

EMERGENCY ORDINANCE NO. 2022-25

AN ORDINANCE AMENDING AND SUPPLEMENTING THE TRAFFIC CODE AND GENERAL OFFENSES CODE OF THE CODIFIED ORDINANCES TO BRING CITY LAW INTO CONFORMITY WITH STATE LAW AND DECLARING AN EMERGENCY.

WHEREAS, Council deems it necessary to establish consistency with State Law, which include providing for penalties, codification, severability, and repeal conflicting ordinances set forth in the Traffic Code and General Offenses Code of the Codified Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONROE, STATE OF OHIO, THAT:

SECTION 1: The following sections of the Codified Ordinances are or contain new matter in the Traffic Code and General Offenses Code and are hereby approved, adopted, and enacted:

402.05, 402.075, 402.09, 402.20, 402.21, 402.22, 402.24, 402.275, 402.385, 402.39, 402.53, 404.03, 414.01, 414.10, 432.07, 432.13, 432.22, 432.30, 434.01, 434.02, 434.03, 434.07, 436.01, 436.02, 436.035, 436.04, 436.071, 436.074, 436.09, 436.11, 436.14, 438.10, 438.18, 440.05, 440.11, 442.01, 442.04, 442.07, 452.01, 452.03, 452.04, 452.05, 452.06, 452.07, 474.11, 476.03, 476.08, 606.02, 606.06, 606.07, 606.10, 606.12, 606.15, 606.19, 606.24, 606.30, 612.01, 612.07, 612.09, 618.05, 624.01, 624.02, 624.03, 624.04, 624.05, 624.07, 626.076, 624.08, 624.11, 624.12, 624.13, 624.14, 630.01, 630.02, 630.06, 630.07, 630.11, 630.12, 636.04, 636.045, 636.05, 636.08, 636.09, 636.10, 636.11, 636.12, 636.13, 636.15, 636.17, 636.18, 636.19, 636.20, 642.01, 642.02, 642.05, 642.11, 642.12, 642.14, 642.145, 642.18, 642.19, 642.24, 642.33, 648.08, 660.03, 660.07, 660.14, 666.03, 666.08, 672.01, 672.02, 672.04, 672.07, 672.10, 672.17, 672.18, 698.01, and 698.02.

SECTION 2: Pursuant to Section 7.16 of the City Charter, Ohio R.C. 731.23, and Section 222.01 of the Codified Ordinances, the Clerk of Council shall publish, in a manner required by law, a notice of the enactment of this Ordinance, containing the title of this Ordinance, together with a summary of the new matter contained in Exhibit "A" attached hereto and made a part hereof.

SECTION 3: All ordinances and resolutions or parts thereof which are in conflict or inconsistent with any provision of the new matter adopted in Section 1 of this Ordinance are hereby repealed as of the effective date of this Ordinance, except as follows:

(a) The enactment of such sections and subsections shall not be construed to affect a right or liability accrued or incurred under any legislative provision prior to the effective date of such enactment, or an action or proceeding for the enforcement of such right or liability. Such enactment shall not be construed to relieve any person from punishment for an act committed in violation of any such legislative provision, nor to affect an indictment

or prosecution therefor. For such purposes, any such legislative provision shall continue in full force notwithstanding its repeal for the purpose of revision and recodification.

(b) The repeal provided above shall not affect any legislation enacted subsequent to August 23, 2022.

SECTION 4: This measure is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare and further for the reason that it is necessary to have an up-to-date codification of the traffic and general offenses laws of the City consistent with the latest State law, where such consistency is required by the Ohio Constitution. Therefore, this measure shall take effect and be in full force from and after its passage.

PASSED August 23, 2022

ATTEST:


Clerk of Council

APPROVED:


Mayor

"I, the undersigned Clerk of Council of the city of Monroe, Ohio, hereby certify the foregoing (ordinance or resolution) was published as required by Section 7.16 of the Charter of the City of Monroe.


Clerk of Council
City of Monroe, Ohio

This legislation was enacted in an open meeting pursuant to the terms and provisions of the Sunshine Law, Section 121.22 of the Ohio Revised Code.

EXHIBIT "A"
SUMMARY OF NEW MATTER
CONTAINED IN THE TRAFFIC CODE AND GENERAL OFFENSES CODE
OF THE CODIFIED ORDINANCES OF THE CITY OF MONROE

<u>Section</u>	<u>New or amended matter regarding:</u>
402.05	Bicycle
402.075	Chauffeured Limousine
402.09	Controlled-Access Highway
402.20	Motor Vehicle
402.21	Motorcycle
402.22	Motorized Bicycle or Moped
402.24	Pedestrian
402.275	Predicate Motor Vehicle or Traffic Offense
402.385	Shared-Use Path
402.39	Sidewalk
402.53	Vehicle
404.03	Road Workers, Motor Vehicles and Equipment Excepted
414.01	Obedience to Traffic Control Devices
414.10	Signal Preemption Devices; Prohibitions
432.07	Hazardous or No Passing Zones
432.13	Signals before Changing, Course, Turning or Stopping
432.22	Driving Upon Sidewalks, Tree Lawns, or Curbs
432.30	Stopping for School Bus; Actuating Visual Signals; Discharging Children
434.01	Driving or Physical Control of Vehicle While Under the Influence of Alcohol or Drugs
434.02	Reckless Operation on Streets, Public or Private Property
434.026	Immobilizing or Disabling Device Violation
434.03	Maximum Speed Limits; Assured Clear Distance Ahead
434.07	Street Racing Prohibited
436.01	Driver's or Commercial Driver's License Required
436.02	Possession of More Than One License Prohibited
436.035	Driving With Probationary License
436.04	Certain Acts Prohibited
436.071	Driving Under Suspension or in Violation of License Restriction
436.074	Driving Under Financial Responsibility Law Suspension or Cancellation; Driving Under a Nonpayment of Judgment Suspension
436.09	Display of License Plates; Registration; Obstructions
436.11	Stopping after Accident upon Streets; Collision with Unattended Vehicle
436.14	Removal of Vehicles after Accidents
438.10	Special Equipment for Slow Moving Vehicles, Farm Machinery and Animal Drawn Vehicles
438.18	Focus, Aim and Color of Headlights
440.05	Towing Requirements; Exception to Size and Weight Restrictions

<u>Section</u>	<u>New or amended matter regarding:</u>
440.11	Chauffeured Limousines
442.01	Definitions
442.07	Information Required of Prospective Drivers by Employers; Unauthorized Driving
452.01	Prohibition against Parking on Streets or Highways
452.03	Prohibited Standing or Parking Places
452.04	Manner of Parallel and Angle Parking; Handicapped Persons
452.05	Willfully Leaving Vehicles on Private or Public Property
452.06	Unattended Vehicles; Duty to Lock Ignition, Remove Key, Set Brake, etc.
452.07	Obstruction and Interference Affecting View and Control of Driver; Opening Doors on Side Available to Traffic
474.11	Operation of Motorized Bicycles
476.03	Code Application; Prohibited Operation
476.08	Registration of Vehicles
606.02	Culpable Mental States
606.06	Limitation on Criminal Prosecutions
606.07	Requirements for Criminal Liability; Voluntary Intoxication
606.10	Falsification
606.12	Failure to Report a Crime or Death
606.15	Obstructing Justice
606.19	Dereliction of Duty
606.24	Disposition of Unclaimed or Forfeited Property Held by Police Department
606.30	Self Defense: Limitations on Duty to Retreat Prior to Using Force
612.01	Definitions
612.07	Open Container Prohibited
612.09	Conveying Intoxicating Liquor or Cash onto Grounds of Detention Facilities or Other Specified Governmental Facilities
612.05	Cruelty to Animals; Cruelty to Companion Animals
624.01	Definitions
624.02	Trafficking in Controlled Substances; Gift of Marihuana
624.03	Drug Possession Offenses
624.04	Possession of Drug Abuse Instruments
624.05	Permitting Drug Abuse
624.07	Abusing Harmful Intoxicants
624.076	Possessing Nitrous Oxide in Motor Vehicles
624.08	Illegal Dispensing of Drug Samples
624.11	Double Jeopardy
624.12	Controlled Substance Schedules
624.13	Controlled Substance or Prescription Labels
624.14	Use or Possession of Paraphernalia
630.01	Definitions
630.02	Gambling in General
630.06	Responsibility of Charitable Organization Conducting Bingo Game
630.07	Maintenance of Records by Charitable Organizations

<u>Section</u>	<u>New or amended matter regarding:</u>
630.11	Raffle Drawings
630.12	Instant Bingo Other Than at Bingo Sessions
636.04	Aggravated Menacing
636.045	Menacing by Stalking
636.05	Menacing
636.08	Criminal Child Enticement
636.09	Coercion
636.10	Nonsupport of Dependents
636.11	Endangering Children
636.12	Interference with Custody
636.13	Contributing to the Unruliness or Delinquency of a Child
636.15	Threatening or Harassing Telecommunications
636.17	Domestic Violence
636.18	Safety of Crowds Attending Live Entertainment Performances
636.19	Hazing
636.20	Illegal Distribution of Cigarettes or Other Tobacco Products; Transaction Scans
642.01	Definitions
642.02	Theft
642.05	Unauthorized Use of Property
642.11	Criminal Mischief
642.12	Criminal Trespass
642.14	Passing Bad Checks
642.145	Forging or Selling Forged Identification Cards
642.18	Tampering With Records
642.19	Securing Writings by Deception
642.24	Determining Property Value in Theft Offense
642.33	Medicaid Fraud
648.08	Making False Alarms
660.03	Littering
660.07	Storage of Junk Vehicles
660.14	Smoking in Places of Public Assembly
666.03	Sexual Imposition
666.08	Soliciting
672.01	Definitions
672.02	Carrying Concealed Weapons
672.04	Improperly Handling Firearms in a Motor Vehicle
672.07	Unlawful Transactions in Weapons
672.10	Fireworks
672.17	Possession of an Object Indistinguishable from a Firearm in a School Safety Zone
672.18	Concealed Handgun Licenses: Possession of a Revoked or Suspended License; Additional Restrictions; Posting of Signs Prohibiting Possession
698.01	Definitions
698.02	Penalties for Misdemeanor

ADOPTING ORDINANCE
TRAFFIC

City of Monroe

State of Ohio

ORDINANCE No. _____

AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF MONROE, OHIO, 1988, TO PROVIDE AMENDMENTS TO CODE SECTIONS 402.05, 402.075, 402.09, 402.20, 402.21, 402.22, 402.24, 402.275, 402.385, 402.39, 402.53, 404.03, 414.01, 414.10, 432.07, 432.13, 432.22, 432.30, 434.01, 434.02, 434.03, 434.07, 436.01, 436.02, 436.035, 436.04, 436.071, 436.074, 436.09, 436.11, 436.14, 438.10, 438.18, 440.05, 440.11, 442.01, 442.04, 442.07, 452.01, 452.03, 452.04, 452.05, 452.06, 452.07, 474.11, 476.03, AND 476.08; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority of the City of Monroe, Ohio is authorized by ORC § 715.01 to adopt ordinances relating to its property, affairs and local government; and

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONROE, STATE OF OHIO THAT:

Section 1. The Codified Ordinances of Monroe, Ohio, 1988, is hereby amended by adding or altering the provisions as provided under Section 5, below.

Section 2. The addition, amendment, or removal Codified Ordinances of Monroe, Ohio, 1988, sections when passed in such form as to indicate the intention of the governing authority of the City of Monroe, Ohio to make the same a part of the Municipal Code shall be deemed to be incorporated in the Municipal Code, so that reference to the Municipal Code includes the additions, amendments, and removals.

Section 3. The codifier (meaning the person, agency or organization authorized to prepare the supplement to the Codified Ordinances of Monroe, Ohio, 1988 is authorized to exclude and omit any provisions of this ordinance that are inapplicable to the Codified Ordinances of Monroe, Ohio, 1988.

Section 4. Supplementation of Code.

(a) In preparing a supplement to City's Municipal Code, all portions of this ordinance which have been repealed shall be excluded from the Codified Ordinances of Monroe, Ohio, 1988, by the omission thereof from reprinted pages.

(b) When preparing a supplement to the Codified Ordinances of Monroe, Ohio, 1988, the

Codifier: Added material is underlined, deleted material is struck through.

codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in this ordinance and parts of this ordinance included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
 - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of Codified Ordinances of Monroe, Ohio, 1988, printed in the supplement, and make changes in such catchlines, headings and titles;
 - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the City's Municipal Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
 - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the City's Municipal Code which embody the substantive sections or the ordinance incorporated into the Code); and
 - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Codified Ordinances of Monroe, Ohio, 1988; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Codified Ordinances of Monroe, Ohio, 1988.
- (c) In preparing a supplement to the Codified Ordinances of Monroe, Ohio, 1988, the pages of a supplement shall be so numbered that they will fit properly into the City's Municipal Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the City's Municipal Code will be current through the date of the adoption of the latest ordinance included in the supplement.

Section 5. The following sections and subsections of the Municipal Code are new or have been amended with new matter in the Municipal Code, and are hereby approved, adopted and enacted:

402.05. Bicycle.

Bicycle means every device, other than a tricycle designed solely for use as a play vehicle by a child, propelled solely by human power, upon which any person may ride, ~~having two tandem wheels, or one wheel in the front and two wheels in the rear, or two wheels in the front and one wheel in the rear,~~ and that has two or more wheels, any of which is more than 14 inches in diameter.

(ORC 4511.01(G))

402.075. Chauffeured limousine.

Chauffeured limousine means a motor vehicle that is designed to carry nine or fewer passengers and is operated for hire ~~on an hourly basis~~ pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an agreement, made in advance of boarding, to provide transportation from a specific location in an chauffeured limousine ~~at a fixed rate per hour or trip~~. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing.

(ORC 4501.01(LL))

402.09. Controlled-access highway.

Controlled-access highway means every street or highway in respect to which owners or occupants of abutting lands and other persons have no legal right or access to or from the same except at ~~certain~~ such points only and in a manner as may be determined by the public authority having jurisdiction over the street or highway.

(ORC 4511.01(CC))

402.20. Motor vehicle.

~~*Motor vehicle* means any vehicle, including mobile homes and recreational vehicles, that is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires. "Motor vehicle" does not include utility vehicles as defined in division (VV) of this section, under speed vehicles, mini trucks, motorized bicycles, electric bicycles, road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work and not designed for or employed in general highway transportation, well-drilling machinery, ditch-digging machinery, farm machinery, and trailers that are designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.~~

Motor vehicle means every vehicle propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires, except motorized bicycles, electric bicycles, road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work and not designed for or employed in general highway transportation, hole-digging machinery, well-drilling machinery, ditch-digging machinery, farm machinery, and trailers designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.

(ORC 4511.01(B))

402.21. Motorcycle.

Motorcycle means every motor vehicle other than a tractor having seat or a saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, including, but not limited to, motor vehicles known as "motor-driven cycle," "motor scooter," "autocycle," or "cab-enclosed motorcycle," or "motorcycle" without regard to weight or brake horsepower.

(ORC 4511.01(C))

402.22. Motorized bicycle or moped.

Motorized bicycle or moped means any vehicle having either two tandem wheels or one wheel in the front and two wheels in the rear, ~~that is capable of being~~ may be pedaled, and that is equipped with a helper motor of not more than 50 cubic centimeters piston displacement which produces no more than one brake horsepower, and is capable of propelling the vehicle at a speed of no greater than 20 miles per hour on a level surface. "Motorized bicycle" or "moped" does not include an electric bicycle.

(ORC 4511.01(H))

402.24. Pedestrian.

Pedestrian means any natural person afoot. "Pedestrian" includes a personal delivery device as defined in Ohio R.C. 4511.513 unless the context clearly suggests otherwise.

(ORC 4511.01(X))

402.275. Predicate motor vehicle or traffic offense.

Predicate motor vehicle or traffic offense means any of the following:

- (a) A violation of Ohio R.C. 4511.03, 4511.051, 4511.12, 4511.132, 4511.16, 4511.20, 4511.201, 4511.21, 4511.211, 4511.213, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.451, 4511.452, 4511.46, 4511.47, 4511.48, 4511.481, 4511.49, 4511.50, 4511.511, 4511.53, 4511.54, 4511.55, 4511.56, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.64, 4511.66, 4511.661, 4511.68, 4511.70, 4511.701, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, 4511.73, 4511.763, 4511.771, 4511.78, or 4511.84;
- (b) A violation of Ohio R.C. 4511.17(A)(2), 4511.51(A) to (D), or 4511.74(A).
- (c) A violation of any provision of Ohio R.C. 4511.01 to 4511.76 for which no penalty otherwise is provided in the section that contains the provision violated;
- (d) A violation of Ohio R.C. 4511.214.

~~(d)~~ (e) A violation of a municipal ordinance that is substantially equivalent to any section or provision set forth or described in division (a), (b), ~~or (c)~~, or (d) of this definition.

(ORC 4511.01(III))

402.385. Shared-use path.

Shared-use path means a bikeway outside the traveled way and physically separated from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent alignment. A shared-use path also may be used by pedestrians, including skaters, joggers, users of manual and motorized wheelchairs, and other authorized motorized and non-motorized users. A shared-use path does not include any trail that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use.

(ORC 4511.01(PPP))

402.39. Sidewalk.

Sidewalk means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

(ORC 4511.01(FF))

402.53. Vehicle.

Vehicle means every device, including a motorized bicycle and an electric bicycke, in, upon, or by which any person or property may be transported or drawn upon a highway, except that "vehicle" does not include any motorized wheelchair, any electric personal assistive mobility device, any low-speed micromobility device, any personal delivery device as defined in Ohio R.C. 4511.513, any device that is moved by power collected from overhead electric trolley wire or that is used exclusively upon stationary rails or tracks, or any device, other than a bicycle, that is moved by human power.

(ORC 4511.01(A))

404.03. Road workers, motor vehicles and equipment excepted.

- (a) The provisions of this Traffic Code, except for section 434.01, do not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway within an area designated by traffic-control devices, but apply to those persons and vehicles when traveling to or from such work.
- (b) The driver of a highway maintenance vehicle owned by this state or any political subdivision of this state, while the driver is engaged in the performance of official duties upon a street or highway, provided the highway maintenance vehicle is equipped with flashing lights and such

other markings as are required by law and such lights are in operation when the driver and vehicle are so engaged, shall be exempt from criminal prosecution for violations of Ohio R.C. 4511.22, 4511.25, 4511.26, 4511.27, 4511.28, 4511.30, 4511.31, 4511.33, 4511.35, 4511.66, 4513.02, and 5577.01 to 5577.09, and any substantially equivalent municipal ordinance.

- (c) (1) This section does not exempt a driver of a highway maintenance vehicle from civil liability arising from a violation of Ohio R.C. 4511.22, 4511.25, 4511.26, 4511.27, 4511.28, 4511.30, 4511.31, 4511.33, 4511.35, 4511.66, or 4513.02 or Ohio R.C. 5577.01 to 5577.09, or any substantially equivalent municipal ordinance.
- (2) This section does not exempt the driver of a vehicle who is not a state employee and who ~~that~~ is engaged in the transport of highway maintenance equipment from criminal liability for a violation of Ohio R.C. 5577.01 to 5577.09, or any substantially equivalent municipal ordinance.
- (d) As used in this section, "highway maintenance vehicle" means a vehicle used in snow and ice removal or road surface maintenance, including a snow plow, traffic line striper, road sweeper, mowing machine, asphalt distributing vehicle, or other such vehicle designed for use in specific highway maintenance activities.

(ORC 4511.04)

414.01. Obedience to traffic control devices.

- (a) (1) No pedestrian or driver of a vehicle shall disobey the instructions of any traffic-control device placed in accordance with the provisions of this Traffic Code, unless at the time otherwise directed by a police officer.
- (2) No provision of this Traffic Code for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section of this Traffic Code does not state that signs are required, that section shall be effective even though no signs are erected or in place.
- (b) (1) Except as provided in division (c) of this section, any operator of a commercial motor vehicle, upon approaching a scale location established for the purpose of determining the weight of the vehicle and its load, shall comply with any traffic control device or the order of a peace officer directing the vehicle to proceed to be weighed or otherwise inspected.
- (2) Any operator of a commercial motor vehicle, upon bypassing a scale location in accordance with division (c) of this section, shall comply with an order of a peace officer to stop the vehicle to verify the use and operation of an electronic clearance device.
- (c) Any operator of a commercial motor vehicle that is equipped with an electronic clearance device authorized by the superintendent of the state highway patrol under Ohio R.C. 4549.081 may bypass a scale location, regardless of the instruction of a traffic control device to enter the scale facility, if either of the following apply:
 - (1) The in-cab transponder displays a green light or other affirmative visual signal and also sounds an affirmative audible signal;

- (2) Any other criterion established by the superintendent of the state highway patrol is met.
- (d) Any peace officer may order the operator of a commercial motor vehicle that bypasses a scale location to stop the vehicle to verify the use and operation of an electronic clearance device.
- (e) As used in this section, "commercial motor vehicle" means any combination of vehicles with a gross vehicle weight rating or an actual gross vehicle weight of more than 10,000 pounds if the vehicle is used in interstate or intrastate commerce to transport property and also means any vehicle that is transporting hazardous materials for which placarding is required pursuant to 49 C.F.R. Parts 100 to 180.
- (f) No person shall use an electronic clearance device if the device or its use is not in compliance with rules of the superintendent of the state highway patrol.
- (g) (1) Except as otherwise provided in this division, whoever violates division (a) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates division (a) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates division (a) of this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 408.04.

- (2) Whoever violates division (b) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to a violation of division (b) of this section or any substantially equivalent state law or municipal ordinance, whoever violates division (b) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of division (b) of this section or any substantially equivalent state law or municipal ordinance, whoever violates division (b) of this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 408.04.

- (3) Whoever violates division (f) of this section is guilty of a misdemeanor of the fourth degree on a first offense and a misdemeanor of the third degree on each subsequent offense.

~~If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 408.04.~~

(ORC 4511.12(A), (B); 4511.121(A)—(E); 4549.081 (B), (C))

414.10. Signal preemption devices; prohibitions.

- (a) (1) No person shall possess a portable signal preemption device.

- (2) No person shall use a portable signal preemption device to affect the operation of a traffic-control device.
- (b) Division (a)(1) of this section does not apply to any of the following persons and division (a)(2) of this section does not apply to any of the following persons when responding to an emergency call:
- (1) A peace officer, as defined in Ohio R.C. ~~109.17~~ 109.71(A)(1), (A)(12), (A)(14), or (A)(19);
 - (2) A state highway patrol officer;
 - (3) A person while occupying a public safety vehicle as defined in Ohio R.C. 4511.01(E)(1), (E)(3), or (E)(4).
- (c) Whoever violates division (a)(1) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates division (a)(2) of this section is guilty of a misdemeanor of the first degree.
- (d) As used in this section, "portable signal preemption device" means a device that, if activated by a person, is capable of changing a traffic-control signal to green out of sequence.

