shall expire at the same time as the individual's radon mitigation specialist license. No license fee shall be imposed for a license issued under this division.

(D) A license issued under this section expires biennially and may be renewed by the director in accordance with criteria and procedures established by the public health council under [section 3723.09 of the Revised Code](#) and on payment of the license renewal fee prescribed by the council.

(E) In accordance with Chapter 119. of the Revised Code, the director may do either of the following:

(1) Refuse to issue a license to an individual, business entity, or government entity that does not meet the requirements of this chapter or the rules adopted under it or has been in violation of those requirements;

(2) Suspend, revoke, or refuse to renew the license of an individual, business entity, or government entity that

is or has been in violation of the requirements of this chapter or the rules adopted under it.

3723.07 Training courses; radon laboratories

The director of health shall approve all of the following:

- (A) Licensure training courses for radon testers and mitigation specialists;
- (B) Training courses for employees of mitigation contractors;
- (C) Radon laboratories.

Each applicant for approval shall submit a completed application to the director on a form the director shall prescribe and furnish.

In accordance with rules adopted by the public health council under [section 3723.09 of the Revised Code](#), the director shall issue the appropriate approval to each applicant that pays the approval fee prescribed by the council and meets the criteria for approval established by the council.

In accordance with Chapter 119. of the Revised Code, the director may refuse to issue an approval and may revoke or suspend an approval issued under this section if the operator of the course or laboratory fails to meet the criteria established by the public health council.

3723.08 Powers and duties of health department

(A) The director of health shall do all of the following:

- (1) Administer the radon licensing program established by this chapter and enforce the requirements of this chapter and the rules adopted under it;
- (2) Examine records of radon testers, mitigation specialists, mitigation contractors, and operators of radon laboratories and training courses approved under [section 3723.07 of the Revised Code](#) as he considers necessary to determine whether they are in compliance with the requirements of this chapter and the rules adopted under it;
- (3) Coordinate the radon licensing program with any radon programs in schools;

(4) Collect and disseminate information relating to radon in this state;

(5) Conduct research on indoor radon contamination, which may include a statewide survey.

(B) The director of health may do any of the following:

(1) Employ individuals with training necessary to implement the requirements of this chapter and the rules adopted under it, and pay the license fee or license renewal fee established under [section 3723.09 of the Revised Code](#) for any such employee who is required to be licensed under this chapter;

(2) Conduct inspections as he considers necessary to determine whether the requirements of this chapter and the rules adopted under it have been met;

(3) Conduct training programs and establish and collect fees to cover the cost of conducting them;

(4) Advise, consult with, cooperate with, and enter into contracts or grant agreements with any individual, business entity, government entity, interstate agency, or the federal government as he considers appropriate to fulfill the requirements of this chapter and the rules adopted under it;

(5) Consult with and seek recommendations from the radiation advisory council established under [section 3748.20 of the Revised Code](#) with respect to the implementation of this chapter;

(6) Delegate his authority and duties under this chapter to any division, bureau, agency, or employee of the department of health;

(7) Collect information required to be reported to him under any rules adopted under [section 3723.09 of the Revised Code](#).

3723.09 Rulemaking powers

(A) To protect the health of individuals inhabiting, occupying, or frequenting buildings, the public health council shall adopt rules to implement the requirements of this chapter. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) The public health council shall adopt rules establishing criteria and procedures to be followed by the director of health in issuing and renewing licenses under [section 3723.06 of the Revised Code](#) to radon testers, mitigation specialists, and mitigation contractors. The rules may require that all applicants for licensure as a

radon tester or mitigation specialist pass an examination. If an examination is required, the rules may require applicants to pass an examination conducted by the department or an appropriate examination conducted by the United States environmental protection agency.

(C) The public health council shall adopt rules establishing criteria and procedures to be followed by the director of health in approving training courses under [section 3723.07 of the Revised Code](#). The rules may require that participants in training courses pass an examination conducted by the operator of the course and may require that the examinations be approved by the director of health.

(D) The public health council shall adopt rules establishing criteria and procedures to be followed by the director of health in approving radon laboratories under [section 3723.07 of the Revised Code](#).

(E) The public health council shall adopt rules establishing reasonable fees for licenses, license renewals, radon laboratory approvals, and training course approvals.

(F) The public health council shall adopt rules establishing standards to be followed by licensed radon testers, mitigation specialists, and mitigation contractors for the prevention of hazards to the public health, including standards for worker protection, record keeping, and training of employees of licensed radon mitigation contractors.

(G) The public health council shall adopt rules establishing procedures to be followed by any individual, business entity, or government entity licensed by another state to practice as a radon tester, mitigation specialist, or mitigation contractor in providing notice to the director of health prior to commencing practice in this state pursuant to [section 3723.03 of the Revised Code](#).

(H) The public health council may adopt rules that require licensed radon testers and mitigation specialists to report to the director of health, by street address, radon test results that indicate the presence of radon at a level considered to be dangerous as determined by the council. The rules may require the reporting of screening measurements, follow-up measurements, post-mitigation measurements, and, if it is known that radon mitigation has been performed, the methods of mitigation that were used. Any information required to be reported to the director under these rules is not a public record under [section 149.43 of the Revised Code](#), and shall not be released except in aggregate statistical form.

3723.10 Complaints

Any individual, business entity, or government entity may file a complaint with the director of health concerning any radon tester, mitigation specialist, mitigation contractor, or operator of a radon laboratory or a training course approved under [section 3723.07 of the Revised Code](#). The complainant's name shall be confidential and shall not be released without his written consent.

The director may investigate complaints and take action under [section 3723.06](#), [3723.07](#), or [division \(A\)\(1\) of section 3723.08 of the Revised Code](#) as he considers necessary and appropriate.

3723.11 List of licensees

The director of health shall maintain a list of all licensed radon testers, mitigation specialists, and mitigation contractors. On request, the director shall provide a copy of all or part of the list to any individual, business entity, or government entity. The director shall not impose a charge for providing the copy that exceeds the actual and necessary expense of copying it.

3723.12 Confidentiality of information

(A) The director of health, any employee of the department of health, or any individual, business entity, or government entity with which the director enters into an agreement under [division \(B\)\(4\) of section 3723.08 of the Revised Code](#), shall not release information collected pursuant to this chapter concerning a specific building used as a private residence or the real property upon which it is located to anyone other than the owner or occupant of the building or real property without their consent, unless the director determines that the release is necessary for use in conducting legitimate scientific studies, or the information is released in summary statistical or other form that does not reasonably tend to disclose the address of the building or real property or the identity of the owner or occupant.

(B) The department of health shall maintain information collected pursuant to this chapter and the rules adopted under it for at least five years. The department may destroy any such information that it has maintained for five years.

3723.13 Examination of records

If the director of health requests to examine such records, no licensed radon tester, mitigation specialist, mitigation contractor, or operator of a radon laboratory or a training course approved under [section 3723.07 of the Revised Code](#) shall fail to make available to the director any records pertinent to the activities regulated by this chapter and the rules adopted under it.

3723.15 Injunctive relief; civil penalties

(A) At the request of the director of health, the attorney general may bring a civil action for appropriate relief, including a temporary restraining order, preliminary or permanent injunction, and civil penalties, in the court of common pleas of the county in which a violation has occurred, is occurring, or is threatening to occur against any individual, business entity, or government entity that has violated, is violating, or threatens to vi-

olate a requirement of this chapter or a rule adopted under it. In accordance with the Rules of Civil Procedure, the court of common pleas in which an action for injunction is filed has jurisdiction to grant, and shall grant, a temporary restraining order and preliminary and permanent injunctive relief upon a showing that the individual, business entity, or government entity against whom the action is brought has violated, is violating, or threatens to violate a requirement of this chapter or a rule adopted under it. In an action for a civil penalty, the court may impose upon an individual, or business entity found to have violated a requirement of this chapter or a rule adopted under it a civil penalty of not more than one thousand dollars for each day of violation. Moneys resulting from civil penalties imposed under this section shall be credited to the radon program fund created pursuant to [section 3723.14 of the Revised Code](#).

(B) The remedies provided in this section are in addition to remedies otherwise available under any federal or state law or ordinance of a municipal corporation.

3723.16 Prosecution of violations

At the request of the director of health, an individual or business entity that is violating or has violated any requirement of this chapter or the rules adopted under it may be prosecuted by the attorney general or by the prosecuting attorney, city director of law, village solicitor, or similar prosecuting authority of the political subdivision in which the violation occurred or is occurring.

3723.99 Penalties

Whoever violates [division \(A\) of section 3723.02](#), [division \(C\) or \(D\) of section 3723.04](#), [section 3723.05](#), or [section 3723.13 of the Revised Code](#) is guilty of a misdemeanor of the first degree. Each day of violation is a separate offense.

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