(ORC 4511.031)

432.07. Hazardous or no passing zones.

- (a) The department of transportation may determine those portions of any state highway where overtaking and passing other traffic or driving to the left of the center or center line of the roadway would be especially hazardous, and may, by appropriate signs or markings on the highway, indicate the beginning and end of such zones. When signs or markings are in place and clearly visible, every operator of a vehicle shall obey the directions of the signs or markings, notwithstanding the distances set out in Ohio R.C. 4511.30.
- (b) Division (a) of this section does not apply when all of the following apply:
- (1) The slower vehicle is proceeding at less than half the speed of the speed limit applicable to that location.
 - (2) The faster vehicle is capable of overtaking and passing the slower vehicle without exceeding the speed limit.
 - (3) There is sufficient clear sight distance to the left of the center or center line of the roadway to meet the overtaking and passing provisions of Ohio R.C. 4511.29, considering the speed of the slower vehicle.
- ~~(b)~~(c) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 408.04.

(ORC 4511.31)

432.13. Signals before changing course, turning or stopping.

- (a) (1) No person shall turn a vehicle or move right or left upon a highway unless and until the person has exercised due care to ascertain that the movement can be made with reasonable safety, nor without giving an appropriate signal in the manner hereinafter provided.
- (2) When required, a signal of intention to turn or move right or left shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning, except that in the case of a person operating a bicycle or electric bicycle, the signal shall be made not less than one time but is not required to be continuous. A bicycle or electric bicycle operator is not required to make a signal if the bicycle or electric bicycle is in a designated turn lane, and a signal shall not be given when the operator's hands are needed for the safe operation of the bicycle or electric bicycle.
- (3) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear, when there is opportunity to give a signal.
- (4) Any stop or turn signal required by this section shall be given either by means of the hand and arm, or by signal lights that clearly indicate to both approaching and following traffic the intention to turn or move right or left, except that any motor vehicle in use on a highway shall be equipped with, and the required signal shall be given by, signal lights when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds 24 inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds 14 feet, whether a single vehicle or a combination of vehicles.
- (5) The signal lights required by this section shall not be flashed on one side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section.
- (b) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 408.04.

(ORC 4511.39)

432.22. Driving upon sidewalks, tree lawns or curbs.

- (a) (1) No person shall drive any vehicle, other than a bicycle or an electric bicycle, upon a sidewalk or sidewalk area, except upon a permanent or duly authorized temporary bicycles, except that no local authority may require that bicycles be operated on sidewalks. This prohibition does not apply to a law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, using an electric bicycle with the motor engaged while in the performance of the officer's duties.
- (2) Nothing in this section shall be construed as prohibiting local authorities from regulating the operation of bicycles or electric bicycles within their respective jurisdictions, except that no local authority may require that bicycles or electric bicycles be operated on sidewalks.
- (b) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
- If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 408.04.
- (c) No person shall drive a vehicle on a tree lawn area or the curb of a street, except upon a permanent or duly authorized temporary driveway or when otherwise lawfully authorized.

(ORC 4511.711)

432.30. Stopping for school bus; actuating visual signals; discharging children.

- (a) The driver of a vehicle, upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child, person attending programs offered by community boards of mental health and county boards of developmental disabilities, or child attending a program offered by a head start agency, shall stop at least ten feet from the front or rear of the school bus and shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed. It is no defense to a charge under this division that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by division (b) of this section.
- (b) Every school bus shall be equipped with amber and red visual signals meeting the requirements of Ohio R.C. 4511.771 or a substantially equivalent municipal ordinance, and an automatically extended stop warning sign of a type approved by the state board of education, which shall be actuated by the driver of the bus whenever but only whenever the bus is stopped or stopping on the roadway for the purpose of receiving or discharging school children, persons attending programs offered by community boards of mental health and county boards of developmental disabilities, or children attending programs offered by head start agencies. A school bus driver shall not actuate the visual signals or the stop warning sign in designated school bus loading

areas where the bus is entirely off the roadway or at school buildings when children or persons attending programs offered by community boards of mental health and county boards of developmental disabilities are loading or unloading at curbside or at buildings when children attending programs offered by head start agencies are loading or unloading at curbside. The visual signals and stop warning sign shall be synchronized or otherwise operated as required by rule of the board.

- (c) Where a highway has been divided into four or more traffic lanes, a driver of a vehicle need not stop for a school bus approaching from the opposite direction which has stopped for the purpose of receiving or discharging any school child, persons attending programs offered by community boards of mental health and county boards of developmental disabilities, or children attending programs offered by head start agencies. The driver of any vehicle overtaking the school bus shall comply with division (a) above.
- (d) School buses operating on divided highways or on highways with four or more traffic lanes shall receive and discharge all school children, persons attending programs offered by community boards of mental health and county boards of developmental disabilities, and children attending programs offered by head start agencies on their residence side of the highway.
- (e) No school bus driver shall start the driver's bus until after any child, person attending programs offered by community boards of mental health and county boards of developmental disabilities, or child attending a program offered by a head start agency who may have alighted therefrom has reached a place of safety on the child's or person's residence side of the road.
- (f) (1) Whoever violates division (a) of this section may be fined an amount not to exceed \$500.00. A person who is issued a citation for a violation of division (a) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.
- (2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(7). When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to the court, and the court or clerk of the court immediately shall forward the license to the registrar of motor vehicles, together with notice of the court's action.
- (g) As used in this section:
 - (1) "Head start agency" has the same meaning as in Ohio R.C. 3301.32.
 - (2) "School bus" as used in relation to children who attend a program offered by a head start agency, means a bus that is owned and operated by a head start agency, is equipped with an automatically extended stop warning sign of a type approved by the state board of education, is painted the color and displays the markings described in Ohio R.C. 4511.77, and is equipped with amber and red visual signals meeting the requirements of Ohio R.C. 4511.77~~1~~, irrespective of whether or not the bus has 15 or more children aboard at any

time. The term does not include a van owned and operated by a head start agency, irrespective of its color, lights or markings.

(ORC 4511.75)

434.01. Driving or physical control of vehicle while under the influence of alcohol or drugs.

(a) Driving under the influence.

- (1) No person shall operate any vehicle within this municipality, if, at the time of the operation, any of the following apply:
- a. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 - b. The person has a concentration of 0.08 percent or more but less than 0.17 percent by weight per unit volume of alcohol in the person's whole blood.
 - c. The person has a concentration of 0.096 percent or more but less than 0.204 percent by weight per unit volume of alcohol in the person's blood serum or plasma.
 - d. The person has a concentration of 0.08 grams or more but less than 0.17 grams by weight of alcohol per 210 liters of the person's breath.
 - e. The person has a concentration of 0.11 grams or more but less than 0.238 grams by weight of alcohol per 100 milliliters of the person's urine.
 - f. The person has a concentration of 0.17 percent or more by weight per unit volume of alcohol in the person's whole blood.
 - g. The person has a concentration of 0.204 percent or more by weight per unit volume of alcohol in the person's blood serum or plasma.
 - h. The person has a concentration of 0.17 grams or more by weight of alcohol per 210 liters of the person's breath.
 - i. The person has a concentration of 0.238 grams or more by weight of alcohol per 100 milliliters of the person's urine.
 - j. Except as provided in division (k) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:
 1. The person has a concentration of amphetamine in the person's urine of at least 500 nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least 100 nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.
 2. The person has a concentration of cocaine in the person's urine of at least 150 nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least 50 nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.

3. The person has a concentration of cocaine metabolite in the person's urine of at least 150 nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least 50 nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.
4. The person has a concentration of heroin in the person's urine of at least 2,000 nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least 50 nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.
5. The person has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.
6. The person has a concentration of L.S.D. in the person's urine of at least 25 nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.
7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.
8. Either of the following applies:
 - (i) The person is under the influence of alcohol, a drug of abuse, or a combination of them, and, as measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least 15 nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
 - (ii) As measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least 35 nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least 50 nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
9. The person has a concentration of methamphetamine in the person's urine of at least 500 nanograms of methamphetamine per milliliter of the person's urine or

has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least 100 nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.

10. The person has a concentration of phencyclidine in the person's urine of at least 25 nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.

11. The state board of pharmacy has adopted a rule pursuant to R.C. § 4729.041 that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is impaired for purposes of operating any vehicle, streetcar, or trackless trolley within this state, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by rule in the person's urine, in the person's whole blood, or in the person's blood serum or plasma.

(2) No person who, within 20 years of the conduct described in division (a)(2)A. of this section, previously has been convicted of or pleaded guilty to a violation of this division or a substantially equivalent state law or municipal ordinance, a violation of division (a)(1) or (b) of this section or a substantially equivalent state law or municipal ordinance, or any other equivalent offense shall do both of the following:

a. Operate any vehicle within this municipality while under the influence of alcohol, a drug of abuse, or a combination of them;

b. Subsequent to being arrested for operating the vehicle as described in division (a)(2)a. of this section, being asked by a law enforcement officer to submit to a chemical test or tests under Ohio R.C. 4511.191 or any substantially equivalent municipal ordinance, and being advised by the officer in accordance with Ohio R.C. 4511.192 or any substantially equivalent municipal ordinance of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.

(b) *Underage alcohol consumption.* No person under 21 years of age shall operate any vehicle within this municipality if, at the time of the operation, any of the following apply:

(1) The person has a concentration of at least 0.02 percent but less than 0.08 percent by weight per unit volume of alcohol in the person's whole blood;

(2) The person has a concentration of at least 0.03 percent but less than 0.096 percent by weight per unit volume of alcohol in the person's blood serum or plasma;

(3) The person has a concentration of at least 0.02 grams but less than 0.08 grams by weight of alcohol per 210 liters of the person's breath;

(4) The person has a concentration of at least 0.028 grams but less than 0.11 grams by weight of alcohol per 100 milliliters of the person's urine.

(c) *Prosecution; limitation on convictions.* In any proceeding arising out of one incident, a person may be charged with a violation of division (a)(1)A. or (a)(2) and a violation of divisions

(b)(1), (2), or (3) of this section, but the person may not be convicted of more than one violation of these divisions.

(d) *Evidence: Tests.*

(1) a. In any criminal prosecution or juvenile court proceeding for a violation of division (a)(1)a. of this section or for an equivalent offense that is vehicle-related, the result of any test of any blood or urine withdrawn and analyzed at any health care provider, as defined in Ohio R.C. 2317.02, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.

b. In any criminal prosecution for a violation of division (a) or (b) of this section or for an equivalent offense that is vehicle-related, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine, or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this division regarding the admission of evidence does not extend or affect the two-hour time limit specified in Ohio R.C. 4511.192(A) as the maximum period of time during which a person may consent to a chemical test or tests as described in that section. The court may admit evidence on the concentration of alcohol, drugs of abuse, or a combination of them as described in this division when a person submits to a blood test at the request of a law enforcement officer under Ohio R.C. 4511.191 or a substantially equivalent municipal ordinance, or a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, an emergency medical technician-intermediate, an emergency medical technician-paramedic, or a qualified technician, chemist, or phlebotomist shall withdraw a blood sample for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this division may refuse to withdraw blood under this division, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood. The bodily substance withdrawn under this division (d)(1)b. shall be analyzed in accordance with methods approved by the director of health by an individual possessing a valid permit issued by the director pursuant to Ohio R.C. 3701.143.

c. As used in division (d)(1)b. of this section, "Emergency medical technician-intermediate" and "Emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.

(2) In a criminal prosecution for a violation of division (a) of this section or for an equivalent offense that is vehicle-related, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in division (a)(1)b., (a)(1)c., (a)(1)d. and (a)(1)e. of this section or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of division (a)(1)j. of this section, that fact may be

considered with other competent evidence in determining the guilt or innocence of the defendant. This division does not limit or affect a criminal prosecution for a violation of division (b) of this section.

- (3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis. If the chemical test was obtained pursuant to division (d)(1)B. of this section, the person tested may have a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. If the person was under arrest as described in R.C. § 4511.191(A)(5), the arresting officer shall advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. If the person was under arrest other than described in R.C. § 4511.191(A)(5), the form to be read to the person to be tested, as required under division (g) of this section, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.
- (4) a. As used in division (d)(4)b. and c. of this section, "National Highway Traffic Safety Administration" means the National Highway Traffic Safety Administration established as an administration of the United States Department of Transportation under 96 Stat. 2415 (1983), 49 U.S.C. 105.
- b. In any criminal prosecution or juvenile court proceeding for a violation of division (a) or (b) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine, if a law enforcement officer has administered a field sobriety test to the operator of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the National Highway Traffic Safety Administration, all of the following apply:
1. The officer may testify concerning the results of the field sobriety test so administered.
 2. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.
 3. If testimony is presented or evidence is introduced under division (d)(4)b.1. or 2. of this section and if the testimony or evidence is admissible under the rules of evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.

- c. Division (d)(4)b. of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that division, from considering evidence or testimony that is not otherwise disallowed by division (d)(4)b. of this section.
- (e) (1) Subject to division (e)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of division (a)(1)b., (a)(1)c., (a)(1)d., (a)(1)e., (a)(1)f., (a)(1)g., (a)(1)h., (a)(1)i. or (a)(1)j. or (b)(1), (b)(2), (b)(3), or (b)(4) of this section or for an equivalent offense that is substantially equivalent to any of those divisions, a laboratory report from any laboratory personnel issued a permit by the department of health authorizing an analysis as described in this division that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this division shall be admitted as prima facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:
- a. The signature, under oath, of any person who performed the analysis;
 - b. Any findings as to the identity and quantity of alcohol, a drug of abuse, a controlled substance, a metabolite of a controlled substance, or a combination of them that was found;
 - c. A copy of a notarized statement by the laboratory director of a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties;
 - d. An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the department of health.
- (2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in division (e)(1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant.
- (3) A report of the type described in division (e)(1) of this section shall not be prima facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interest of justice.

(f) *Limitation of liability.*

- (1) Except as otherwise provided in this division, any physician, registered nurse, emergency medical technician-intermediate, emergency medical technician-paramedic, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this

section or Ohio R.C. 4511.19, 4511.191 or 4511.192, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section or Ohio R.C. 4511.19, 4511.191 or 4511.192, is immune from criminal liability and civil liability based upon a claim of assault and battery or any other claim that is not a claim of malpractice, for any act performed in withdrawing blood from the person. The immunity provided in this division also extends to an emergency medical service organization that employs an emergency medical technician-intermediate or emergency medical technician-paramedic who withdraws blood under this section. The immunity provided in this division is not available to a person who withdraws blood if the person engages in willful or wanton misconduct.

- (2) As used in division (f)(1), "Emergency medical technician-intermediate" and "Emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.

(g) *Implied consent.*

- (1) *Definitions.* As used in this section:

a. "Alcohol monitoring device" means any device that provides for continuous alcohol monitoring, any ignition interlock device, any immobilizing or disabling device other than an ignition interlock device that is constantly available to monitor the concentration of alcohol in a person's system, or any other device that provides for the automatic testing and periodic reporting of alcohol consumption by a person and that a court orders a person to use as a sanction imposed as a result of the person's conviction of or plea of guilty to an offense.

b. "Physical control" has the same meaning as in Ohio R.C. 4511.194.

- (2) *Implied consent to chemical tests.* Any person who operates a vehicle upon a highway or any public or private property used by the public for vehicular travel or parking within this municipality or who is in physical control of a vehicle shall be deemed to have given consent to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for a violation of division (a), (b) or (o) of this section, Ohio R.C. 4511.19(A) or (B), Ohio R.C. 4511.194 or a substantially equivalent municipal ordinance, or any other municipal O.V.I. ordinance.

- (3) *The chemical test* or tests under division (g)(2) of this section shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person was operating or in physical control of a vehicle in violation of a division, section, or ordinance identified in division (g)(2) of this section. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

- (4) *Effect of death or unconsciousness.* Any person who is dead or unconscious, or who otherwise is in a condition rendering the person incapable of refusal, shall be deemed to have consented as provided in division (g)(2) of this section and the test or tests may be administered, subject to Ohio R.C. 313.12 to 313.16.

- (5) a. If a law enforcement officer arrests a person for a violation of Ohio R.C. 4511.19(A) or (B), Ohio R.C. 4511.194 or a substantially equivalent municipal ordinance, or a municipal O.V.I. ordinance and if the person if convicted would be required to be

sentenced under Ohio R.C. 4511.19(G)(1)(c), (d), or (e), the law enforcement officer shall request the person to submit, and the person shall submit, to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of determining the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine. A law enforcement officer who makes a request pursuant to this division that a person submit to a chemical test or tests is not required to advise the person of the consequences of submitting to, or refusing to submit to, the test or tests and is not required to give the person the form described in division (g)(7) of this section, but the officer shall advise the person at the time of the arrest that if the person refuses to take a chemical test the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. The officer shall also advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. Divisions (g)(3) and (g)(4) of this section apply to the administration of a chemical test or tests pursuant to this division.

b. If a person refuses to submit to a chemical test upon a request made pursuant to division (g)(5)a. of this section, the law enforcement officer who made the request may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. A law enforcement officer who acts pursuant to this division to ensure that a person submits to a chemical test of the person's whole blood or blood serum or plasma is immune from criminal and civil liability based upon a claim for assault and battery or any other claim for the acts, unless the officer so acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(6) *Advice required.* Except as provided in division (g)(5) of this section, the arresting law enforcement officer shall give advice in accordance with this division to any person under arrest for a violation of division (a), (b) or (o) of this section, Ohio R.C. 4511.19, Ohio R.C. 4511.194 or a substantially equivalent municipal ordinance, or any other municipal OVI ordinance. The officer shall give that advice in a written form that contains the information described in division (g)(7) of this section and shall read the advice to the person. The form shall contain a statement that the form was shown to the person under arrest and read to the person by the arresting officer. One or more persons shall witness the arresting officer's reading of the form, and the witnesses shall certify to this fact by signing the form. The person must submit to the chemical test or tests, subsequent to the request of the arresting officer, within two hours of the time of the alleged violation and, if the person does not submit to the test or tests within that two-hour time limit, the failure to submit automatically constitutes a refusal to submit to the test or tests.

(7) *Certification of arrest.* Except as provided in division (g)(5) of this section, if a person is under arrest as described in division (g)(6) of this section, before the person may be requested to submit to a chemical test or tests to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine, the arresting officer shall read the following form to the person:

"You now are under arrest for (specifically state the offense under state law or a substantially equivalent municipal ordinance for which the person was arrested — operating a vehicle under the influence of alcohol, a drug, or a combination of them; operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance; operating a vehicle after underage alcohol consumption; or having physical control of a vehicle while under the influence).

"If you refuse to take any chemical test required by law, your Ohio driving privileges will be suspended immediately, and you will have to pay a fee to have the privileges reinstated. If you have a prior conviction of O.V.I., O.V.U.A.C., or operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance under state or municipal law within the preceding 20 years, you are now under arrest for state O.V.I., and, if you refuse to take a chemical test, you will face increased penalties if you subsequently are convicted of the State O.V.I.

(Read this part unless the person is under arrest for solely having physical control of a vehicle while under the influence.) If you take any chemical test required by law and are found to be at or over the prohibited amount of alcohol, a controlled substance, or a metabolite of a controlled substance in your whole blood, blood serum or plasma, breath, or urine as set by law, your Ohio driving privileges will be suspended immediately, and you will have to pay a fee to have the privileges reinstated.

If you take a chemical test, you may have an independent chemical test taken at your own expense."

- (8) *Actions required by arresting officer.* If the arresting law enforcement officer does not ask a person under arrest as described in division (g)(5) or (g)(6) of this section to submit to a chemical test or tests under Ohio R.C. 4511.191 or this section, the arresting officer shall seize the Ohio or out-of-state driver's or commercial driver's license or permit of the person and immediately forward it to the court in which the arrested person is to appear on the charge. If the arrested person is not in possession of the person's license or permit or it is not in the person's vehicle, the officer shall order the person to surrender it to the law enforcement agency that employs the officer within 24 hours after the arrest, and, upon the surrender, the agency immediately shall forward the license or permit to the court in which the person is to appear on the charge. Upon receipt of the license or permit, the court shall retain it pending the arrested person's initial appearance and any action taken under Ohio R.C. 4511.196.
- (9) a. If a law enforcement officer asks a person under arrest as described in division (g)(5) of this section to submit to a chemical test or tests under that division and the test results indicate a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at the time of the alleged offense, or if a law enforcement officer asks a person under arrest as described in division (g)(6) of this section to submit to a chemical test or tests under Ohio R.C. 4511.191 or this section, if the officer advises the person in accordance with this section of the consequences of the person's refusal or submission, and if either the person refuses to submit to the test or tests or, unless the arrest was for a violation of division (o) of this section, Ohio R.C. 4511.194 or a

substantially equivalent municipal ordinance, the person submits to the test or tests and the test results indicate a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at the time of the alleged offense, the arresting officer shall do all of the following:

1. On behalf of the registrar of motor vehicles, notify the person that, independent of any penalties or sanctions imposed upon the person, the person's Ohio driver's or commercial driver's license or permit or nonresident operating privilege is suspended immediately, that the suspension will last at least until the person's initial appearance on the charge, which will be held within five days after the date of the person's arrest or the issuance of a citation to the person, and that the person may appeal the suspension at the initial appearance or during the period of time ending 30 days after that initial appearance;
2. Seize the driver's or commercial driver's license or permit of the person and immediately forward it to the registrar. If the arrested person is not in possession of the person's license or permit or it is not in the person's vehicle, the officer shall order the person to surrender it to the law enforcement agency that employs the officer within 24 hours after the person is given notice of the suspension, and, upon the surrender, the officer's employing agency immediately shall forward the license or permit to the registrar;
3. Verify the person's current residence and, if it differs from that on the person's driver's or commercial driver's license or permit, notify the registrar of the change;
4. Send to the registrar, within 48 hours after the arrest of the person, a sworn report that includes all of the following statements:
 - (i) That the officer had reasonable grounds to believe that, at the time of the arrest, the arrested person was operating a vehicle in violation of Ohio R.C. 4511.19(A) or (B) or a municipal OVI ordinance or for being in physical control of a stationary vehicle in violation of Ohio R.C. 4511.194 or a substantially equivalent municipal ordinance;
 - (ii) That the person was arrested and charged with a violation of Ohio R.C. 4511.19(A) or (B), Ohio R.C. 4511.194 or a substantially equivalent municipal ordinance, or a municipal OVI ordinance;
 - (iii) Unless division (g)(9)a.4.(v) of this section applies, that the officer asked the person to take the designated chemical test or tests, advised the person in accordance with this section of the consequences of submitting to, or refusing to take, the test or tests, and gave the person the form described in division (g)(7) of this section;
 - (iv) Unless division (g)(9)a.4.(v) of this section applies, that either the person refused to submit to the chemical test or tests or, unless the arrest was for a violation of Ohio R.C. 4511.194 or a substantially equivalent municipal ordinance, the person submitted to the chemical test or tests and the test results indicate a prohibited concentration of alcohol, a controlled

substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at the time of the alleged offense;

- (v) If the person was under arrest as described in division (g)(5) of this section and the chemical test or tests were performed in accordance with that division, that the person was under arrest as described in that division, that the chemical test or tests were performed in accordance with that division, and that test results indicated a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at the time of the alleged offense.
- b. Division (g)(9)a. of this section does not apply to a person who is arrested for a violation of division (o) of this section, Ohio R.C. 4511.194 or a substantially equivalent municipal ordinance, who is asked by a law enforcement officer to submit to a chemical test or tests under this section, and who submits to the test or tests, regardless of the amount of alcohol, a controlled substance, or a metabolite of a controlled substance that the test results indicate is present in the person's whole blood, blood serum or plasma, breath, or urine.

(10) *Sworn report of arresting officer.*

- a. The arresting officer shall give the officer's sworn report that is completed under this section to the arrested person at the time of the arrest, or the registrar of motor vehicles shall send the report to the person by regular first class mail as soon as possible after receipt of the report, but not later than 14 days after receipt of it. An arresting officer may give an unsworn report to the arrested person at the time of the arrest provided the report is complete when given to the arrested person and subsequently is sworn to by the arresting officer. As soon as possible, but not later than 48 hours after the arrest of the person, the arresting officer shall send a copy of the sworn report to the court in which the arrested person is to appear on the charge for which the person was arrested.
- b. The sworn report of an arresting officer completed under this section is prima facie proof of the information and statements that it contains. It shall be admitted and considered as prima facie proof of the information and statements that it contains in any appeal under Ohio R.C. 4511.197 relative to any suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege that results from the arrest covered by the report.

(11) *Suspension effective immediately.* A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under this section for the time described in Ohio R.C. 4511.191(B) or (C) is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person's being requested to take the chemical test or tests under divisions (g)(1) through (g)(5) of this section does not affect the suspension.

(12) *Initial appearance.* If a person arrested for operating a vehicle in violation of division (a) or (b) of this section, Ohio R.C. 4511.19(A) or (B), or any other municipal OVI ordinance, or for being in physical control of a vehicle in violation of division (o) of this section or Ohio R.C. 4511.194 or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under Ohio R.C. 4511.191(B) or (C) or Ohio R.C. Chapter 4510, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the persons' arrest or the issuance of the citation to him or her, subject to any continuance granted by the court pursuant to Ohio R.C. 4511.197 regarding the issues specified in that section.

(h) *Penalty for driving under the influence.*

(1) Whoever violates any provisions of divisions (a)(1)a. through (a)(1)i. or (a)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates division (a)(1)j. of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender under Ohio R.C. Chapter 2929, except as otherwise authorized or required by divisions (h)(1)a. through (h)(1)e. of this section.

- a. Except as otherwise provided in division (h)(1)b., c., d., or e. of this section, the offender is guilty of a misdemeanor of the first degree and the court shall sentence the offender to all of the penalties and sanctions provided in Ohio R.C. 4511.19(G)(1)(a)(i) to (iv).
- b. Except as otherwise provided in division (h)(1)e. of this section, an offender who, within six years of the offense previously has been convicted of or pleaded guilty to one violation of division (a) or (b) of this section, or one other equivalent offense is guilty of a misdemeanor of the first degree. The court shall sentence the offender to all of the penalties and sanctions provided in Ohio R.C. 4511.19(G)(1)(b)(i) to (v).
- c. Except as otherwise provided in division (h)(1)e. of this section, an offender who, within ~~six~~ ten years of the offense, previously has been convicted of or pleaded guilty to two violations of division (a) or (b) of this section or other equivalent offenses ~~or an offender who, within 20 years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature~~ is guilty of a misdemeanor. The court shall sentence the offender to all of the penalties and sanctions provided in Ohio R.C. 4511.19(G)(1)(c)(i) to (vi).
- d. Except as otherwise provided in division (h)(1)e. of this section, an offender who, within ~~six~~ ten years of the offense, previously has been convicted of or pleaded guilty to three or ~~more~~ four violations of division (a) or (b) of this section or other equivalent offenses or an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature is guilty of a felony to be prosecuted under appropriate state law.
- e. An offender who previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) that was a felony, regardless of when the violation and the

conviction or guilty plea occurred, is guilty of a felony to be prosecuted under appropriate state law.

- (2) An offender who is convicted of or pleads guilty to a violation of division (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section or Ohio R.C. 4511.19 as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in Ohio R.C. 4511.191(F)(2).
- (3) a. If an offender is sentenced to a jail term under Ohio R.C. 4511.19(G)(1)(b)(i) or (ii) or (G)(1)(c)(i) or (ii) and if, within 60 days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the 60-day period following the date of sentencing, the court may impose an alternative sentence as specified in Ohio R.C. 4511.19(G)(3) that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring.
 - b. As an alternative to the mandatory jail terms as required by Ohio R.C. 4511.19(G)(1), the court may sentence the offender as provided in Ohio R.C. 4511.19(G)(3).
- (4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under division (h) of this section or Ohio R.C. 4511.19(G) and if Ohio R.C. 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under Ohio R.C. 4503.231, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in Ohio R.C. 4503.231(B).
- (5) Fines imposed under this section for a violation of division (a) of this section shall be distributed as provided in Ohio R.C. 4511.19(G)(5).
- (6) If title to a motor vehicle that is subject to an order of criminal forfeiture under division (h)(1)c., d., or e. of this section is assigned or transferred and Ohio R.C. 4503.234(B)(2) or (3) applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the National Automobile Dealers Association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.
- (7) In all cases in which an offender is sentenced under division (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in R.C. § 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to § 698.02(f) or R.C. § 2929.18 or 2929.28 in an amount not exceeding \$5,000.00 for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under division (h) of this section.

- (8) As used in division (h) of this section, "electronic monitoring" has the same meaning as in Ohio R.C. 2929.01.
- (i) *Penalty for operating a vehicle after underage alcohol consumption.* Whoever violates division (b) of this section is guilty of operating a motor vehicle after underage alcohol consumption and shall be punished as follows:
- (1) Except as otherwise provided in division (i)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(6); The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13 . The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022. If the court grants unlimited driving privileges under Ohio R.C. 4510.022, the court shall suspend any jail term imposed under division (i)(1) of this section as required under that section.
 - (2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of division (a) or (b) of this section or other equivalent offense or offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(4). The court may grant limited driving privileges relative to the suspension under sections 4510.021 and 4510.13 of the Revised Code.
 - (3) If the offender also is convicted of or also pleads guilty to a specification of the type described in Ohio R.C. 2941.1414 and if the court imposes a jail term for the violation of division (b) of this section, the court shall impose upon the offender an additional definite jail term pursuant to Ohio R.C. 2929.24(E).
 - (4) The offender shall provide the court with proof of financial responsibility as defined in R.C. § 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to § 698.02(f) or R.C. § 2929.28 in an amount not exceeding \$5,000.00 for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the violation of division (b) of this section.
- (j) (1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under Ohio R.C. Chapter ~~3793~~ 5119 by the director of ~~alcohol~~ mental health and drug-addiction services.
- (2) An offender who stays in a drivers' intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of

the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.

- (k) *If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended* under this section or Ohio R.C. 4511.19 files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.
- (l) *Division (a)(1)j. of this section does not apply* to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that division, if both of the following apply:
- (1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
 - (2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.
- (m) *The prohibited concentrations of a controlled substance* or a metabolite of a controlled substance listed in division (a)(1)j. of this section also apply in a prosecution of a violation of Ohio R.C. 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.
- (n) *All terms defined in Ohio R.C. 4510.01 apply to this section.* If the meaning of a term defined in Ohio R.C. 4510.01 conflicts with the meaning of the same term as defined in Ohio R.C. 4501.01 or 4511.01, the term as defined in Ohio R.C. 4510.01 applies to this section.
- (o) *Physical control of vehicle while under the influence.*
- (1) *Definition.* As used in this division, "physical control" means being in the driver's position of the front seat of a vehicle and having possession of the vehicle's ignition key or other ignition device.
 - (2) *Generally.* No person shall be in physical control of a vehicle if, at the time of the physical control, any of the following apply:
 - a. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 - b. The person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in divisions (a)(1)b., (a)(1)c., (a)(1)d., or (a)(1)e. of this section.
 - c. Except as provided in division (o)(5) of this section, the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the concentration specified in division (a)(1)J. of this section.
 - (3) a. In any criminal prosecution or juvenile court proceeding for a violation of this section, if a law enforcement officer has administered a field sobriety test to the person in physical control of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally acceptable field sobriety tests that were in effect at the time the tests were

administered, including but not limited to any testing standards then in effect what were set by the National Highway Traffic Safety Administration, all of the following apply:

1. The officer may testify concerning the results of the field sobriety test so administered.
 2. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.
 3. If testimony is presented or evidence is introduced under division (o)(3)a.1. or 2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence, and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.
- b. Division (o)(3)a. of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that division, from considering evidence or testimony that is not otherwise disallowed by division (o)(3)a. of this section.
- (4) *Penalty.* Whoever violates this division (o) is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(7).
- (5) *Exception.* Division (o)(2)c. of this section does not apply to a person who is in physical control of a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in division (a)(1)j. of this section if both of the following apply:
- a. The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
 - b. The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(p) *As used in this section:*

- (1) "Community residential sanction", "continuous alcohol monitoring", "jail", "mandatory prison term", "mandatory term of local incarceration", "prison term", and "sanction" have the same meanings as in Ohio R.C. 2929.01.
- (2) "Drug of abuse" has the same meaning as in Ohio R.C. 4506.01.
- (3) "Equivalent offense" means any of the following:
 - a. A violation of Ohio R.C. 4511.19(A) or (B);
 - b. A violation of a municipal O.V.I. ordinance;

- c. A violation of Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;
 - d. A violation of Ohio R.C. 2903.06(A)(1) or Ohio R.C. 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;
 - e. A violation of Ohio R.C. 2903.06(A)(2), (A)(3), or (A)(4), Ohio R.C. 2903.08(A)(2), or former Ohio R.C. 2903.07, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;
 - f. A violation of Ohio R.C. 1547.11(A) or (B);
 - g. A violation of a municipal ordinance prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane, or similar device on the waters of this state while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane, or similar device on the waters of this state with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine;
 - h. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to Ohio R.C. 4511.19(A) or (B);
 - i. A violation of a former law of this state that was substantially equivalent to Ohio R.C. 4511.19(A) or (B) or Ohio R.C. 1547.11(A) or (B).
- (4) "Equivalent offense that is vehicle-related" means an equivalent offense that is any of the following:
- a. A violation described in division a., b., c., d., or e. of the definition for "equivalent offense" provided in this division (p);
 - b. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to Ohio R.C. 4511.19(A) or (B);
 - c. A violation of a former law of this state that was substantially equivalent to Ohio R.C. 4511.19(A) or (B).
- (5) "Mandatory jail term" means the mandatory term in jail of 3, 6, 10, 20, 30, or 60 days that must be imposed under Ohio R.C. 4511.19(G)(1)(a), (G)(1)(b), or (G)(1)(c) upon an offender convicted of a violation of division (A) of that section and in relation to which all of the following apply:
- a. Except as specifically authorized under Ohio R.C. 4511.19, the term must be served in a jail.
 - b. Except as specifically authorized under Ohio R.C. 4511.19, the term cannot be suspended, reduced, or otherwise modified pursuant to Ohio R.C. 2929.21 through 2929.28 or any other provision of the Ohio Revised Code.

- (6) "Municipal O.V.I. ordinance" and "municipal O.V.I. offense" mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

(ORC 4511.19(A)—(F), 4511.191(A), 4511.192, 4511.191(D), 4511.19(G)—(M), 4511.194, 4511.181)

434.02. Reckless operation on streets, public or private property.

- (a) No person shall operate a vehicle on any street or highway in willful or wanton disregard of the safety of persons or property. Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
- (b) (1) No person shall operate a vehicle on any public or private property other than streets or highways in willful or wanton disregard of the safety of persons or property.
- (2) Division (b)(1) of this section does not apply to the competitive operation of vehicles on public or private property when the owner of such property knowingly permits such operation thereon.
- (3) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree
- ~~(c) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the fourth degree.~~

(ORC 4511.20, 4511.201)

434.026. Immobilizing or disabling device violation.

- (a) (1) No offender with limited driving privileges, during any period that the offender is required to operate only a motor vehicle equipped with an immobilizing or disabling device, shall request or permit any other person to breathe into the device if it is an ignition interlock device or another type of device that monitors the concentration of alcohol in a person's breath or to otherwise start the motor vehicle equipped with the device, for the purpose of providing the offender with an operable motor vehicle.

(2) ~~a. Except as provided in division (a)(2)b. of this section,~~ No person shall breathe into an immobilizing or disabling device that is an ignition interlock device or another type of device that monitors the concentration of alcohol in a person's breath or otherwise start a motor vehicle equipped with an immobilizing or disabling device, for the purpose of providing an operable motor vehicle to an offender with limited driving privileges who is permitted to operate only a motor vehicle equipped with an immobilizing or disabling device.

~~b. Division (a)(2)a. of this section does not apply to a person in the following circumstances:~~

~~1. The person is an offender with limited driving privileges.~~

~~2. The person breathes into an immobilizing or disabling device that is an ignition interlock device or another type of device that monitors the concentration of alcohol in a person's breath or otherwise starts a motor vehicle equipped with an immobilizing or disabling device.~~

~~3. The person breathes into the device or starts the vehicle for the purpose of providing the person with an operable motor vehicle.~~

(3) No unauthorized person shall tamper with or circumvent the operation of an immobilizing or disabling device.

(b) Whoever violates this section is guilty of an immobilizing or disabling device violation, a misdemeanor of the first degree.

(ORC 4510.44)

434.03. Maximum speed limits; assured clear distance ahead.

(a) No person shall operate a motor vehicle at a speed greater or less than is reasonable or proper, having due regard for the traffic, surface, and width of the street or highway and any other conditions, and no person shall drive any motor vehicle in and upon any street or highway at a greater speed than will permit him or her to bring it to a stop within the assured clear distance ahead.

(b) It is prima facie lawful, in the absence of a lower limit declared or established pursuant to this section by the director of transportation or local authorities, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:

(1) a. Twenty miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, and when 20 miles per hour school speed limit signs are erected, except that on controlled-access highways and expressways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by division (b)(6) of this section, and on freeways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by divisions (b)(11) and (b)(12) of this section. The end of every school zone may be marked by a sign indicating the end of the zone. Nothing in this section or in the manual and specifications for a uniform system of traffic-control devices shall be construed to require school zones to be indicated by signs

equipped with flashing or other lights, or giving other special notice of the hours in which the school zone speed limit is in effect.

- b. As used in this section, "school" means any school chartered under Ohio R.C. 3301.16 and any nonchartered school that during the preceding year filed with the department of education in compliance with OAC 3301-35-08, a copy of the school's report for the parents of the school's pupils certifying that the school meets state minimum standards for nonchartered, non-tax-supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone. "School" also includes a special elementary school that in writing requests the county engineer to create a school zone at the location of the school. Upon receipt of such written request, the county engineer shall create a school zone at that location by erecting appropriate signs. School also means any preschool education program operated by an educational service center that is located on a street or highway with a speed limit of forty-five miles per hour or more, when the educational service center in writing requests that the county engineer of the county in which the program is located create a school zone at the location of that program. Upon receipt of such a written request, the county engineer shall create a school zone at that location by erecting the appropriate signs.
- c. As used in this section, "school zone" means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway, and also includes that portion of a state highway. Upon request from local authorities for streets and highways under their jurisdiction and that portion of a state highway under the jurisdiction of the director of transportation or a request from a county engineer in the case of a school zone for a special elementary school, the director may extend the traditional school zone boundaries. The distances in divisions (b)(1)c.1. through 3. below shall not exceed 300 feet per approach per direction, and are bounded by whichever of the following distances or combination thereof the director approves as most appropriate:
1. The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance of 300 feet on each approach direction;
 2. The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of 300 feet on each approach direction;
 3. The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of 300 feet on each approach direction of the highway.
- d. Nothing in this section shall be construed to invalidate the director's initial action on August 9, 1976, establishing all school zones at the traditional school zone boundaries defined by projecting school property lines, except when those boundaries are extended as provided in divisions (b)(1)a. and (b)(1)c. of this section.

- e. As used in this division, "crosswalk" has the meaning given that term in Ohio E.C. 4511.01(LL)(2).
- f. The director may, upon request by resolution of the legislative authority and upon submission by the municipality of such engineering, traffic, and other information as the director considers necessary, designate a school zone on any portion of a state route lying within the municipality that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours, whenever the distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of a crosswalk is no more than 1,320 feet. Such a school zone shall include the distance encompassed by the crosswalk and extending 300 feet in each appropriate direction of the state route.
- g. As used in this section, "special elementary school" means a school that meets all of the following:
 - 1. It is not chartered and does not receive tax revenue from any source.
 - 2. It does not educate children beyond the eighth grade.
 - 3. It is located outside the limits of a municipal corporation.
 - 4. A majority of the total number of students enrolled at the school are not related by blood.
 - 5. The principal or other person in charge of the special elementary school annually sends a report to the superintendent of the school district in which the special elementary school is located indicating the total number of students enrolled at the school, but otherwise the principal or other person in charge does not report any other information or data to the superintendent.
- (2) Twenty-five miles per hour on the entire section of South Main Street between Lebanon Street and the south corporation line, and in all other portions of the municipality, except on state routes outside business districts, through highways outside business districts, and alleys;
- (3) Thirty-five miles per hour on the section of South Main Street between 400 feet south of Mason Avenue and the south corporation limit, and on all state routes or through highways within the municipality outside business districts, except as provided in divisions (b)(6) and (7) of this section;
- (4) Forty miles per hour on that portion of North Garver Road, north from State Route 63 approximately 5,800 feet to the first 90-degree turn to the west, this point also being at the address of 900 North Garver Road, and on that portion of Yankee Road from Todhunter Road south to the corporation line;
- (5) Forty-five miles per hour on the entire section of North Main Street (Cincinnati-Dayton Road) between State Route 63 and the north corporation line;
- (6) Fifty miles per hour on controlled-access highways and expressways within the municipality, except as otherwise provided herein;

- (7) Fifty-five miles per hour on highways outside the municipality, other than highways within island jurisdictions as provided in division (b)(10) of this section and freeways as provided in divisions (b)(15) and (b)(16) of this section;
- (8) Fifty miles per hour on state routes within the municipality outside urban districts unless a lower prima facie speed is established as further provided in this section;
- (9) Fifteen miles per hour on all alleys within the municipality;
- (10) Thirty-five miles per hour on highways outside the municipality that are within an island jurisdiction;
- (11) Fifty-five miles per hour on freeways with paved shoulders inside the municipality other than freeways as provided in divisions (B)(14) and (b)(15);
- (12) ~~Fifty-five miles per hour at all times on all portions of freeways that are part of the interstate system and on all portions of freeways not part of the interstate system, but are built to the standards and specifications that are applicable to freeways that are part of the interstate system for operators of any motor vehicle weighing in excess of 8,000 pounds empty weight and any noncommercial bus, except as provided in divisions (b)(15) of this section;~~
- (13) ~~Fifty-five miles per hour for operators of any motor vehicle weighing 8,000 pounds or less empty weight and any commercial bus at all times on all portions of freeways that are part of the interstate system and that had such a speed limit established prior to October 1, 1995, and freeways that are not part of the interstate system but are built to the standards and specifications that are applicable to freeways that are part of the interstate system and that had such a speed limit established prior to October 1, 1995, unless a higher speed limit is established under Ohio R.C. 4511.21(L);~~
- (14) ~~Sixty-five miles per hour for operators of any motor vehicle weighing 8,000 pounds or less empty weight and any commercial bus at all times on all portions of the following:~~
 - a. ~~Freeways that are part of the interstate system and that had such a speed limit established prior to October 1, 1995, and freeways that are not part of the interstate system but are built to the standards and specifications that are applicable to freeways that are part of the interstate system and that had such a speed limit established prior to October 1, 1995;~~
 - b. ~~Freeways that are part of the interstate system and freeways that are not part of the interstate system but are built to the standards and specifications that are applicable to freeways that are part of the interstate system, and that had such a speed limit established under Ohio R.C. 4511.21(L);~~
 - e. ~~Rural, divided, multi-lane highways that are designated as part of the national highway system under the National Highway System Designation Act of 1995, 109 Stat. 568, 23 U.S.C. 103, and that had such a speed limit established under Ohio R.C. 4511.21(M);~~
- (15) ~~Sixty-five miles per hour at all times on all portions of freeways that are part of the interstate system and that had such a speed limit on July 1, 2009 for operators of any motor vehicle weighing in excess of 8,000 pounds empty weight and any noncommercial bus.~~

- (12) Fifty-five miles per hour on all portions of freeways or expressways in congested areas as determined by the director, except as provided in division (b)(13) of this section;
- (13) Sixty-five miles per hour on all portions of freeways or expressways without traffic control signals in urbanized areas.
- ~~(16)~~(14) Fifty miles per hour on the portion of State Route 63 contained in the 43.931 acres of recently annexed territory beginning at the new city corporate limit at Yankee Road and going east.
- (c) It is prima facie unlawful for any person to exceed any of the speed limitations in divisions (b)(1)a., (b)(6), (b)(8), (b)(9) and (b)(10) of this section or any declared or established pursuant to this section by the director or local authorities and it is unlawful for any person to exceed any of the speed limitations in division (d) of this section. No person shall be convicted of more than one violation of this section for the same conduct, although violations of more than one provision of this section may be charged in the alternative in a single affidavit.
- ~~(d) No person shall operate a motor vehicle upon a street or highway as follows:~~
- ~~(1) At a speed exceeding 55 miles per hour, except upon a freeway as provided in divisions (b)(15) and (b)(16) of this section;~~
- ~~(2) At a speed exceeding 65 miles per hour upon a freeway as provided in divisions (b)(15) and (b)(16) of this section;~~
- ~~(3) If operating a motor vehicle weighing in excess of 8,000 pounds empty weight or a noncommercial bus as prescribed in division (b)(13) of this section, at a speed exceeding 55 miles per hour upon a freeway as provided in that division;~~
- ~~(4) At a speed exceeding the posted speed limit upon a freeway for which the Director has determined and declared a speed limit of not more than 65 miles per hour pursuant to Ohio R.C. 4511.21(L)(2) or (M);~~
- ~~(5) At a speed exceeding 65 miles per hour upon a freeway for which such a speed limit has been established through the operation of Ohio R.C. 4511.21(L)(3);~~
- ~~(6) At a speed exceeding the posted speed limit upon a freeway for which the Director had determined and declared a speed limit pursuant to Ohio R.C. 4511.21(1X2).~~
- (1) At a speed exceeding fifty-five miles per hour
- (2) At a speed exceeding sixty miles per hour upon a two-lane state route.
- (3) At a speed exceeding sixty-five miles per hour upon an expressway as provided in division (b)(13).
- (4) At a speed exceeding seventy miles per hour upon a freeway;
- (5) At a speed exceeding the posted speed limit upon a highway, expressway, or freeway for which the director has determined and declared a speed limit .

- (e) Pursuant to Ohio R.C. 4511.21(E), in every charge of violating this section, the affidavit and warrant shall specify the time, place and speed at which the defendant is alleged to have driven, and in charges made in reliance upon division (c) of this section also the speed which divisions (b)(1)a., (b)(6), (b)(8), (b)(9) and (b)(10) of, or a limit declared or established pursuant to, this section or Ohio R.C. 4511.21 declares is prima facie lawful at the time and place of such alleged violation, except that in affidavits where a person is alleged to have driven at a greater speed than will permit the person to bring the vehicle to stop within the assured clear distance ahead, the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.
- (f) Pursuant to Ohio R.C. 4511.21(F), when a speed in excess of both a prima facie limitation and a limitation in division (d)(1), (d)(2), (d)(3), (d)(4), (d)(5) or (d)(6) of this section is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both divisions (b)(1)a., (b)(6), (b)(8), (b)(9) and (b)(10) of this section, or of a limit declared or established pursuant to this section or Ohio R.C. 4511.21 by the Director or local authorities, and of the limitation in divisions (d)(1), (d)(2), (d)(3), (d)(4), (d)(5) or (d)(6) of this section. If the court finds a violation of division (b)(1)a., (b)(6), (b)(8), (b)(9) and (b)(10) of this section, or a limit declared or established pursuant to this section or Ohio R.C. 4511.21 has occurred, it shall enter judgment of conviction under such division and dismiss the charge under division (d)(1), (d)(2), (d)(3), (d)(4), (d)(5) or (d)(6) of this section. If it finds no violation of division (b)(1)a., (b)(6), (b)(8), (b)(9) and (b)(10) of, or a limit declared or established pursuant to, this section or Ohio R.C. 4511.21, it shall then consider whether the evidence supports a conviction under division (d)(1), (d)(2), (d)(3), (d)(4), (d)(5) or (d)(6) of this section.
- (g) Pursuant to Ohio R.C. 4511.21(G), points shall be assessed for a violation of a limitation under division (d) of this section in accordance with Ohio R.C. 4510.036.
- (h) Whenever, in accordance with Ohio R.C. 4511.21(H) through (N), the maximum prima facie speed limitations as established herein have been altered, either higher or lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima facie unlawful for any person to exceed the speed limits posted upon such signs.
- (i) As used in this section:
- (1) "Commercial bus" means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.
 - (2) "Interstate system" has the same meaning as in 23 U.S.C. 101.
 - (3) "Noncommercial bus" includes but is not limited to a school bus, or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.
- (j) Penalty.
- (1) A violation of any provision of this section is one of the following:
 - a. Except as otherwise provided in divisions (j)(1)b., (j)(1)c., and (j)(2) and (j)(3) of this section, a minor misdemeanor;

- b. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section, Ohio R.C. 4511.21, or any provision of any other municipal ordinance that is substantially equivalent to any provision of that section, a misdemeanor of the fourth degree;
 - c. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of this section, Ohio R.C. 4511.21, or any provision of any other municipal ordinance that is substantially equivalent to any provision of that section, a misdemeanor of the third degree.
- (2) If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of this section, Ohio R.C. 4511.21, or any other municipal ordinance that is substantially equivalent to any provision of that section, and operated a motor vehicle faster than 35 miles an hour in a business district of the municipality, faster than 50 miles an hour in other portions of the municipality, or faster than 35 miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree.
- (3) Notwithstanding division (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this division and if the court determines that the offender is an indigent person and unable to pay the fine.
- (4) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 408.04.

(ORC 4511.21(A)—(B)(1), 4511.21(B)(4)—(14), 4511.21(C)—(G), 4511.21(O), (P))

434.07. Street racing prohibited.

- (a) As used in this section, "street racing" means the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point, wherein timing is made of the participating vehicles involving competitive accelerations or speeds. Persons rendering assistance in any manner to such competitive use of vehicles shall be equally charged as the participants. The operation of two or more vehicles side by side either at speeds in excess of prima facie lawful speeds established by Ohio R.C. 4511.21(B)(1)(a) through (B)(~~8~~)9) or a substantially equivalent municipal ordinance, or rapidly accelerating from a common starting point to a speed in excess of such prima facie lawful speeds shall be prima facie evidence of street racing.
- (b) No person shall participate in street racing upon any public road, street, or highway in this municipality.

- (c) Whoever violates this section is guilty of street racing, a misdemeanor of the first degree. In addition to any other sanctions, the court shall suspend the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privileges for not less than 30 days or more than three years. No judge shall suspend the first 30 days of any suspension of an offender's license, permit, or privilege imposed under this division.

(ORC 4511.251).

436.01. Driver's or commercial driver's license required.

- (a) No person shall permit the operation of a motor vehicle upon any public or private property used by the public for purposes of vehicular travel or parking, knowing the operator does not have a valid driver's license issued to the operator by the registrar of motor vehicles or a deputy registrar under Ohio R.C. Chapter 4507 or a valid commercial driver's license issued under Ohio R.C. Chapter 4506. Except as otherwise provided in this division, whoever violates this division is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to section 698.02, section 698.03, Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to § 698.02(d) or Ohio R.C. 2929.26; notwithstanding division 698.02(f)(1)b.1. and Ohio R.C. 2929.28(A)(2)(a), the offender may be fined up to \$1,000.00; and, notwithstanding division 698.02(e)(1)c. and Ohio R.C. 2929.27(A)(3), the offender may be ordered pursuant to division 698.02(e)(3) or Ohio R.C. 2929.27(C) to serve a term of community service of up to 500 hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under R.C. § 2705.02(A) that may be filed in the underlying case. If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of this section or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.
- (b) (1) No person shall be required to obtain a driver's or commercial driver's license for the purpose of temporarily driving, operating, drawing, moving, or propelling a road roller or road machinery upon a street or highway.
- (2) No person shall be required to obtain a driver's or commercial driver's license for the purpose of temporarily driving, operating, drawing, moving, or propelling any agricultural tractor or implement of husbandry upon a street or highway at a speed of 25 miles per hour or less.
- (3) No person shall drive, operate, draw, move, or propel any agricultural tractor or implement of husbandry upon a street or highway at a speed greater than 25 miles per hour unless the person has a current, valid driver's or commercial driver's license.
- (4) No person having a valid driver's or commercial driver's license shall be required to have a motorcycle operator's endorsement to operate a motorcycle having three wheels with a motor of not more than 50 cubic centimeters piston displacement.
- (5) Every person on active duty in the military or naval forces of the United States, when furnished with a driver's permit and when operating an official motor vehicle in

connection with such duty, is exempt from the license requirements of Ohio R.C. Chapters 4506 and 4507. Every person on active duty in the military or naval forces of the United States or in service with the peace corps, volunteers in service to America, or the foreign service of the United States, is exempt from the license requirements of such sections for the period of the person's active duty or service and for six months thereafter, provided such person was a licensee under such sections at the time the person commenced the person's active duty or service. This section does not prevent such a person or the person's spouse or dependent from making an application, as provided in Ohio R.C. 4507.10(C), for the renewal of a driver's license or motorcycle operator's endorsement or as provided in Ohio R.C. 4506.14 for the renewal of a commercial driver's license during the period of the person's active duty or service.

(6) Whoever violates division (b)(3) of this section is guilty of a misdemeanor of the first degree.

(c) Nonresidents, permitted to drive upon the highways of their own state, may operate any motor vehicle upon any highway in this State without examination or license under Ohio R.C. 4507.01 to 4507.39, inclusive, upon condition that such nonresident may be required at any time or place to prove lawful possession or their right to operate such motor vehicle, and to establish proper identity.

(ORC 4507.02(A)(1), 4507.03, 4507.04)

436.02. Possession of more than one license prohibited.

(a) No person shall receive a driver's license, or a motorcycle operator's endorsement of a driver's or commercial driver's license, temporary instruction permit, or identification card unless and until the person surrenders to the registrar or a deputy registrar all valid licenses, temporary instruction permits, or identification cards issued to the person by another jurisdiction recognized by this state. The registrar or a deputy registrar shall report the surrender of a license to the issuing authority, together with information that a license is now issued in this state. The registrar shall destroy any such license that is not returned to the issuing authority. No person shall be permitted to have more than one valid license at any time.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.

(ORC 4507.02(A)(2), 4507.99)

436.035. Driving with probationary license.

(a) (1) a. No holder of a probationary driver's license who has ~~not attained the age of 17 years~~ held the license for less than 12 months shall operate a motor vehicle upon a highway or any public or private property used by the public for vehicular travel or parking between the hours of midnight and 6:00 a.m. unless the holder is accompanied by the holder's parent or guardian.

b. No holder of a probationary driver's license who has ~~attained the age of 17 years but has not attained the age of 18 years~~ held the license for 12 months or longer shall

operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of 1:00 a.m. and 5:00 a.m. unless the holder is accompanied by the holder's parent or guardian.

~~(2) a. Subject to division (c)(1)a. of this section, division (a)(1)a. of this section does not apply to the holder of a probationary driver's license who is traveling to or from work between the hours of midnight and 6:00 a.m. and has in the holder's immediate possession written documentation from the holder's employer.~~

~~b. Division (a)(1)b. of this section does not apply to the holder of a probationary driver's license who is traveling to or from work between the hours of 1:00 a.m. and 5:00 a.m. and has in the holder's immediate possession written documentation from the holder's employer.~~

(2)(a) Subject to division (c)(1)a of this section, division (a)(1)a. of this section does not apply to the holder of a probationary driver's license who is doing either of the following:

(i) Traveling to or from work between the hours of midnight and 6:00 a.m., provided that the holder has in the holder's immediate possession written documentation from the holder's employer.

(ii) Traveling to or from an official function sponsored by the school the holder attends between the hours of midnight and 6:00 a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official of the school;

(iii) Traveling to or from an official religious event between the hours of midnight and 6:00 a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official affiliated with the event.

(b) Division (A)(1)b of this section does not apply to the holder of a probationary driver's license who is doing either of the following:

(i) Traveling to or from work between the hours of 1:00 a.m. and 5:00 a.m., provided that the holder has in the holder's immediate possession written documentation from the holder's employer.

(ii) Traveling to or from an official function sponsored by the school the holder attends between the hours of 1:00 a.m. and 5:00 a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official of the school;

(iii) Traveling to or from an official religious event between the hours of 1:00 a.m. and 5:00 a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official affiliated with the event.

(3) An employer school official, or official affiliated with a religious event is not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from, or is related to, the fact that the employer, school official or official affiliated with a religious event provided an employee who is the holder of a probationary driver's license with the written documentation described in division (a)(2) of this section. The registrar of motor vehicles has available at no cost a form to serve as the written

documentation described in division (a)(2) of this section, and employers, school officials, officials affiliated with religious events, and holders of probationary driver's licenses may utilize that form or may choose to utilize any other written documentation to meet the requirements of that division.

- (4) No holder of a probationary driver's license who is less than 17 years of age shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking with more than one person who is not a family member occupying the vehicle unless the probationary license holder is accompanied by the probationary license holder's parent, guardian, or custodian.
- (b) It is an affirmative defense to a violation of division (a)(1)a. or (a)(1)b. of this section if, at the time of the violation, the holder of the probationary driver's license was traveling to or from an official function sponsored by the school the holder attends, or an emergency existed that required the holder to operate a motor vehicle in violation of division (a)(1)a. or (a)(1)b. of this section, or the holder was an emancipated minor.
- (c) (1) a. Except as otherwise provided in division (c)(2) of this section, if a person is issued a probationary driver's license prior to attaining the age of 17 years and the person pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed a moving violation during the six-month period commencing on the date on which the person is issued the probationary driver's license, the court with jurisdiction over the violations may order that the holder must be accompanied by the holder's parent or guardian whenever the holder is operating a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking ~~during whichever of the following time periods applies: for a period not to exceed six months or the date the holder attains the age of seventeen years, whichever occurs first.~~
- ~~1. If, on the date the holder of the probationary driver's license pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed the moving violation, the holder has not attained the age of 16.5 years, during the six month period commencing on that date;~~
 - ~~2. If, on the date the holder pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed the moving violation, the holder has attained the age of 16.5 years but not 17 years, until the person attains the age of 17 years.~~
- ~~b. If the holder of a probationary driver's license commits a moving violation during the six month period after the person is issued the probationary driver's license and before the person attains the age of 17 years and on the date the person pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed the moving violation the person has attained the age of 17 years, or if the person commits the moving violation during the six month period after the person is issued the probationary driver's license and after the person attains the age of 17 years, the holder is not subject to the restriction described in divisions (c)(1)a.1. and (c)(1)a.2. of this section unless the court or juvenile court imposes such a restriction upon the holder.~~

- (2) Any person who is subject to the operating restrictions established under division (c)(1) of this section as a result of a first moving violation may petition the court for ~~occupational or educational~~ driving privileges without being accompanied by the holder's parent or guardian during the period of time specified in that division. ~~The court may grant the person such driving privileges if the court finds reasonable cause to believe that the restrictions established in division (c)(1) will seriously affect the person's ability to continue in employment or educational training or will cause undue hardship on the license holder or a family member of the license holder. In granting the driving privileges, the court shall specify the purposes, times, and places of the privileges and shall issue the person appropriate forms setting forth the privileges granted. Occupational or educational driving privileges under this division shall not be granted to the same person more than once. If a person is convicted of, pleads guilty to, or is adjudicated in juvenile court of having committed a second or subsequent moving violation, any driving privileges previously granted under this division are terminated upon the subsequent conviction, plea, or adjudication. In granting the driving privileges, the court shall specify the purposes of the privileges and shall issue the person appropriate forms setting forth the privileges granted. If a person is convicted of, pleads guilty to, or is adjudicated in juvenile court of having committed a second or subsequent moving violation, the court with jurisdiction over the violation may terminate any driving privileges previously granted under this division.~~
- (3) No person shall violate the operating restrictions imposed under division (c)(1)a. of this section.
- (d) No holder of a probationary license shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking unless the total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.
- (e) A restricted license may be issued to a person who is 14 or 15 years of age ~~under~~ upon proof of hardship satisfactory to the registrar of motor vehicles.
- (f) Notwithstanding any other provisions of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether each occupant of the motor vehicle is wearing all of the available elements of a properly adjusted occupant restraining device as required by division (d) of this section, or for the sole purpose of issuing a ticket, citation or summons if that requirement has been or is being violated, or for causing the arrest of or commencing a prosecution of a person for a violation of that requirement.
- (g) Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of division (a)(1)a. or (a)(1)b. of this section has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for such a violation or for causing the arrest or commencing a prosecution of a person for such a violation.
- (h) As used in this section:

- (1) "Family member" of a probationary license holder includes any of the following:
 - a. A spouse;
 - b. A child or stepchild;
 - c. A parent, stepparent, grandparent, or parent-in-law;
 - d. An aunt or uncle;
 - e. A sibling, whether of the whole or half blood or by adoption, a brother-in-law, or a sister-in-law;
 - f. A son or daughter of the probationary license holder's stepparent if the stepparent has not adopted the probationary license holder;
 - g. An eligible adult, as defined in Ohio R.C. 4507.05.
- (2) "Moving violation" means any violation of any statute or ordinance that regulates the operation of vehicles on the highways or streets. "Moving violation" does not include a violation of Ohio R.C. 4513.263 or a substantially equivalent municipal ordinance, or a violation of any statute or ordinance regulating pedestrians or the parking of vehicles, vehicle size or load limitations, vehicle fitness requirements, or vehicle registration.
- (3) "Occupant restraining device" has the same meaning as in Ohio R.C. 4513.263.
- (i) Whoever violates divisions (a)(1), (a)(4), (c)(3), or (d) of this section is guilty of a minor misdemeanor.

(ORC 4507.071(B)—(J))

436.04. Certain acts prohibited.

- (a) No person shall do any of the following:
 - (1) Display or cause or permit to be displayed, or possess any identification card, driver's or commercial driver's license, temporary instruction permit, or commercial driver's license temporary instruction permit knowing the same to be fictitious, or to have been canceled, suspended, or altered;
 - (2) Lend to a person not entitled thereto, or knowingly permit a person not entitled thereto to use any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit issued to the person so lending or permitting the use thereof;
 - (3) Display, or represent as one's own, any identification card, driver's or commercial driver's license, temporary instruction permit, or commercial driver's license temporary instruction permit not issued to the person so displaying the same;
 - (4) Fail to surrender to the registrar of motor vehicles, upon the registrar's demand, any identification card, driver's or commercial driver's license, temporary instruction permit, or commercial driver's license temporary instruction permit that has been suspended or canceled;

(5) In any application for an identification card, driver's or commercial driver's license, temporary instruction permit, or commercial driver's license temporary instruction permit or any renewal, reprint, or duplicate thereof, knowingly conceal a material fact or present any physician's statement required under Ohio R.C. 4507.08 or 4507.081 when knowing the same to be false or fictitious.

(b) Whoever violates any division of this section is guilty of a misdemeanor of the first degree.

(ORC 4507.30)

436.071. Driving under suspension or in violation of license restriction.

(a) *Driving under suspension or in violation of license restriction.*

(1) Except as provided in division (a)(2) of this section, division (b) of this section, section 436.074 and in R.C. §§ 4510.111 and 4510.16, no person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under any provision of the Revised Code, other than Ohio R.C. Chapter 4509, or under any applicable law in any other jurisdiction in which the person's license or permit was issued shall operate any motor vehicle upon the public roads and highways or upon any public or private property used by the public for purposes of vehicular travel or parking within this municipality during the period of suspension unless the person is granted limited driving privileges and is operating the vehicle in accordance with the terms of the limited driving privileges.

(2) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality in violation of any restriction of the person's driver's or commercial driver's license or permit imposed under Ohio R.C. 4506.10(D) or 4507.14.

(3) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the registrar of motor vehicles that shows the name, date of birth, and social security number of a person charged with a violation of division (a)(1) or (a)(2) of this section may be admitted into evidence as prima facie evidence that the license of the person was under suspension at the time of the alleged violation of division (a)(1) of this section or the person operated a motor vehicle in violation of a restriction at the time of the alleged violation of division (a)(2) of this section. The person charged with a violation of division (a)(1) or (a)(2) of this section may offer evidence to rebut this prima facie evidence.

(4) a. Whoever violates division (a)(1) or (a)(2) of this section is guilty of a misdemeanor of the first degree. The court may impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(7).

b. 1. Except as provided in division (a)(4)b.2. or (a)(4)b.3. of this section, the court, in addition to any other penalty that it imposes on the offender and if the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to one violation of

this section, R.C. § 4510.11, 4510.111 or 4510.16, or a substantially equivalent municipal ordinance, the court, in addition to or independent of any other sentence that it imposes upon the offender, may order the immobilization of the vehicle involved in the offense for 30 days and the impoundment of that vehicle's license plates for 30 days in accordance with R.C. § 4503.233.

2. If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two violations of this section, or any combination of two violations of this section, R.C. § 4510.11, 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender, may order the immobilization of the vehicle involved in the offense for 60 days and the impoundment of that vehicle's license plates for 60 days in accordance with R.C. § 4503.233.
 3. If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of this section, or any combination of three or more violations of this section or R.C. § 4510.11, 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender, may order the criminal forfeiture of the vehicle involved in the offense to the state.
- (5) Any order for immobilization and impoundment under this section shall be issued and enforced under R.C. §§ 4503.233 and 4507.02, as applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.
 - (6) Any order of criminal forfeiture under this section shall be issued and enforced under R.C. § 4503.234. Upon receipt of the copy of the order from the court, neither the registrar of motor vehicles nor a deputy registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order, unless, during that period, the court having jurisdiction of the offense that led to the order terminates the forfeiture and notifies the registrar of the termination. The registrar then shall take necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle.
 - (7) The offender shall provide the court with proof of financial responsibility as defined in R.C. § 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to division 698.02(f) or R.C. § 2929.28 in an amount not exceeding \$5,000.00 for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under this section.

(b) *Driving under suspension in violation of other provisions.*

- (1) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this municipality

whose driver's or commercial driver's license has been suspended pursuant to R.C. § 2151.354, 2151.87, 2935.27, 3123.58, 4301.99, 4510.032, 4510.22, or 4510.33, or a substantially equivalent municipal ordinance.

- (2) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the registrar of motor vehicles that shows the name, date of birth, and social security number of a person charged with a violation of division (b)(1) of this section may be admitted into evidence as prima facie evidence that the license of the person was under suspension at the time of the alleged violation of division (b)(1) of this section. The person charged with a violation of division (b)(1) of this section may offer evidence to rebut this prima facie evidence.
- (3) Whoever violates division (b)(1) of this section is guilty of driving under suspension and shall be punished as provided in division (b)(3) of this section.
- a. Except as otherwise provided in division (b)(3)b. of this section, the offense is an unclassified misdemeanor. The offender shall be sentenced pursuant to section 698.02, § 698.03 or R.C. §§ 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to division 698.02(d) or R.C. § 2929.26; notwithstanding division 698.02(f)(1)b.1. and R.C. § 2929.28(A)(2)(a), the offender may be fined up to \$1,000.00; and, notwithstanding division 698.02(e)(1)c. and R.C. § 2929.27(A)(3), the offender may be ordered pursuant to division 698.02(e)(3) or R.C. § 2929.27(C) to serve a term of community service of up to 500 hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under R.C. § 2705.02(A) that may be filed in the underlying case.
- b. If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of division (b)(1) of this section, or any combination of two or more violations of division (b)(1) of this section, R.C. § 4510.11, 4510.111 or 4510.16, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree, and the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 of in an amount not exceeding \$5,000.00 for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under this section.
- (c) *Repeat traffic offender; point system suspension.* Any person whose driver's or commercial driver's license or permit or nonresident operating privileges are suspended as a repeat traffic offender under R.C. § 4510.037 and who, during the suspension, operates any motor vehicle upon any public roads and highways is guilty of driving under a 12-point suspension, a misdemeanor of the first degree. The court shall sentence the offender to a minimum term of three days in jail. No court shall suspend the first three days of jail time imposed pursuant to this division.

- (d) It is an affirmative defense to any prosecution brought under Ohio R.C. 4510.11, 4510.14, 4510.16, or 4510.21 or under any substantially equivalent municipal ordinance that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency.

(ORC 4510.04, 4510.11, 4510.111, 4510.037(J); <ulink class="ordbank" print="yes" url="http://newords.municode.com/readordinance.aspx?ordinanceid=1053841&datasource=ordbank" web="yes">Ord. 2020-21 </ulink>. Passed 6-9-20.)

436.074. Driving under financial responsibility law suspension or cancellation; driving under a nonpayment of judgment suspension.

- (a) No person, whose driver's or commercial driver's license or temporary instruction permit or nonresident's operating privilege has been suspended or canceled pursuant to Ohio R.C. Chapter 4509, shall operate any motor vehicle within this municipality, or knowingly permit any motor vehicle owned by the person to be operated by another person in the municipality, during the period of the suspension or cancellation, except as specifically authorized by Ohio R.C. Chapter 4509. No person shall operate a motor vehicle within this Municipality, or knowingly permit any motor vehicle owned by the person to be operated by another person in the Municipality, during the period in which the person is required by Ohio R.C. 4509.45 to file and maintain proof of financial responsibility for a violation of Ohio R.C. 4509.101, unless proof of financial responsibility is maintained with respect to that vehicle.
- (b) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this municipality if the person's driver's or commercial driver's license or temporary instruction permit or nonresident operating privilege has been suspended pursuant to R.C. § 4509.37 or 4509.40 for nonpayment of a judgment.
- (c) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the registrar of motor vehicles that shows the name, date of birth, and social security number of a person charged with a violation of division (a) or (b) of this section may be admitted into evidence as prima facie evidence that the license of the person was under either a financial responsibility law suspension at the time of the alleged violation of division (a) of this section or a nonpayment of judgment suspension at the time of the alleged violation of division (b) of this section. The person charged with a violation of division (a) or (b) of this section may offer evidence to rebut this prima facie evidence.
- (d) Whoever violates division (a) of this section is guilty of driving under financial responsibility law suspension or cancellation and shall be punished as provided in this division (d). Whoever violates division (b) of this section is guilty of driving under a nonpayment of judgment suspension and shall be punished as provided in this division (d).
- (1) Except as otherwise provided in division (d)(2) of this section, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to § 698.02, § 698.03 or R.C. §§ 2929.21 to 2929.28,

except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to § 698.02(d) or R.C. § 2929.26; notwithstanding § 698.02(f)(1)B.1. and R.C. § 2929.28(A)(2)(a), the offender may be fined up to \$1,000; and, notwithstanding § 698.02(e)(1)C. and R.C. § 2929.27(A)(3), the offender may be ordered pursuant to § 698.02(e)(3) or R.C. § 2929.27(C) to serve a term of community service of up to 500 hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under R.C. § 2705.02(A) that may be filed in the underlying case.

(2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of this section, or any combination of two violations of this section, R.C. § 4510.11, 4510.111 or 4510.16, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.

(3) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding \$5,000.00 for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under this section

(e) ~~(4)~~ It is an affirmative defense to any prosecution brought under ORC 4510.11, 4510.14, 4510.16, or 4510.21 or under any substantially equivalent municipal ordinance that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency.

~~(2) It is an affirmative defense to any prosecution brought under this section that the order of suspension resulted from the failure of the alleged offender to respond to a financial responsibility random verification request under Ohio R.C. 4509.101(A)(3)(c) and that, at the time of the initial financial responsibility random verification request, the alleged offender was in compliance with Ohio R.C. 4509.101(A)(1) as shown by proof of financial responsibility that was in effect at the time of that request.~~

(ORC 4510.04, 4510.16)

436.09. Display of license plates; registration; obstructions.

(a) (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the ~~front and~~ rear of the motor vehicle the distinctive number and registration mark, including any county identification sticker and any validation sticker issued under Ohio R.C. 4503.19 and 4503.191, furnished by the director of public safety, ~~except that a manufacturer of motor vehicles or dealer therein, the holder of an in-transit permit, and the owner or operator of a motorcycle, motorized bicycle or moped, motor driven cycle or motor scooter, cab enclosed motorcycle, manufactured home, mobile home, trailer, or semitrailer shall display on the rear only.~~ A motor vehicle that is issued two license plates

shall display the validation sticker only on the rear license plate, except that a commercial tractor that does not receive an apportioned license plate under the international registration plan shall display the validation sticker on the front of the commercial tractor. An apportioned vehicle receiving an apportioned license plate under the international registration plan shall display the license plate only on the front of a commercial tractor and on the rear of all other vehicles. No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the rear of the motor vehicle a license plate that displays the distinctive number and registration mark assigned to the motor vehicle by the director of public safety, including any county identification sticker and any validation sticker when required by and issued under Ohio R.C. 4503.19 and 4503.191. However, a commercial tractor shall display the license plate on the front of the commercial tractor. All license plates shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs its visibility.

- (2) No person to whom a temporary license placard or windshield sticker has been issued for the use of a motor vehicle under Ohio R.C. 4503.182, and no operator of that motor vehicle, shall fail to display the temporary license placard in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle, or fail to display the windshield sticker in plain view on the rear window of the motor vehicle. No temporary license placard or windshield sticker shall be covered by any material that obstructs its visibility.
- (b) Except as otherwise provided by Ohio R.C. 4503.103, 4503.173, 4503.41, 4503.43, and 4503.46, no person who is the owner or chauffeur of a motor vehicle operated or driven upon the public roads or highways shall fail to file annually the application for registration or to pay the tax therefore.
- (c) No person shall operate or drive upon the highways of this municipality a motor vehicle acquired from a former owner who has registered the motor vehicle, while the motor vehicle displays the distinctive number or identification mark assigned to it upon its original registration.
- (d) No person who is the owner of a motor vehicle and a resident of this state shall operate or drive the motor vehicle upon the highways of this municipality while it displays a distinctive number or identification mark issued by or under the authority of another state, without complying with the laws of this state relating to the registration and identification of motor vehicles.
- (e) No person shall park or operate any vehicle upon any public street or highway upon which are displayed any license plates for any period of time which has expired, or any license plates issued in another state for which the period of reciprocal agreement with the state of issue has expired.
- (f) No person shall park or operate any vehicle upon any public street or highway upon which are displayed any license plates not legally registered and issued for such vehicle, or upon which are displayed any license plates that were issued on an application for registration that contains any false statement by the applicant.
- (g) No person shall operate a motor vehicle, upon which license plates are required by law to be displayed, unless the license plates legally registered and issued for such vehicle are fastened

in such a manner, and not covered, obscured or concealed by any part or accessory of such vehicle, to be readable in their entirety from left to right.

- (h) (1) Whoever violates division (a) of this section is guilty of a minor misdemeanor.
- (2) Whoever violates division (b) of this section is guilty of a misdemeanor of the fourth degree.
- (3) Whoever violates division (c) of this section is guilty of operation of a motor vehicle bearing license plates or an identification mark issued to another, a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense.
- (4) Whoever violates division (d) of this section is guilty of illegal operation by a resident of this state of a motor vehicle bearing the distinctive number or identification mark issued by a foreign jurisdiction, a minor misdemeanor.

(ORC 4503.19, 4503.21, 4503.11(A), 4503.11(D), 4503.21(A), 4503.21(B), 4549.11(A), 4549.11(B), 4549.12(A), 4549.12(B))

436.11. Stopping after accident upon streets; collision with unattended vehicle.

- (a) (1) In case of accident to or collision with persons or property upon any of the public roads or highways, ~~due to the driving or operation thereon of any motor vehicle,~~ the person driving or operating the motor vehicle, having knowledge of the accident or collision, immediately shall stop the driver's or operator's motor vehicle at the scene of the accident or collision and shall remain at the scene of the accident or collision until the driver or operator has given the driver's or operator's name and address and, if the driver or operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, to any person injured in the accident or collision or to the operator, occupant, owner, or attendant of any motor vehicle damaged in the accident or collision, or to any police officer at the scene of the accident or collision.
- (2) In the event the injured person is unable to comprehend and record the information required to be given by this section, the other driver involved in the accident or collision forthwith shall notify the nearest police authority concerning the location of the accident or collision, and the driver's name, address, and the registered number of the motor vehicle the driver was operating, and then remain at the scene of the accident or collision until a police officer arrives, unless removed from the scene by an emergency vehicle operated by a political subdivision or an ambulance.
- (3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required to be given in this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.
- (b) (1) Whoever violates division (a) of this section is guilty of failure to stop after an accident, a misdemeanor of the first degree. If the accident or collision results in serious physical harm or death to a person, failure to stop after an accident is a felony to be prosecuted under appropriate state law. The court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license,

commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(5). No judge shall suspend the first six months of suspension of an offender's license, permit, or privilege required by this division.

- (2) The offender shall provide the court with proof of financial responsibility as defined in R.C. § 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to § 698.02(f) or R.C. § 2929.18 or 2929.28 in an amount not exceeding \$5,000.00 for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during, or after committing the offense charged under this section.

(ORC 4549.02)

436.14. Removal of vehicles after accidents.

- (a) ~~If a motor vehicle accident occurs on any highway, public street, or other property open to the public for purposes of vehicular travel and if any motor vehicle, cargo, or personal property that has been damaged or spilled as a result of the motor vehicle accident is blocking the highway, street, or other property or is otherwise endangering public safety, the chief of police or the chief of the fire department may, without consent of the owner but with the approval of the law enforcement agency conducting any investigation of the accident, remove the motor vehicle if the motor vehicle is unoccupied, cargo, or personal property from the portion of the highway, public street, or property ordinarily used for vehicular travel on the highway, public street, or other property open to the public for purposes of vehicular travel.~~
- (a) If a motor vehicle accident occurs on any highway, public street, or other property open to the public for purposes of vehicular travel and if any motor vehicle, cargo, or personal property that has been damaged or spilled as a result of the motor vehicle accident is blocking the highway, street, or other property or is otherwise endangering public safety, the chief of police or the chief of the fire department may do either of the following without the consent of the owner but with the approval of the law enforcement agency conducting any investigation of the accident:
- (1) Remove, or order the removal of, the motor vehicle if the motor vehicle is unoccupied, cargo, or personal property from the portion of the highway, public street, or property ordinarily used for vehicular travel on the highway, public street, or other property open to the public for purposes of vehicular travel.
- (2) If the motor vehicle is a commercial motor vehicle, allow the owner or operator of the vehicle the opportunity to arrange for the removal of the motor vehicle within a period of time specified by the chief of police or chief of the fire department. If the chief of police or chief of the fire department determines that the motor vehicle cannot be removed within the specified period of time, the chief of police or chief of the fire department shall remove or order the removal of the motor vehicle.
- (b) (1) Except as provided in division (b)(2) ~~or (b)(3)~~ of this section, the chief of police, any police officer, the chief of the fire department, and any firefighter who authorizes or participates

in the removal of any unoccupied motor vehicle, cargo, or personal property as authorized by division (a) of this section is not liable in civil damages for any injury, death, or loss to person or property that results from the removal of that unoccupied motor vehicle, cargo, or personal property. Except as provided in division (b)(2) or (b)(3) of this section, if the chief of police or chief of the fire department authorizes, employs, or arranges to have a private tow truck operator or towing company remove any unoccupied motor vehicle, cargo, or personal property as authorized by division (a) of this section, that private tow truck operator or towing company is not liable in civil damages for any injury, death, or loss to person or property that results from the removal of that unoccupied motor vehicle, cargo, or personal property, and the chief of police or chief of the fire department is not liable in civil damages for any injury, death, or loss to person or property that results from the private tow truck operator or towing company's removal of that unoccupied motor vehicle, cargo, or personal property.

(2) ~~Division (b)(1) of this section does not apply to any person or entity involved in the removal of an unoccupied motor vehicle, cargo, or personal property pursuant to division (a) of this section if that removal causes or contributes to the release of a hazardous material or to structural damage to the roadway to the following:~~

(a) Any person or entity involved in the removal of an unoccupied motor vehicle, cargo, or personal property pursuant to division (a) of this section if that removal causes or contributes to the release of a hazardous material or to structural damage to the roadway.

(b) A private towing service that was not authorized, employed, or arranged by the chief of police or chief of the fire department to remove an unoccupied motor vehicle, cargo, or personal property under this section.

(c) Except as provided in division (B)(2)(d) of this section, a private towing service that was authorized, employed, or arranged by the chief of police or chief of the fire department to perform the removal of the unoccupied motor vehicle, cargo, or personal property but the private towing service performed the removal in a negligent manner;

(d) A private towing service that was authorized, employed, or arranged by the chief of police or chief of the fire department to perform the removal of the unoccupied motor vehicle, cargo, or personal property that was endangering public safety but the private towing service performed the removal in a reckless manner.

~~(3) Division (b)(1) of this section does not apply to a private tow truck operator or towing company that was not authorized, employed, or arranged by the chief of police or chief of the fire department or to a private tow truck operator or towing company that was authorized, employed, or arranged by the chief of police or chief of the fire department to perform the removal of the unoccupied motor vehicle, cargo, or personal property and the private tow truck operator or towing company performed the removal in a reckless or willful manner.~~

(c) As used in this section, "hazardous material" has the same meaning as in Ohio R.C. § 2305.232.

(R.C. § 4513.66)

~~438.10. Lights on slow-moving vehicles; emblem required; lights and reflectors on multi-wheel agricultural tractors or farm machinery.~~

- ~~(a) All vehicles other than bicycles, including animal drawn vehicles and vehicles referred to in Ohio R.C. 4513.02(G), not specifically required to be equipped with lamps or other lighting devices by Ohio R.C. 4513.03 through 4513.10, or any substantially equivalent municipal ordinances, shall, at the times specified in Ohio R.C. 4513.03 or a substantially equivalent municipal ordinance, be equipped with at least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of the vehicle and also shall be equipped with two lamps displaying red light visible from a distance of not less than 1,000 feet to the rear of the vehicle, or as an alternative, one lamp displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 feet to 100 feet to the rear when illuminated by the lawful lower beams of headlamps. Lamps and reflectors required by this section shall meet standards adopted by the director of public safety.~~
- ~~(b) All boat trailers, farm machinery and other machinery, including all road construction machinery, upon a street or highway, except when being used in actual construction and maintenance work in an area guarded by a flagperson, or where flares are used, or when operating or traveling within the limits of a construction area designated by the director of transportation, a city or village engineer, or the county engineer of the several counties, when such construction area is marked in accordance with requirements of the director and the manual and specifications for a uniform system of traffic control devices, as set forth in Ohio R.C. 4511.09, which is designed for operation at a speed of 25 miles per hour or less, shall be operated at a speed not exceeding 25 miles per hour, and shall display a triangular slow-moving vehicle emblem (SMV). The emblem shall be mounted so as to be visible from a distance of not less than 500 feet to the rear. The director of public safety shall adopt standards and specifications for the design and position of mounting the SMV emblem. The standards and specifications for SMV emblems referred to in this section shall correlate with and, so far as possible, conform with those approved by the American Society of Agricultural Engineers. A unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour may be operated on a street or highway at a speed greater than 25 miles per hour provided it is operated in accordance with this section. As used in this division, "machinery" does not include any vehicle designed to be drawn by an animal.~~
- ~~(c) The use of the SMV emblem shall be restricted to animal drawn vehicles and to the slow-moving vehicles specified in division (b) of this section operating or traveling within the limits of the highway. Its use on slow moving vehicles being transported upon other types of vehicles or on any other type of vehicle or stationary object on the highway is prohibited.~~
- ~~(d) (1) No person shall sell, lease, rent or operate any boat trailer, farm machinery or other machinery defined as a slow moving vehicle in division (b) of this section, except those units designed to be completely mounted on a primary power unit, which is manufactured or assembled on or after April 1, 1966, unless the vehicle is equipped with a slow moving vehicle emblem mounting device as specified in division (b) of this section.~~
- ~~(2) No person shall sell, lease, rent, or operate on a street or highway any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour unless the unit displays a slow moving vehicle emblem as specified in division (b) of this section and a speed identification symbol that meets the specifications~~

contained in the American Society of Agricultural Engineers Standard ANSI/ASAE S584 JAN2005, Agricultural Equipment: Speed Identification Symbol (SIS).

- ~~(e) Any boat trailer, farm machinery or other machinery defined as a slow moving vehicle in division (b) of this section, in addition to the use of the slow moving vehicle emblem, and any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour, in addition to the display of a speed identification symbol, may be equipped with a red flashing light that shall be visible from a distance of not less than 1,000 feet to the rear at all times specified in Ohio R.C. 4513.03 or a substantially equivalent municipal ordinance. When a double faced light is used, it shall display amber light to the front and red light to the rear. In addition to the lights described in this division, farm machinery and motor vehicles escorting farm machinery may display a flashing, oscillating or rotating amber light, as permitted by Ohio R.C. 4513.17 or a substantially equivalent municipal ordinance, and also may display simultaneously flashing turn signals or warning lights, as permitted by that section.~~
- ~~(f) (1) Every animal drawn vehicle upon a street or highway shall at all times be equipped in one of the following ways:~~
- ~~a. With a slow moving vehicle emblem complying with division (b) of this section;~~
 - ~~b. With alternate reflective material complying with rules adopted under division (f)(2) below;~~
 - ~~c. With both a slow moving vehicle emblem and alternate reflective material as specified in division (f)(2) below.~~
- ~~(2) Rules adopted by the director of public safety, subject to Ohio R.C. Chapter 119, establishing standards and specifications for the position of mounting of the alternate reflective material authorized by this division, permit, as a minimum, the alternate reflective material to be black, gray, or silver in color. The alternate reflective material shall be mounted on the animal drawn vehicle so as to be visible, at all times specified in Ohio R.C. 4513.03 or a substantially equivalent municipal ordinance, from a distance of not less than 500 feet to the rear when illuminated by the lawful lower beams of headlamps.~~
- ~~(g) (1) Every unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour shall display a slow moving vehicle emblem and a speed identification symbol that meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/ASAE S584 JAN2005, Agricultural Equipment: Speed Identification Symbol (SIS) when the unit is operated upon a street or highway, irrespective of the speed at which the unit is operated on the street or highway. The speed identification symbol shall indicate the maximum speed in miles per hour at which the unit of farm machinery is designed by its manufacturer to operate. The display of the speed identification symbol shall be in accordance with the standard prescribed in this division.~~
- ~~(2) If an agricultural tractor that is designed by its manufacturer to operate at a speed greater than 25 miles per hour is being operated on a street or highway at a speed greater than 25 miles per hour and is towing, pulling, or otherwise drawing a unit of farm machinery, the unit of farm machinery shall display a slow moving vehicle emblem and a speed~~

identification symbol that is the same as the speed identification symbol that is displayed on the agricultural tractor.

- (h) ~~When an agricultural tractor that is designed by its manufacturer to operate at a speed greater than 25 miles per hour is being operated on a street or highway at a speed greater than 25 miles per hour, the operator shall possess some documentation published or provided by the manufacturer indicating the maximum speed in miles per hour at which the manufacturer designed the agricultural tractor to operate.~~
- (i) ~~As used in this section, "boat trailer" means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of 25 miles per hour or less.~~
- (j) ~~Lights and reflector requirements for multi-wheel agricultural tractors or farm machinery.~~
- (1) ~~a. Every multi-wheel agricultural tractor whose model year was 2001 or earlier, when being operated or traveling on a street or highway at the times specified in Ohio R.C. 4513.03, or a substantially equivalent municipal ordinance, at a minimum shall be equipped with and display reflectors and illuminated amber lamps so that the extreme left and right projections of the tractor are indicated by flashing lamps displaying amber light, visible to the front and the rear; by amber reflectors, all visible to the front; and by red reflectors, all visible to the rear.~~
- ~~b. The lamps displaying amber light need not flash simultaneously and need not flash in conjunction with any directional signals of the tractor.~~
- ~~c. The lamps and reflectors required by division (j)(1)a. of this section and their placement shall meet standards and specifications contained in rules adopted by the director of public safety in accordance with Ohio R.C. Chapter 119. The rules governing the amber lamps, amber reflectors, and red reflectors and their placement shall correlate with and, as far as possible, conform with paragraphs 4.1.4.1, 4.1.7.1, and 4.1.7.2, respectively, of the American Society of Agricultural Engineers Standard ANSI/ASAE S279.10 OCT98, Lighting and Marking of Agricultural Equipment on Highways.~~
- (2) ~~Every unit of farm machinery whose model year was 2002 or later, when being operated or traveling on a street or highway at the times specified in Ohio R.C. 4513.03, or a substantially equivalent municipal ordinance, shall be equipped with and display markings and illuminated lamps that meet or exceed the lighting, illumination, and marking standards and specifications that are applicable to that type of farm machinery for the unit's model year specified in the American Society of Agricultural Engineers Standard ANSI/ASAE S279.11 APR01, Lighting and Marking of Agricultural Equipment on Highways, or any subsequent revisions of that standard.~~
- (3) ~~The lights and reflectors required by division (j)(1) of this section are in addition to the slow moving vehicle emblem and lights required or permitted by Ohio R.C. 4513.11 or 4513.17, or a substantially equivalent municipal ordinance, to be displayed on farm machinery being operated or traveling on a street or highway.~~

~~(4) No person shall operate any unit of farm machinery on a street or highway or cause any unit of farm machinery to travel on a street or highway in violation of divisions (j)(1) or (j)(2) of this section.~~

~~(k) Whoever violates this section is guilty of a minor misdemeanor.~~

438.10. Special equipment for slow moving vehicles, farm machinery and animal drawn vehicles.

(a) Definitions.

(1) As used in this section:

a. Boat trailer means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.

b. Slow-moving vehicle and SMV mean a boat trailer, unit of farm machinery, road construction machinery, or other machinery designed by the manufacturer to operate at a speed of twenty-five miles per hour or less. "Slow-moving vehicle" and "SMV" do not include a bicycle, motorized bicycle, electric bicycle, or animal-drawn vehicle.

(b) Requirements for SMV's.

(1) Except as otherwise provided, no person shall operate an SMV on a street or highway as follows:

a. At a speed exceeding twenty-five miles per hour;

b. Without displaying the triangular SMV emblem mounted in accordance with division (b)(2) of this section.

(2) The SMV emblem shall be mounted so as to be visible from a distance of not less than five hundred feet to the rear. In accordance with Ohio R.C. ch. 119, the director of public safety shall adopt standards and specifications for the design and position of mounting the SMV emblem. The standards and specifications for the SMV emblem shall correlate with and, so far as possible, conform with those approved by the American society of agricultural engineers.

(3) A person may operate an SMV on a street or highway without displaying the triangular SMV emblem when any of the following apply:

a. The SMV is being used in actual construction and maintenance work in an area guarded by a flagperson, or where flares are used.

b. The SMV is operating or traveling within the limits of a construction area designated by the director of transportation, a city engineer, or the county engineer of the several counties, when such construction area is marked in accordance with requirements of the director and the manual of uniform traffic control devices, as set forth in Ohio R.C. 4511.09.

(4) No person shall display an SMV emblem on any of the following:

a. Any vehicle not required to use the SMV emblem by this subsection or subsections (c) or (d) of this section;

b. An SMV being transported upon any other vehicle;

c. Any stationary object on the highway.

(5) No person shall sell, lease, rent, or operate an SMV, except a unit designed to be completely mounted on a primary power unit that is manufactured or assembled on or after April 1, 1966, unless it is equipped with an SMV emblem mounting device.

(6) Whoever violates this subsection is guilty of a minor misdemeanor.

(c) *Farm machinery.*

(1) No person shall sell, lease, rent, or operate on a street or highway any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour unless the unit displays both of the following:

a. The SMV emblem mounted in accordance with division (b)(2) of this section.

b. A speed identification symbol that does both of the following:

i. Meets the specifications contained in the American society of agricultural engineers standard ANSI/SAE S584 JAN2005, agricultural equipment: speed identification symbol (SIS);

ii. Indicates the maximum speed in miles per hour at which the unit of farm machinery is designed by its manufacturer to operate.

(2) No person operating a tractor on a street or highway that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour and that is towing, pulling, or otherwise drawing a unit of farm machinery while operating at a speed greater than twenty-five miles per hour shall fail to display both of the following on the unit of farm machinery:

a. The SMV emblem;

b. The speed identification symbol that matches the speed identification symbol required to be displayed on the agricultural tractor.

(3) No person shall operate an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour unless the person possesses documentation published or provided by the manufacturer indicating the maximum speed in miles per hour at which the manufacturer designed the agricultural tractor to operate.

(4) Whoever violates this subsection is guilty of a minor misdemeanor.

(d) Animal-drawn vehicles.

(1) Except as otherwise provided in division (d)(4) of this section, no person shall operate an animal-drawn vehicle on a street or highway unless it is equipped with and displays, at the times specified in Ohio R.C. 4513.03, both of the following:

a. At least one lamp displaying a white light visible from a distance of not less than one thousand feet to the front of the animal-drawn vehicle;

b. Two lamps displaying red light visible from a distance of not less than one thousand feet to the rear of the animal-drawn vehicle, or as an alternative, one lamp displaying a red light visible from a distance of not less than one thousand feet to the rear and two red reflectors visible from all distances of six hundred feet to one hundred feet to the rear when illuminated by the lawful lower beams of headlamps.

(2) Except as otherwise provided in division (d) (4) of this section, no person shall operate an animal-drawn vehicle on a street or highway unless it is equipped with and displays, at all times, all of the following:

a. One yellow flashing lamp displaying yellow light that is visible from a distance of not less than one thousand feet and that is mounted in either of the following positions:

i. On the top most portion of the rear of the animal-drawn vehicle;

II. On the top of the animal-drawn vehicle.

b. At least one of the following:

(i) An SMV emblem mounted in accordance with division (b)(2) of this section;

(ii) Micro-prism reflective tape that is visible from a distance of not less than five hundred feet to the rear when illuminated by the lawful lower beams of headlamps;

(iii) Both an SMV emblem and micro-prism reflective tape, as specified in this division.

Lamps and micro-prism reflective tape required by this division shall meet standards and specifications adopted by the director of public safety under this section.

(3) The director of public safety, in accordance with Ohio R.C. ch. 119, shall adopt rules establishing standards and specifications for the position and mounting of the lamps and micro-prism reflective tape required by this section. The rules shall only permit the micro-prism reflective tape to be red, amber, white, or silver in color.

(4) a. Divisions (1) and (2) of this section do not apply to the operator of animal-drawn agricultural equipment who is not transporting any livestock or a person other than the operator.

b. No operator described in division (D)(1) of this section shall operate animal-drawn agricultural equipment unless it is equipped with and displays, at all times, the SMV emblem mounted in accordance with division (b)(2) of this section.

c. As used in this division (d)4, "animal-drawn agricultural equipment" means equipment drawn by the muscular power of an animal that is used solely for agricultural purposes. "Animal-drawn agricultural equipment" includes any of the following:

(i) A plow;

(ii) A manure spreader.

(iii) A thresher.

(5) Whoever violates this division is guilty of a minor misdemeanor.

(e) *Strict liability.* The offenses established under this section are strict liability offenses, and Ohio R.C. 2901.20 does not apply. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(ORC 4513.11, 4513.112, 4513.113, 4513.114, 4513.115)

438.18. Focus, aim and color of headlights.

(a) No person shall use any lights mentioned in Ohio R.C. 4513.03 through 4513.18, or any substantially equivalent municipal ordinances, upon any motor vehicle, trailer or semitrailer unless these lights are equipped, mounted and adjusted as to focus and aim in accordance with regulations which are prescribed by the director of public safety.

(b) The headlights on any motor vehicle shall comply with the headlamp color requirements contained in federal motor vehicle safety standard number 108, 49 C.F.R. 571.108. No person shall operate a motor vehicle in violation of this division.

~~(b)~~(c) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.19)

440.05. Towing requirements; exception to size and weight restrictions.

- (a) (1) When one vehicle is towing another vehicle, the drawbar or other connection shall be of sufficient strength to pull all the weight towed thereby, and the drawbar or other connection shall not exceed 15 feet from one vehicle to the other, except the connection between any two vehicles transporting poles, pipe, machinery, or other objects of structural nature which cannot readily be dismembered.
- (2) When one vehicle is towing another and the connection consists only of a chain, rope, or cable, there shall be displayed upon such connection a white flag or cloth not less than 12 inches square.
- (3) In addition to such drawbar or other connection, each trailer and each semitrailer which is not connected to a commercial tractor by means of a fifth wheel shall be coupled with stay chains or cables to the vehicle by which it is being drawn. These chains or cables shall be of sufficient size and strength to prevent the towed vehicle's parting from the drawing vehicle in case the drawbar or other connection should break or become disengaged. In case of a loaded pole trailer, the connecting pole to the drawing vehicle shall be coupled to the drawing vehicle with stay chains or cables of sufficient size and strength to prevent the towed vehicle's parting from the drawing vehicle.
- (4) Every trailer or semitrailer, except pole and cable trailers and pole and cable dollies operated by a public utility as defined in Ohio R.C. 5727.01, shall be equipped with a coupling device which shall be so designed and constructed that the trailer will follow substantially in the path of the vehicle drawing it, without whipping or swerving from side to side. Vehicles used to transport agricultural produce or agricultural production materials between a local place of storage and supply and the farm, when drawn or towed on a street or highway at a speed of 25 miles per hour or less, and vehicles designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of 25 miles per hour or less, shall have a drawbar or other connection, including the hitch mounted on the towing vehicle, which shall be of sufficient strength to pull all the weight towed thereby. Only one such vehicle used to transport agricultural produce or agricultural production materials as provided in this section may be towed or drawn at one time except as follows:
- a. An agricultural tractor may tow or draw more than one such vehicle;
 - b. A pickup truck or straight truck designed by the manufacturer to carry a load of not less than one-half ton and not more than two tons may tow or draw not more than two such vehicles that are being used to transport agricultural produce from the farm to a local place of storage. No vehicle being so towed by such a pickup truck or straight truck shall be considered to be a motor vehicle.
- (b) Whoever violates this section is guilty of a minor misdemeanor.
- (c) Exception to size and weight restrictions.
- (1) The size and weight provisions of this chapter and Ohio R.C. Chapter 5577 do not apply to:
 - a. _____ A person who is engaged in the initial towing or removal of a wrecked or disabled motor vehicle from the site of an emergency on a public highway where the vehicle became wrecked or disabled to the nearest site where the vehicle can be brought

into conformance with the requirements of this chapter and Ohio R.C. Chapter 5577 or to the nearest qualified repair facility.

b. A person who is en route to the site of an emergency on a public highway to remove a wrecked or disabled motor vehicle.

c. A person who is returning from delivering a wrecked or disabled motor vehicle to a site, storage facility, or repair facility as specified in division (c)(1) of this section.

(2) Any subsequent towing of a wrecked or disabled vehicle shall comply with the size and weight provisions of this chapter and Ohio R.C. Chapter 5577.

(3) No court shall impose any penalty prescribed in Ohio R.C. 5577.99, or any substantially equivalent municipal ordinance, or the civil liability established in Ohio R.C. 5577.12 upon a person towing or removing a vehicle in the manner described in division (c)(1) of this section.

(ORC 4513.32, 4513.99, 5577.15)

440.11. Chauffeured limousines.

(a) The operator of a chauffeured limousine shall accept passengers only on the basis of prearranged contracts, as defined in Ohio R.C. 4501.01, and shall not cruise in search of patronage unless the limousine is in compliance with any statute or ordinance governing the operation of taxicabs or other similar vehicles for hire.

(b) The operator of a chauffeured limousine may provide transportation to passengers who arrange for the transportation through an intermediary, including a digital dispatching service. Notwithstanding any law to the contrary, when providing transportation arranged through an intermediary, the operator of a chauffeured limousine may establish the fare and method of fare calculation, so long as the method of fare calculation is provided to the passenger upon request.

~~(b)~~(c) No person shall advertise or hold himself or herself out as doing business as a limousine service or livery service or other similar designation unless each vehicle used by the person to provide the service is registered in accordance with Ohio R.C. 4503.24 and is in compliance with Ohio R.C. 4509.80.

~~(e)~~(d) Whoever violates this section is guilty of a misdemeanor of the first degree.

(ORC 4511.85)

442.01. Definitions.

As used in this chapter:

Alcohol concentration. The concentration of alcohol in a person's blood, breath or urine. When expressed as a percentage, it means grams of alcohol per the following:

- (1) One hundred milliliters of whole blood, blood serum, or blood plasma;
- (2) Two hundred and ten liters of breath;

(3) One hundred milliliters of urine.

Commercial driver's license. A license issued in accordance with Ohio R.C. Chapter 4506 that authorizes an individual to drive a commercial motor vehicle.

Commercial driver's license information system. The information system established pursuant to the requirements of the "Commercial Motor Vehicle Safety Act of 1986," 100 Stat. 3207-171, 49 U.S.C. App. 2701.

Commercial motor vehicle. Except when used in Ohio R.C. 4506.25, any motor vehicle designed or used to transport persons or property that meets any of the following qualifications:

- (1) Any combination of vehicles with a gross vehicle weight or combined gross vehicle weight rating of 26,001 pounds or more, provided that the gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds;
- (2) Any single vehicle with a gross vehicle weight rating of 26,001 pounds or more, ~~or any such vehicle towing a vehicle having a gross vehicle weight rating that is not in excess of 10,000 pounds;~~
- (3) Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport 16 or more passengers including the driver;
- (4) Any school bus with a gross vehicle weight rating of less than 26,001 pounds that is designed to transport fewer than 16 passengers including the driver;
- (5) Is transporting hazardous materials for which placarding is required under 49 C.F.R. Part 172, Subpart F, as amended ; or
- (6) Any single vehicle or combination of vehicles that is designed to be operated and to travel on a public street or highway and is considered by the federal motor carrier safety administration to be a commercial motor vehicle, including, but not limited to, a motorized crane, a vehicle whose function is to pump cement, a rig for drilling wells, and a portable crane.

Controlled substance. Includes all of the following:

- (1) Any substance classified as a controlled substance under the "Controlled Substances Act," 80 Stat. 1242 (1970), 21 U.S.C. 802(6), as amended;
- (2) Any substance included in Schedules I through V of 21 C.F.R. Part 1308, as amended;
- (3) Any drug of abuse.

Conviction. An unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated.

Disqualification. Means any of the following:

- (1) The suspension, revocation, or cancellation of a person's privileges to operate a commercial motor vehicle;

- (2) Any withdrawal of a person's privileges to operate a commercial motor vehicle as the result of a violation of state or local law relating to motor vehicle traffic control other than parking, vehicle weight, or vehicle defect violations;
- (3) A determination by the federal motor carrier safety administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. 391.

Downgrade. Any of the following, as applicable:

- (1) A change in the commercial driver's license holder's self-certified status as described in Ohio R.C. § 4506.10(A)(2);
- (2) A change to a lesser class of vehicle;
- (3) Removal of commercial driver's license privileges from the individual's driver's license.

Drive. To drive, operate or be in physical control of a motor vehicle.

Driver. Any person who drives, operates or is in physical control of a commercial motor vehicle or is required to have a commercial driver's license.

Driver's license. A license issued by the bureau of motor vehicles that authorizes an individual to drive.

Drug of abuse. Any controlled substance, dangerous drug as defined in Ohio R.C. 4729.01, or over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes.

Electronic device. Includes a cellular telephone, a personal digital assistant, a pager, a computer, and any other device used to input, write, send, receive, or read text.

Eligible unit of local government. A village, township, or county that has a population of not more than 3,000 persons according to the most recent Federal census.

Employer. Any person, including the federal government, any state, and a political subdivision of any state, that owns or leases a commercial motor vehicle or assigns a person to drive such a motor vehicle.

Endorsement. An authorization on a person's commercial driver's license that is required to permit the person to operate a specified type of commercial motor vehicle.

Farm truck. A truck controlled and operated by a farmer for use in the transportation to or from a farm, for a distance of not more than 150 miles, of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm, from a distance of not more than 150 miles, of supplies for the farm, including tile, fence and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production, and livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of the farm, when the truck is operated in accordance with this definition and is not used in the operations of a motor carrier, as defined in R.C. § 4923.01.

Fatality. The death of a person as the result of a motor vehicle accident occurring not more than 365 days prior to the date of death.

Felony. Any offense under federal or state law that is punishable by death or imprisonment for a term exceeding one year and includes any offense specifically classified as a felony under the law of this state, regardless of the penalty that may be imposed.

Foreign jurisdiction. Any jurisdiction other than a state.

Gross vehicle weight rating. The value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. The gross vehicle weight rating of a combination vehicle is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of each towed unit.

Hazardous materials. Any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under 49 C.F.R. part 172, Subpart F or any quantity of a material listed as a select agent or toxin in 42 C.F.R. Part 73, as amended.

Imminent hazard. The existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of death, illness, injury, or endangerment.

Medical variance. One of the following received by a driver from the federal motor carrier safety administration that allows the driver to be issued a medical certificate:

- (1) An exemption letter permitting operation of a commercial motor vehicle under 49 C.F.R. part 381, subpart C or 49 C.F.R. § 391.64;
- (2) A skill performance evaluation certificate permitting operation of a commercial motor vehicle pursuant to 49 C.F.R. § 391.49.

Mobile telephone means a mobile communication device that falls under or uses any commercial mobile radio service as defined in 47 C.F.R. 20, except that mobile telephone does not include two-way or citizens band radio services.

Motor vehicle. A vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, except that such term does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

Out-of-service order. A declaration by an authorized enforcement officer of a federal, state, local, Canadian, or Mexican jurisdiction declaring that the driver, commercial motor vehicle, or commercial motor carrier operation is out of service as defined in 49 C.F.R. 390.5.

Peace officer. Has the same meaning as in Ohio R.C. 2935.01

Portable tank. A liquid or gaseous packaging designed primarily to be loaded on or temporarily attached to a vehicle and equipped with skids, mountings, or accessories to facilitate handling of the tank by mechanical means.

Public safety vehicle. Has the same meaning as in Ohio R.C. 4511.01(E)(1) and (E)(3).

Recreational vehicle. Includes every vehicle that is defined as a recreational vehicle in Ohio R.C. 4501.01 and is used exclusively for purposes other than engaging in business for profit.

Residence. Any person's residence determined in accordance with standards prescribed in the rules adopted by the registrar.

School bus. Has the same meaning as in Ohio R.C. 4511.01.

Serious traffic violation. Any of the following:

- (1) A conviction arising from a single charge of operating a commercial motor vehicle in violation of any provision of Ohio R.C. 4506.03;
- (2) Except as otherwise provided, a violation while operating a commercial motor vehicle of a law of this state, or any municipal ordinance or county or township resolution prohibiting texting while driving or using a handheld mobile telephone, or any other substantially similar law of another state or political subdivision of another state. It is not a serious traffic violation if the person was texting or using a handheld mobile telephone to contact law enforcement or other emergency services;
- (3) A conviction arising from the operation of any motor vehicle that involves any of the following:
 - a. A single charge of any speed in excess of the posted speed limit by 15 miles per hour or more;
 - b. Violations of Ohio R.C. 4511.20 or 4511.201 or any substantially equivalent ordinance or resolution, or of any substantially equivalent law of another state or political subdivision of another state;
 - c. Violation of a law of this state or an ordinance or resolution relating to traffic control, other than a parking violation, or of any substantially equivalent law of another state or political subdivision of another state, that results in a fatal accident;
 - d. Violation of Ohio R.C. 4506.03 or a substantially equivalent municipal ordinance or county or township resolution, or of any substantially equivalent law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license with the proper class or endorsement for the specific vehicle group being operated or for the passengers or type of cargo being transported;
 - e. Violation of Ohio R.C. 4506.03 or a substantially equivalent municipal ordinance or county or township resolution, or of any substantially equivalent law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license being in the person's possession;
 - f. Violation of Ohio R.C. 4511.33 or 4511.34, or any municipal ordinance or county or township resolution substantially equivalent to either of those sections, or any substantially equivalent law of another state or political subdivision of another state;
 - g. Violation of any other law of this state or an ordinance or resolution relating to traffic control, other than a parking violation, that is determined to be a serious traffic violation by the United States Secretary of Transportation and the Ohio Director of Public Safety designates as such by rule.

State. A state of the United States and includes the District of Columbia.

Tank vehicle. Any commercial motor vehicle that is designed to transport any liquid and has a maximum capacity greater than 119 gallons or is designed to transport gaseous materials and has a water capacity greater than 1,000 pounds within a tank that is either permanently or

temporarily attached to the vehicle or its chassis. "Tank vehicle" does not include ~~any of the following: a commercial motor vehicle transporting an empty storage container tank that is not designed for transportation, has a rated capacity of one thousand gallons or more, and is temporarily attached to a flatbed trailer.~~

- (1) Any portable tank having a rated capacity of less than 1,000 gallons;
- (2) Tanks used exclusively as a fuel tank for the motor vehicle to which it is attached;
- (3) ~~An empty storage container tank that is not designed for transportation and that is readily distinguishable from a transportation tank;~~
- (4) Ready mix concrete mixers.

Tester. Means a person or entity acting pursuant to a valid agreement entered into pursuant to Ohio R.C. 4506.09(B).

~~*Texting.* Manually entering alphanumeric text into, or reading text from, an electronic device. "Texting" includes short message service (SMS), e-mail, instant messaging, a command or request to access a world wide web page, or engaging in any other form of electronic text retrieval or entry, for present or future communication. "Texting" does not include the following:~~

- (1) ~~Reading, selecting, or entering a telephone number, an extension number, or voicemail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone call or using voice commands to initiate or receive a telephone call;~~
- (2) ~~Inputting, selecting, or reading information on a global positioning system or navigation system.~~

Texting. Manually entering alphanumeric text into, or reading text from, an electronic device. Texting includes short message service, e-mail, instant messaging, a command or request to access a world wide web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry, for present or future communication. Texting does not include the following:

- (1) Using voice commands to initiate, receive, or terminate a voice communication using a mobile telephone;
- (2) Inputting, selecting, or reading information on a global positioning system or navigation system;
- (3) Pressing a single button to initiate or terminate a voice communication using a mobile telephone; or
- (4) Using, for a purpose that is not otherwise prohibited by law, a device capable of performing multiple functions, such as a fleet management system, a dispatching device, a mobile telephone, a citizens band radio, or a music player.

Texting while driving. Texting while operating a commercial motor vehicle, with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays, but does not include operating a commercial motor vehicle with or without the motor running when the driver has moved the vehicle to the side of, or off, a highway and is stopped in a location where the vehicle can safely remain stationary.

United States. Means the 50 states and the District of Columbia.

Upgrade. A change in the class of vehicles, endorsements, or self-certified status as described in R.C. § 4506.10(A)(2) that expands the ability of a current commercial driver's license holder to operate commercial motor vehicles under this chapter or R.C. Chapter 4506.

Use of a handheld mobile telephone.

- (1) Using at least one hand to hold a mobile telephone to conduct a voice communication;
- (2) Dialing or answering a mobile telephone by pressing more than a single button; or
- (3) Reaching for a mobile telephone in a manner that requires a driver to maneuver so that the driver is no longer in a seated driving position, or restrained by a seat belt that is installed in accordance with 49 C.F.R. 393.93 and adjusted in accordance with the vehicle manufacturer's instructions.

Vehicle. Has the same meaning as in Ohio R.C. 4511.01.

(ORC 4506.01)

442.04. Physical qualification to operate commercial motor vehicles.

(a) No person who holds a valid commercial driver's license shall drive a commercial motor vehicle unless the person is physically qualified to do so.

~~(1) Prior to January 30, 2012, each person who drives or expects to drive a commercial motor vehicle in interstate or foreign commerce or is otherwise subject to 49 C.F.R. 391 et seq., as amended, shall certify to the registrar of motor vehicles at the time of application for a commercial driver's license that the person is in compliance with these standards. Any person who is not subject to 49 C.F.R. 391 et seq., as amended, shall also certify at the time of application that the person is not subject to these standards.~~

~~(2)(1) Beginning on January 30, 2012, any person applying for a commercial driver's license, renewing of a commercial driver's license, or transferring a commercial driver's license from out of state shall self-certify to the registrar for purposes of 49 C.F.R. § 383.71 one of the following in regard to the applicant's operation of a commercial motor vehicle, as applicable:~~

~~a. 1. If the applicant operates or expects to operate a commercial motor vehicle in interstate or foreign commerce and is subject to and meets the requirements under 49 C.F.R. part 391, the applicant shall self-certify that the applicant is non-excepted interstate and shall provide the registrar with the original or a copy of a medical examiner's certificate and each subsequently issued medical examiner's certificate prepared by a qualified medical examiner to maintain a medically certified status on the applicant's commercial driver licensing system driver record;~~

~~2. If the applicant operates or expects to operate a commercial motor vehicle in interstate commerce, but engages in transportation or operations excepted under 49 C.F.R. §§ 390.3(f), 391.2, 391.68, or 398.3 from all or parts of the qualification requirements of 49 C.F.R. part 391, the applicant shall self-certify~~

~~that the applicant is excepted interstate and is not required to obtain a medical examiner's certificate;~~

~~b. 1. If the applicant operates only in intrastate commerce and is subject to state driver qualification requirements, the applicant shall self-certify that the applicant is non-excepted intrastate;~~

~~2. If the applicant operates only in intrastate commerce and is excepted from all or parts of the state driver qualification requirements, the applicant shall self-certify that the applicant is excepted intrastate.~~

~~(3) Notwithstanding the expiration date on a person's commercial driver's license, every commercial driver's license holder shall provide the registrar with the certification required by this section, on or after January 30, 2012, but prior to January 30, 2014.~~

(1) Any person applying for a commercial driver's license or commercial driver's license temporary instruction permit, the renewal or upgrade of a commercial driver's license or commercial driver's license temporary instruction permit, or the transfer of a commercial driver's license from out of state shall self-certify to the registrar for purposes of 49 C.F.R. 383.71, one of the following in regard to the applicant's operation of a commercial motor vehicle, as applicable:

a. 1. If the applicant operates or expects to operate a commercial motor vehicle in interstate or foreign commerce and is subject to and meets the requirements under 49 C.F.R. part 391, the applicant shall self-certify that the applicant is non-excepted interstate and shall provide the registrar with the original or a copy of a medical examiner's certificate and each subsequently issued medical examiner's certificate prepared by a qualified medical examiner to maintain a medically certified status on the applicant's commercial driver licensing system driver record;

2. If the applicant operates or expects to operate a commercial motor vehicle in interstate commerce, but engages in transportation or operations excepted under 49 C.F.R. 390.3(f), 391.2, 391.68, or 398.3 from all or parts of the qualification requirements of 49 C.F.R. part 391, the applicant shall self-certify that the applicant is excepted interstate and is not required to obtain a medical examiner's certificate.

b. 1. If the applicant operates only in intrastate commerce and is subject to state driver qualification requirements, the applicant shall self-certify that the applicant is non-excepted intrastate;

2. If the applicant operates only in intrastate commerce and is excepted from all or parts of the state driver qualification requirements, the applicant shall self-certify that the applicant is excepted intrastate.

(2) Notwithstanding the expiration date on a person's commercial driver's license or commercial driver's license temporary instruction permit, every commercial driver's license or commercial driver's license temporary instruction permit holder shall provide the registrar with the certification required by this section, on or after January 30, 2012, but prior to January 30, 2014.

- (b) A person is qualified to drive a school bus if the person holds a valid commercial driver's license along with the proper endorsements, and if the person has been certified as medically qualified in accordance with rules adopted by the department of education.
- (c) 1. Except as provided in division c.2. of this section, only a medical examiner who is listed on the national registry of certified medical examiners established by the federal motor carrier safety administration shall perform a medical examination required by this section.
2. A person licensed under Ohio R.C. 4725 to practice optometry in this state, or licensed under any similar law of another state, may perform any part of an examination required by this section that pertains to visual acuity, field of vision, and the ability to recognize colors.
3. The individual who performed an examination conducted pursuant to this section shall complete any written documentation of a physical examination on a form that substantially complies with the requirements of 49 C.F.R. 391.43(h).
- (d) Whenever good cause appears, the registrar, upon issuing a commercial driver's license or commercial driver's license temporary instruction permit under this chapter, may impose restrictions suitable to the licensee's driving ability with respect to the type of motor vehicle or special mechanical control devices required on a motor vehicle that the licensee may operate, or such other restrictions applicable to the licensee as the registrar determines to be necessary.
- The registrar may either issue a special restricted license or may set forth upon the usual license form the restrictions imposed.
- The registrar, upon receiving satisfactory evidence of any violation of the restrictions of the license, may impose a class D license suspension of the license for the period of time specified in Ohio R.C. 4510.02(B)(4).
- The registrar, upon receiving satisfactory evidence that an applicant or holder of a commercial driver's license or commercial driver's license temporary instruction permit has violated Ohio R.C. 4506.04(A)(4) and knowingly given false information in any application or certification required by Ohio R.C. 4506.07 shall cancel the person's commercial driver's license or commercial driver's license temporary instruction permit or any pending application from the person for a commercial driver's license, commercial driver's license temporary instruction permit, or class D driver's license for a period of at least sixty days, during which time no application for a commercial driver's license, commercial driver's license temporary instruction permit, or class D driver's license shall be received from the person
- ~~(b)~~ (e) Whoever violates this section is guilty of a misdemeanor of the first degree.

(ORC 4506.10)

442.07. Information required of prospective drivers by employers; unauthorized driving.

- (a) Each employer shall require every applicant for employment as a driver of a commercial vehicle to provide the applicant's employment history for the ten years preceding the date the employment application is submitted to the prospective employer. The following information shall be submitted:

- (1) A list of the names and addresses of the applicant's previous employers for which the applicant was the operator of a commercial motor vehicle;
 - (2) The dates the applicant was employed by these employers;
 - (3) The reason for leaving each of these employers.
- (b) No employer shall knowingly permit or authorize any driver employed by the employer to drive a commercial motor vehicle during any period in which any of the following apply:
- (1) The driver's commercial driver's license is suspended, revoked, or cancelled by any state or a foreign jurisdiction;
 - (2) The driver has lost the privilege to drive, or currently is disqualified from driving, a commercial motor vehicle in any state or foreign jurisdiction;
 - (3) The driver, the commercial motor vehicle the driver is driving, or the motor carrier operation is subject to an out-of-service order in any state or a foreign jurisdiction;
 - (4) The driver has more than one driver's license.
- (c) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of Ohio R.C. 4506.15.
- (d) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle if the driver does not hold a valid, current commercial driver's license or commercial driver's license temporary instruction permit bearing the proper class or endorsements for the vehicle. No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of the restrictions on the driver's commercial driver's license or commercial driver's license temporary instruction permit.
- (d) Whoever violates division (a), ~~or (b)~~ or (d) of this section is guilty of a misdemeanor of the first degree.
- (e) Whoever violates division (c) of this section is guilty of a felony to be prosecuted under appropriate state law.

(ORC 4506.20)

452.01. Prohibition against parking on streets or highways.

- (a) (1) Upon any highway outside a business or residence district, no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main traveled part of the highway if it is practicable to stop, park, or so leave such vehicle off the paved or main traveled part of the highway. In every event a clear and unobstructed portion of the highway opposite such standing vehicle shall be left for the free passage of other vehicles, and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such highway.
- (2) This section does not apply to the driver of any vehicle which is disabled while on the paved or improved or main traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position.

- (b) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.66)

452.03 Prohibited standing or parking places.

(1) No person shall stand or park a vehicle, except when necessary to avoid conflict with other traffic or to comply with the provisions of this title, or while obeying the directions of a police officer or a traffic-control device, in any of the following places:

- (a) On a sidewalk, except ~~a bicycle~~ as provided in division (2) of this section;
- (b) In front of a public or private driveway;
- (c) Within an intersection;
- (d) Within ten feet of a fire hydrant;
- (e) On a crosswalk;
- (f) Within 20 feet of a crosswalk at an intersection;
- (g) Within 30 feet of, and upon the approach to, any flashing beacon, stop sign, or traffic-control device;
- (h) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by a traffic-control device;
- (i) Within 50 feet of the nearest rail of a railroad crossing;
- (j) Within 20 feet of a driveway entrance to any fire station and, on the side of the street opposite the entrance to any fire station, within 75 feet of the entrance when it is properly posted with signs;
- (k) Alongside or opposite any street excavation or obstruction when such standing or parking would obstruct traffic;
- (l) Alongside any vehicle stopped or parked at the edge or curb of a street;
- (m) Upon any bridge or elevated structure upon a highway, or within a highway tunnel;
- (n) At any place where signs prohibit stopping, standing or parking, or where the curbing is painted yellow, or at any place in excess of the maximum time limited by signs;
- (o) Within one foot of another parked vehicle;
- (p) On the roadway portion of a freeway, expressway, or thruway;
- (q) In any area designated by the fire chief as a fire lane, whether it is located on public or private property;

- (r) In front of any church or other place of worship during normal worship hours when a specific request has been made by the duly authorized church or other place of worship and the chief of police has caused "no parking" signs to be erected;
- (s) On the north side of State Route 63 eastward from the centerline of Main Street approximately 1,000 feet to the end of the existing guardrail;
- (t) From Linn Court to a point 315 feet east on the south side of Stewart Way.

(2) A person is permitted, without charge or restriction, to stand or park on a sidewalk a motor-driven cycle or motor scooter that has an engine not larger than one hundred fifty cubic centimeters, a low-speed micromobility device, or a bicycle or electric bicycle, provided that the motor-driven cycle, motor scooter, low-speed micromobility device, bicycle, or electric bicycle does not impede the normal flow of pedestrian traffic. This division does not authorize any person to operate a vehicle in violation of Ohio R.C. 4511.711.

(ORC 4511.68)

(Ord. 87-20. Passed 7-7-87; Ord. 93-24. Passed 9-28-93; Ord. 2005-13. Passed 5-10-05.)

452.04. Manner of parallel and angle parking; handicapped persons.

- (a) Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the right-hand wheels of the vehicle parallel with and not more than 12 inches from the right-hand curb, unless it is impossible to approach so close to the curb; in such case the stop shall be made as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise. Local authorities by ordinance may permit angle parking on any roadway under their jurisdiction, except that angle parking shall not be permitted on a state route within the Municipality unless an unoccupied roadway width of not less than 25 feet is available for free-moving traffic.
- (b) Local authorities by ordinance may permit parking of vehicles with the left-hand wheels adjacent to and within 12 inches of the left-hand curb of a one-way roadway.
- (c) (1) Except as provided in division (c)(2) of this section, no vehicle shall be stopped or parked on a road or highway with the vehicle facing in a direction other than the direction of travel on that side of the road or highway.
 (2) The operator of a motorcycle may back the motorcycle into an angled parking space so that when the motorcycle is parked it is facing in a direction other than the direction of travel on the side of the road or highway.
- (d) Notwithstanding any statute or any rule, regulation, resolution, or ordinance, air compressors, tractors, trucks, and other equipment, while being used in the construction, reconstruction, installation, repair, or removal of facilities near, on, over, or under a street or highway, may stop, stand, or park where necessary in order to perform such work, provided a flagperson is on duty or warning signs or lights are displayed as may be prescribed by the director of transportation.
- (e) Special parking locations and privileges for persons with disabilities that limit or impair the ability to walk, also known as handicapped parking spaces or disability parking spaces, shall

be provided and designated by all political subdivisions and by the state and all agencies and instrumentalities thereof at all offices and facilities where parking is provided, whether owned, rented, or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international symbol of access and shall be reasonably close to exits, entrances, elevators, and ramps. All elevated signs posted in accordance with this division and Ohio R.C. 3781.111(C) shall be mounted on a fixed or movable post, and the distance from the ground to the bottom edge of the sign shall measure not less than five feet. If a new sign or a replacement sign designating a special parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the special designated parking location if the motor vehicle is not legally entitled to be parked in that location.

- (f) (1) No person shall stop, stand, or park any motor vehicle at special parking locations provided under division (e) of this section, or at special clearly marked parking locations provided in or on privately owned parking lots, parking garages, or other parking areas and designated in accordance with that division, unless one of the following applies:
- a. The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or special license plates; or
 - b. The motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates.
- (2) Any motor vehicle that is parked in a special marked parking location in violation of division (f)(1)a. or (f)(1)b. of this section may be towed or otherwise removed from the parking location by the law enforcement agency of the municipality. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by the municipality for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it shall not be released to the lessee until the lessee presents proof that that person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by the municipality for towing and storing motor vehicles.
- (3) If a person is charged with a violation of division (f)(1)a. or (f)(1)b. of this section, it is an affirmative defense to the charge that the person suffered an injury not more than 72 hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria contained in Ohio R.C. 4503.44(A)(1).
- (g) No person shall stop, stand, or park any motor vehicle in an area that is commonly known as an access aisle, which area is marked by diagonal stripes and is located immediately adjacent to a special parking location provided under division (f) of this section or at a special clearly marked parking location provided in or on a privately owned parking lot, parking garage, or other parking area and designated in accordance with that division
- ~~(g)~~(h) When a motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a removable windshield placard or a temporary removable windshield placard or special license plates, or when a motor vehicle

is being operated by or for the transport of a handicapped person, and is displaying a parking card or special handicapped license plates, the motor vehicle is permitted to park for a period of two hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police rules provide otherwise or where the vehicle is parked in such a manner as to be clearly a traffic hazard.

~~(h)~~ (i) No owner of an office, facility, or parking garage where special parking locations are required to be designated in accordance with division (e) of this section shall fail to properly mark the special parking locations in accordance with that division or fail to maintain the markings of the special locations, including the erection and maintenance of the fixed or movable signs.

~~(i)~~ (j) Nothing in this section shall be construed to require a person or organization to apply for a removable windshield placard or special license plates if the parking card or special license plates issued to the person or organization under prior law have not expired or been surrendered or revoked.

~~(j)~~ (k) As used in this section:

(1) "Handicapped person" means any person who has lost the use of one or both legs or one or both arms, who is blind, deaf, or so severely handicapped as to be unable to move without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary, or other handicapping condition.

(2) "Person with a disability that limits or impairs the ability to walk" has the same meaning as in Ohio R.C. 4503.44.

(3) "Special license plates" and "removable windshield placard" mean any license plates or removable windshield placard or temporary removable windshield placard issued under Ohio R.C. 4503.41 or 4503.44, and also mean any substantially equivalent license plates or removable windshield placard or temporary removable windshield placard issued by a state, district, country, or sovereignty.

~~(k)~~ (l) Penalty.

(1) Whoever violates division (a) or (c) of this section is guilty of a minor misdemeanor.

(2) a. Whoever violates division (f)(1)a. or b. of this section is guilty of a misdemeanor and shall be punished as provided in division (k)(2)a. and b. of this section. Except as otherwise provided in division (k)(2)a. of this section, an offender who violates division (f)(1)a. or b. of this section shall be fined not less than \$250.00 nor more than \$500.00. An offender who violates division (f)(1)a. or b. of this section shall be fined not more than \$100.00 if the offender, prior to sentencing, proves either of the following to the satisfaction of the court:

1. At the time of the violation of division (f)(1)a. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a removable windshield placard that then was valid or special license plates that then were valid but the offender or the person neglected to display the placard or license plates as described in division (f)(1)a. of this section.

2. At the time of the violation of division (f)(1)b. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued

a parking card that then was valid or special handicapped license plates that then were valid but the offender or the person neglected to display the card or license plates as described in division (f)(1)b. of this section.

- b. In no case shall an offender who violates division (f)(1)a. or b. be sentenced to any term of imprisonment.
 - c. An arrest or conviction for a violation of division (f)(1)a. or b. of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.
 - d. The clerk of the court shall pay every fine collected under division ~~(k)-(2)~~ (1)(2) of this section to the municipality. Except as provided in division ~~(k)-(2)~~ (1)(2) of this section, the municipality shall use the fine moneys it receives under division ~~(k)-(2)~~ (1)(2) of this section to pay the expenses it incurs in complying with the signage and notice requirements contained in division (e) of this section. The municipality may use up to 50 percent of each fine it receives under division ~~(k)-(2)~~ (1)(2) of this section to pay the costs of educational, advocacy, support, and assistive technology programs for persons with disabilities, and for public improvements within the municipality that benefit or assist persons with disabilities, if governmental agencies or nonprofit organizations offer the programs.
- (3) Whoever violates division (F)(2) of this section shall be fined not less than two hundred fifty nor more than five hundred dollars. In no case shall an offender who violates division (F)(2) of this section be sentenced to any term of imprisonment. An arrest or conviction for a violation of division (F)(2) of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

~~(3)~~(4) Whoever violates division ~~(h)~~ (i) of this section shall be punished as follows:

- a. Except as otherwise provided in division ~~(k)-(3)~~ (1)(3) of this section, the offender shall be issued a warning.
- b. If the offender previously has been convicted of or pleaded guilty to a violation of division ~~(h)~~ (i) of this section or of a municipal ordinance that is substantially equivalent to that division, the offender shall not be issued a warning but shall be fined not more than \$25.00 for each parking location that is not properly marked or whose markings are not properly maintained.

(ORC 4511.69)

452.05. Willfully leaving vehicles on private or public property.

(a) Impounding abandoned motor vehicle on public property: Notice; disposition.

- (1) The police chief of the municipality may order into storage any motor vehicle, including an abandoned junk motor vehicle as defined in R.C. § 4513.63, that has come into the possession of the police chief as a result of the police chief's duties or that has been left on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right-of-way of any road or highway, for 48 hours or longer without notification to the police chief of the reasons for leaving the motor vehicle in such place, except that when such motor vehicle constitutes an obstruction to traffic, it may be ordered into storage immediately unless the vehicle was involved in an accident and is subject to MCL 4513.66 or the vehicle is a commercial motor vehicle; if the vehicle is a commercial motor vehicle, the chief of police shall allow the owner or operator of the vehicle the opportunity to arrange for the removal of the motor vehicle within a period of time specified by the chief of police. If the chief of police determines that the vehicle cannot be removed within the specified period of time, the chief of police shall order the removal of the vehicle. Subject to division (a)(3) of this section, the chief of police shall designate the place of storage of any motor vehicle so ordered removed.
- (2) If the chief of police issues an order under division (a)(1) of this section and arranges for the removal of a motor vehicle by a towing service, the towing service shall deliver the motor vehicle to the location designated by the chief of police not more than two hours after the time it is removed.
- (2) (3) ~~The police chief immediately shall cause a search to be made of the records of the bureau of motor vehicles~~ an applicable entity listed in Ohio R.C. 4513.601(F)(1) to ascertain the owner and any lienholder of a motor vehicle ordered into storage by the police chief within five business days of the removal of the vehicle, and if known, Upon obtaining such identify, the police chief shall send or cause to be sent notice to the owner or lienholder at his or her last known address by certified mail with return receipt requested, that the motor vehicle will be declared a nuisance and disposed of if not claimed within ten days of the date of mailing of the notice shall send or cause to be sent to the owner or lienholder at the owner's or lienholder's last known address by certified or express mail with return receipt requested, by certified mail with electronic tracking, or by a commercial carrier service utilizing any form of delivery requiring a signed receipt. The notice shall inform the owner or lienholder that the motor vehicle will be declared a nuisance and disposed of if not claimed within ten days of the date of the sending of the notice. The owner or lienholder of the motor vehicle may reclaim it upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title or memorandum certificate of title to the motor vehicle. If the owner or lienholder of the motor vehicle reclaims it after a search of the records of the bureau has been conducted and after notice has been sent to the owner or lienholder as described in this section, and the search was conducted by the owner of the place of storage or the owner's employee, and the notice was sent to the motor vehicle owner by the owner of the place of storage or the owner's employee, the owner or lienholder shall pay to the place of storage a processing fee of \$25.00, in addition to any expenses or charges incurred in the removal and storage of the vehicle. The owner or lienholder of the motor vehicle may reclaim the motor vehicle upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title or memorandum certificate of title to the motor vehicle, a certificate of registration for the motor vehicle,

or a lease agreement. Upon presentation of proof of ownership evidenced as provided above, the owner of the motor vehicle also may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. However, a towing service or storage facility may charge an after-hours retrieval fee established by the public utilities commission in rules adopted under Ohio R.C. 4921.25 if the owner retrieves the personal items after hours, unless the towing service or storage facility fails to provide the notice required under Ohio R.C. 4513.69(B)(3), if applicable. However, the owner shall not do either of the following:

- a. Retrieve any personal item that has been determined by the chief of police to be necessary to a criminal investigation;
- b. Retrieve any personal item from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability.

For purposes of division (a)(3) of this section, "personal items" do not include any items that are attached to the vehicle.

(4) If the owner or lienholder of the motor vehicle reclaims it after a search of the applicable records has been conducted and after notice has been sent to the owner or lienholder as described in this section, and the search was conducted by the place of storage, and the notice was sent to the motor vehicle owner by the place of storage, the owner or lienholder shall pay to the place of storage a processing fee of twenty-five dollars, in addition to any expenses or charges incurred in the removal and storage of the vehicle.

~~(3)~~ (5) If the owner or lienholder makes no claim to the motor vehicle within ten days of the date of mailing the notice, and if the vehicle is to be disposed of at public auction as provided in R.C. § 4513.62, the police chief, without charge to any party, shall file with the clerk of courts of the county in which the place of storage is located an affidavit showing compliance with the requirements of R.C. § 4513.61. Upon presentation of the affidavit, the clerk, without charge, shall issue a salvage certificate of title, free and clear of all liens and encumbrances, to the police chief. If the vehicle is to be disposed of to a motor vehicle salvage dealer or other facility as provided in R.C. § 4513.62, the police chief shall execute in triplicate an affidavit, as prescribed by the registrar of motor vehicles, describing the motor vehicle and the manner in which it was disposed, and that all requirements of R.C. § 4513.61 have been complied with. The police chief shall retain the original of the affidavit for his or her records, and shall furnish two copies to the motor vehicle salvage dealer or other facility. Upon presentation of a copy of the affidavit by the motor vehicle salvage dealer, the clerk of courts, within 30 days of the presentation, will issue to such owner a salvage certificate of title, free and clear of all liens and encumbrances.

~~(4)~~ (6) Whenever a motor vehicle salvage dealer or other facility receives such an affidavit for the disposal of a motor vehicle as provided in this section, the dealer or facility is not required to obtain a state certificate of title to the motor vehicle in the dealer's or facility's own name if the vehicle is dismantled or destroyed and both copies of the affidavit are delivered to the clerk of courts.

(7) No towing service or storage facility shall fail to comply with this division.

(b) Abandonment of junk motor vehicle prohibited.

- (1) a. No person shall willfully leave an abandoned junk motor vehicle, as defined in Ohio R.C. 4513.63, on private property for more than 72 hours without the permission of the person having the right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway for 48 hours or longer without notification to the police chief of the reason for leaving the motor vehicle in such place.
- b. For purposes of this division (b)(1), the fact that a motor vehicle has been so left without permission or notification is prima facie evidence of abandonment.
- c. Nothing contained in this section and Ohio R.C. 4513.60, 4513.61 and 4513.63 shall invalidate or prevent the enactment of further provisions of municipal ordinances regulating or prohibiting the abandonment of motor vehicles on streets, highways, public property, or private property within the municipality.
- (2) Whoever violates this division (b) is guilty of a minor misdemeanor and shall also be assessed any costs incurred by the municipality in disposing of such abandoned junk motor vehicle, less any money accruing to the municipality from such disposal.

(ORC § 4513.61; ORC 4513.64)

452.06. Unattended vehicles; duty to lock ignition, remove key, set brake, etc.

- (a) (1) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, effectively setting the parking brake, and, when the motor vehicle is standing upon any grade, turning the front wheels to the curb or side of the highway.
- (2) ~~The requirements of this section relating to the stopping of the engine, locking of the ignition, and removing the key from the ignition of a motor vehicle shall not apply to an emergency vehicle or a public safety vehicle.~~ The requirements of this section relating to the stopping of the engine, locking of the ignition, and removing the key from the ignition of a motor vehicle do not apply to any of the following:
- a. A motor vehicle that is parked on residential property;
- b. A motor vehicle that is locked, regardless of where it is parked;
- c. An emergency vehicle;
- d. A public safety vehicle.
- (b) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.661)

452.07. Obstruction and interference affecting view and control of driver; opening doors on side available to traffic.

- (a) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, as to obstruct the view of the driver to the front or sides of the vehicle or to interfere with the driver's control over the driving mechanism of the vehicle.
- (b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle.
- ~~(a)~~ (c) No person shall open the door of a vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.
- ~~(b)~~ (e) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.70)

474.11. Operation of motorized bicycles.

- (a) No person shall operate a motorized bicycle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking, unless all of the following conditions are met:
- (1) The person is 14 or 15 years of age and holds a valid probationary motorized bicycle license issued after the person has passed the test provided for in this section, or the person is 16 years of age or older and holds either a valid commercial driver's license issued under Ohio R.C. Chapter 4506 or a driver's license issued under Ohio R.C. Chapter 4507 or a valid motorized bicycle license issued after the person has passed the test provided for in this section, except that if a person is 16 years of age, has a valid probationary motorized bicycle license and desires a motorized bicycle license, the person is not required to comply with the testing requirements provided for in this section.
 - (2) The motorized bicycle is equipped in accordance with the rules adopted under division (b) of this section and is in proper working order.
 - (3) The person, if under 18 years of age, is wearing a protective helmet on the person's head with the chin strap properly fastened and the motorized bicycle is equipped with a rearview mirror.

- (4) The person operates the motorized bicycle when practicable within three feet of the right edge of the roadway obeying all traffic rules applicable to vehicles.
- (b) The director of public safety, subject to Ohio R.C. Chapter 119, shall adopt and promulgate rules concerning protective helmets, the equipment of motorized bicycles, and the testing and qualifications of persons who do not hold a valid driver's or commercial driver's license. The test shall be as near as practicable to the examination required for a motorcycle operator's endorsement under Ohio R.C. 4507.11. The test shall also require the operator to give an actual demonstration of the operator's ability to operate and control a motorized bicycle by driving one under the supervision of an examining officer.
- (c) Every motorized bicycle license expires on the birthday of the applicant in the fourth or eighth year after the date it is issued, but in no event shall any motorized bicycle license be issued for a period longer than ~~four~~ eight years. A person who is sixty-five years of age or older may only apply for a motorized bicycle license that expires on the birthday of the applicant in the fourth year after the date it is issued.
- (d) No person operating a motorized bicycle shall carry another person upon the motorized bicycle.
- (e) The protective helmet and rearview mirror required by division (a)(3) of this section shall, on and after January 1, 1985, conform with rules adopted by the director under division (b) of this section.
- (f) Whoever violates division (a), (d), or (e) of this section is guilty of a minor misdemeanor.

(ORC 4511.521)

476.03. Code application; prohibited operation.

- (a) The applicable provisions of this Traffic Code shall be applied to the operation of snowmobiles, off-highway motorcycles, and all-purpose vehicles, except that no snowmobile, off-highway motorcycle, or all-purpose vehicle shall be operated as follows:
- (1) ~~On any street or highway except for emergency travel only during such time and in such manner as the state or local authority having jurisdiction over such street or highway shall designate, and except as provided in section 476.04;~~
- (2) ~~Upon any property owned or leased by the municipality except in areas designated for such purposes;~~
- (3) ~~On any limited access highway or freeway, or the right of way thereof, except for emergency travel only during such time and in such manner as the Ohio Director of Public Safety shall designate;~~
- (4) ~~On any private property, or in any nursery or planting area, without the permission of the owner or other person having the right to possession of the property;~~
- (5) ~~On any land or waters controlled by the state, except at those locations where a sign has been posted permitting such operation;~~
- (6) ~~On the tracks or right of way of any operating railroad;~~

- ~~(7) While transporting any firearm, bow or other implement for hunting, that is not unloaded and securely encased;~~
- ~~(8) For the purpose of chasing, pursuing, capturing or killing any animal or wild fowl; or~~
- ~~(9) During the time from one half hour after sunset to one half hour before sunrise, unless displaying lighted lights as required by section 476.02.~~
- (1) On any state highway, including a limited access highway or freeway or the right-of-way thereof, except for emergency travel during such time and in such manner as the director of public safety designates or except as authorized by Ohio R.C. 4519.41(F);
- (2) On any private property, or in any nursery or planting area, without the permission of the owner or other person having the right to possession of the property;
- (3) On any land or waters controlled by the state, except at those locations where a sign has been posted permitting such operation;
- (4) On the tracks or right-of-way of any operating railroad;
- (5) While transporting any firearm, bow, or other implement for hunting, that is not unloaded and securely encased;
- (6) For the purpose of chasing, pursuing, capturing, or killing any animal or wildfowl;
- (7) During the time from sunset to sunrise, unless displaying lighted lights as required by Ohio R.C. 4519.20 of the Revised Code.
- (b) Whoever violates this section shall be fined not less than \$50.00 nor more than \$500.00, or imprisoned not less than three nor more than 30 days, or both.

(ORC 4519.40)

476.08. Registration of vehicles.

- (a) (1) Except as provided in division (b), (c) and (d) of this section, no person shall operate any snowmobile, off-highway motorcycle, or all-purpose vehicle within this municipality unless the snowmobile, off-highway motorcycle, or all-purpose vehicle is registered and numbered in accordance with Ohio R.C. 4519.03 and 4519.04.
- (2) Except as provided in R.C. § 4511.215 or a substantially equivalent municipal ordinance, no registration is required for a mini-truck that is operated within this state. A mini-truck may be operated only in accordance with R.C. § 4511.215 and R.C. § 4519.401, or any substantially equivalent municipal ordinance. ~~This division (a)(2) shall take effect on January 1, 2017.~~
- (b) (1) No registration is required for a snowmobile or off-highway motorcycle that is operated exclusively upon lands owned by the owner of the snowmobile or off-highway motorcycle, or on lands to which the owner of the snowmobile or off-highway motorcycle has a contractual right.
- (2) No registration is required for an all-purpose vehicle that is used primarily for agricultural purposes when the owner qualifies for the current agricultural use valuation tax credit, unless it is to be used on any public land, trail, or right-of-way.

- (3) Any all-purpose vehicle exempted from registration under division (b)(2) of this section and operated for agricultural purposes may use public roads and rights-of-way when traveling from one farm field to another, when such use does not violate Ohio R.C. 4519.41.
- (4) No registration is required for a snowmobile or all-purpose vehicle that is operated on a state highway as authorized by Ohio R.C. 4519.41(F).
- (c) No registration is required for a snowmobile, off-highway motorcycle, or all-purpose vehicle owned and used in this state by a resident of another state whenever that state has in effect a registration law similar to Ohio R.C. Chapter 4519 and the snowmobile, off-highway motorcycle, or all-purpose vehicle is properly registered under that state's law. Any snowmobile, off-highway motorcycle, or all-purpose vehicle owned and used in this state by a resident of a state not having a registration law similar to Ohio R.C. Chapter 4519 shall comply with Ohio R.C. 4519.09.
- (d) No registration is required for a snowmobile, off-highway motorcycle, or all-purpose vehicle owned and used in this municipality by the United States, another state or a political subdivision thereof, but the snowmobile, off-highway motorcycle, or all-purpose vehicle shall display the name of the owner thereon.
- (e) The owner or operator of any all-purpose vehicle operated or used upon the waters in this municipality shall comply with Ohio R.C. Chapter 1547 and Ohio R.C. Chapter 1548 relative to the operation of watercraft.
- (f) Whoever violates division (a) of this section shall be fined not less than \$50.00 nor more than \$100.00.

(ORC 4519.02)

Section 6. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule, or regulation adopted or issued in pursuance thereof shall be punished by a fine of \$100.00.

Section 7. If any section, subsection, sentence, clause, phrase or portion of the Ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances. The governing authority of the City of Monroe, Ohio hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable

Section 8. All ordinances and parts of ordinances in conflict herewith are expressly repealed.

Section 9. This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

Passed: _____

ATTEST:

APPROVED:

Clerk of Council

Mayor

ADOPTING ORDINANCE
OFFENSES

City of Monroe

State of Ohio

ORDINANCE No. _____

AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF MONROE, OHIO, 1988, TO PROVIDE AMENDMENTS TO CODE SECTIONS 606.02, 606.06, 606.07, 606.10, 606.12, 606.15, 606.19, 606.24, 606.30, 612.01, 612.07, 612.09, 618.05, 624.01, 624.02, 624.03, 624.04, 624.05, 624.07, 626.076, 624.08, 624.11, 624.12, 624.13, 624.14, 630.01, 630.02, 630.06, 630.07, 630.11, 630.12, 636.04, 636.045, 636.05, 636.08, 636.09, 636.10, 636.11, 636.12, 636.13, 636.15, 636.17, 636.18, 636.19, 636.20, 642.01, 642.02, 642.05, 642.11, 642.12, 642.14, 642.145, 642.18, 642.19, 642.24, 642.33, 648.08, 660.03, 660.07, 660.14, 666.03, 666.08, 672.01, 672.02, 672.04, 672.07, 672.10, 672.17, 672.18, 698.01, AND 698.02; TO REPEAL SECTION 606.29; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority of the City of Monroe, Ohio is authorized by ORC § 715.01 to adopt ordinances relating to its property, affairs and local government; and

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONROE, STATE OF OHIO THAT:

Section 1. The Codified Ordinances of Monroe, Ohio, 1988, is hereby amended by adding or altering the provisions as provided under Section 5, below.

Section 2. The addition, amendment, or removal Codified Ordinances of Monroe, Ohio, 1988, sections when passed in such form as to indicate the intention of the governing authority of the City of Monroe, Ohio to make the same a part of the Municipal Code shall be deemed to be incorporated in the Municipal Code, so that reference to the Municipal Code includes the additions, amendments, and removals.

Section 3. The codifier (meaning the person, agency or organization authorized to prepare the supplement to the Codified Ordinances of Monroe, Ohio, 1988 is authorized to exclude and omit any provisions of this ordinance that are inapplicable to the Codified Ordinances of Monroe, Ohio, 1988.

Section 4. Supplementation of Code.

(a) In preparing a supplement to City's Municipal Code, all portions of this ordinance which have been repealed shall be excluded from the Codified Ordinances of Monroe, Ohio, 1988, by the omission thereof from reprinted pages.

Codifier: Added material is underlined, deleted material is struck through.

(b) When preparing a supplement to the Codified Ordinances of Monroe, Ohio, 1988, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in this ordinance and parts of this ordinance included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of Codified Ordinances of Monroe, Ohio, 1988, printed in the supplement, and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the City's Municipal Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the City's Municipal Code which embody the substantive sections or the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Codified Ordinances of Monroe, Ohio, 1988; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Codified Ordinances of Monroe, Ohio, 1988.

(c) In preparing a supplement to the Codified Ordinances of Monroe, Ohio, 1988, the pages of a supplement shall be so numbered that they will fit properly into the City's Municipal Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the City's Municipal Code will be current through the date of the adoption of the latest ordinance included in the supplement.

Section 5. The following sections and subsections of the Municipal Code are new or have been amended with new matter in the Municipal Code, and are hereby approved, adopted and enacted:

606.02. Culpable mental states.

- (a) A person acts purposely when it is his or her specific intention to cause a certain result, or, when the gist of the offense is a prohibition against conduct of a certain nature, regardless of what the offender intends to accomplish thereby, it is his or her specific intention to engage in conduct of that nature.
- (b) A person acts knowingly, regardless of his or her purpose, when he or she is aware that his or her conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when he or she is aware that such circumstances probably exist. When knowledge of the existence of a particular fact is an element of an offense, such knowledge is

established if a person subjectively believes that there is a high probability of its existence and fails to make inquiry or acts with a conscious purpose to avoid learning the fact.

- (c) A person acts recklessly when, with heedless indifference to the consequences, he or she perversely disregards a known risk that his or her conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, he or she perversely disregards a known substantial and unjustifiable risk that such circumstances are likely to exist.
- (d) A person acts negligently when, because of a substantial lapse from due care, he or she fails to perceive or avoid a risk that his or her conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a substantial lapse from due care, he or she fails to perceive or avoid a risk that such circumstances may exist.
- (e) When the section defining an offense provides that negligence suffices to establish an element thereof, then recklessness, knowledge, or purpose is also sufficient culpability for such element. When recklessness suffices to establish an element of an offense, then knowledge or purpose is also sufficient culpability for such element. When knowledge suffices to establish an element of an offense, then purpose is also sufficient culpability for such element.

(ORC 2901.22)

606.06. Limitation on criminal prosecutions.

- (a) ~~(1) Except as provided in division (a)(2) or (a)(3) of this section or as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:~~
 - ~~a. For a felony, six years;~~
 - ~~b. For a misdemeanor other than a minor misdemeanor, two years;~~
 - ~~c. For a minor misdemeanor, six months.~~
- ~~(2) There is no period of limitation for the prosecution of a violation of Ohio R.C. 2903.01 or Ohio R.C. 2903.02.~~
- ~~(3) Except as otherwise provided in divisions (b) to (h) (j) of this section, a prosecution of any of the following offenses shall be barred unless it is commenced within 20 years after the offense is committed:~~
 - ~~a. A violation of Ohio R.C. 2903.03, 2903.04, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, or 2917.02, a violation of Ohio R.C. 2903.11 or 2903.12 if the victim is a peace officer, a violation of Ohio R.C. 2903.13 that is a felony, or a violation of former Ohio R.C. 2907.12.~~
 - ~~b. A conspiracy to commit, attempt to commit, or complicity in committing a violation set forth in division (a)(3)a. of this section.~~
- (b) ~~(1) Except as otherwise provided in division (b)(2) of this section, if the period of limitation provided in division (a)(1) or (a)(3) of this section has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of fiduciary duty within one year after discovery of the offense either by an aggrieved person or by the aggrieved person's legal representative who is not a party to the offense.~~
 - ~~(2) If the period of limitation provided in division (a)(1) or (a)(3) of this section has expired, prosecution for a violation of Ohio R.C. 2913.49 shall be commenced within five years after discovery of the offense either by an aggrieved person or the aggrieved person's legal representative who is not a party to the offense.~~

- ~~(c) (1) If the period of limitation provided in division (a)(1) or (a)(3) of this section has expired, prosecution shall be commenced for the following offenses during the following specified periods of time:~~
- ~~a. For an offense involving misconduct in office by a public servant at any time while the accused remains a public servant, or within two years thereafter;~~
 - ~~b. For an offense by a person who is not a public servant but whose offense is directly related to the misconduct in office of a public servant, at any time while that public servant remains a public servant, or within two years thereafter.~~
- ~~(2) As used in this division:~~
- ~~a. The phrase "offense is directly related to the misconduct in office of a public servant" includes, but is not limited to, a violation of Ohio R.C. 101.71, 101.91, 121.61 or 2921.13, 102.03(F) or (H), 2921.02(A), 2921.43(A) or (B), or 3517.13(F) or (G), that is directly related to an offense involving misconduct in office of a public servant, or a violation of any municipal ordinance substantially equivalent to those Ohio Revised Code sections listed in this division (c)(2)A.~~
 - ~~b. "Public servant" has the same meaning as in Ohio R.C. 2921.01.~~
- ~~(d) An offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of conduct, the period of limitation does not begin to run until such course of conduct or the accused's accountability for it terminates, whichever occurs first.~~
- ~~(e) A prosecution is commenced on the date an indictment is returned or an information filed, or on the date a lawful arrest without a warrant is made, or on the date a warrant, summons, citation, or other process is issued, whichever occurs first. A prosecution is not commenced by the return of an indictment or the filing of an information unless reasonable diligence is exercised to issue and execute process on the same. A prosecution is not commenced upon issuance of a warrant, summons, citation, or other process unless reasonable diligence is exercised to execute the same.~~
- ~~(f) The period of limitation shall not run during any time when the corpus delicti remains undiscovered.~~
- ~~(g) The period of limitation shall not run during any time when the accused purposely avoids prosecution. Proof that the accused departed this municipality or conceals the accused's identity or whereabouts is prima facie evidence of the accused's purpose to avoid prosecution.~~
- ~~(h) The period of limitation shall not run during any time a prosecution against the accused based on the same conduct is pending in this state, even though the indictment, information, or process that commenced the prosecution is quashed or the proceedings on the indictment, information, or process are set aside or reversed on appeal.~~
- ~~(i) The period of limitation for a violation of this Part 6 or Title XXIX of the Ohio Revised Code that involves a physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of a child under 18 years of age or of a mentally retarded, developmentally disabled, or physically impaired child under 21 years of age shall not begin to run until either of the following occurs:~~
- ~~(1) The victim of the offense reaches the age of majority.~~
 - ~~(2) A public children services agency, or a municipal or county peace officer that is not the parent or guardian of the child, in the county in which the child resides or in which the abuse or neglect is occurring or has occurred has been notified that abuse or neglect is known, suspected, or believed to have occurred.~~
- ~~(j) As used in this section, "peace officer" has the same meaning as in Ohio R.C. 2935.01.~~

(a)(1) Except as provided in division (a)(2), (3), or (4) of this section or as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:

- a. For a felony, six years;
- b. For a misdemeanor other than a minor misdemeanor, two years;
- c. For a minor misdemeanor, six months.

(2) There is no period of limitation for the prosecution of a violation of Ohio R.C. 2903.01 or 2903.02.

(3) Except as otherwise provided in divisions (b) to (j) of this section, a prosecution of any of the following offenses shall be barred unless it is commenced within twenty years after the offense is committed:

a. A violation of Ohio R.C. 2903.03, 2903.04, 2905.01, 2905.32, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, or 2917.02, a violation of Ohio R.C. 2903.11 or 2903.12 if the victim is a peace officer, a violation of Ohio R.C. 2903.13 that is a felony, or a violation of former Ohio R.C. 2907.12;

b. A conspiracy to commit, attempt to commit, or complicity in committing a violation set forth in division (a)(3)a. of this section.

(4) Except as otherwise provided in divisions (d) to (l) of this section, a prosecution of a violation of Ohio R.C. 2907.02 or 2907.03 or a conspiracy to commit, attempt to commit, or complicity in committing a violation of either section shall be barred unless it is commenced within twenty-five years after the offense is committed.

(b)(1) Except as otherwise provided in division (b)(2) of this section, if the period of limitation provided in division (a)(1) or (3) of this section has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of a fiduciary duty, within one year after discovery of the offense either by an aggrieved person, or by the aggrieved person's legal representative who is not a party to the offense.

(2) If the period of limitation provided in division (a)(1) or (3) of this section has expired, prosecution for a violation of Ohio R.C. 2913.49 shall be commenced within five years after discovery of the offense either by an aggrieved person or the aggrieved person's legal representative who is not a party to the offense.

(c)(1) If the period of limitation provided in division (a)(1) or (3) of this section has expired, prosecution shall be commenced for the following offenses during the following specified periods of time:

a. For an offense involving misconduct in office by a public servant, at any time while the accused remains a public servant, or within two years thereafter;

b. For an offense by a person who is not a public servant but whose offense is directly related to the misconduct in office of a public servant, at any time while that public servant remains a public servant, or within two years thereafter.

(2) As used in this division:

a. An “offense is directly related to the misconduct in office of a public servant” includes, but is not limited to, a violation of Ohio R.C. 101.71, 101.91, 121.61 or 2921.13, 102.03(F) or (H), 2921.02(A), 2921.43 (A) or (B), or 3517.13(F) or (G), that is directly related to an offense involving misconduct in office of a public servant.

b. “Public servant” has the same meaning as in Ohio R.C. 2921.01.

(d)(1) If a DNA record made in connection with the criminal investigation of the commission of a violation of Ohio R.C. 2907.02 or 2907.03 is determined to match another DNA record that is of an identifiable person and if the time of the determination is later than twenty-five years after the offense is committed, prosecution of that person for a violation of the section may be commenced within five years after the determination is complete.

(2) If a DNA record made in connection with the criminal investigation of the commission of a violation of Ohio R.C. 2907.02 or 2907.03 is determined to match another DNA record that is of an identifiable person and if the time of the determination is within twenty-five years after the offense is committed, prosecution of that person for a violation of the section may be commenced within the longer of twenty-five years after the offense is committed or five years after the determination is complete.

(3) As used in this division, “DNA record” has the same meaning as in Ohio R.C. 109.573.

(e) An offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of conduct, the period of limitation does not begin to run until such course of conduct or the accused’s accountability for it terminates, whichever occurs first.

(f) A prosecution is commenced on the date an indictment is returned or an information filed, or on the date a lawful arrest without a warrant is made, or on the date a warrant, summons, citation, or other process is issued, whichever occurs first. A prosecution is not commenced by the return of an indictment or the filing of an information unless reasonable diligence is exercised to issue and execute process on the same. A prosecution is not commenced upon issuance of a warrant, summons, citation, or other process, unless reasonable diligence is exercised to execute the same.

(g) The period of limitation shall not run during any time when the corpus delicti remains undiscovered.

(h) The period of limitation shall not run during any time when the accused purposely avoids prosecution. Proof that the accused departed this state or concealed the accused's identity or whereabouts is prima-facie evidence of the accused's purpose to avoid prosecution.

(i) The period of limitation shall not run during any time a prosecution against the accused based on the same conduct is pending in this state, even though the indictment, information, or process that commenced the prosecution is quashed or the proceedings on the indictment, information, or process are set aside or reversed on appeal.

(j) The period of limitation for a violation of any provision of Title XXIX of the Revised Code that involves a physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of a child under eighteen years of age or of a child with a developmental disability or physical impairment under twenty-one years of age shall not begin to run until either of the following occurs:

(1) The victim of the offense reaches the age of majority.

(2) A public children services agency, or a municipal or county peace officer that is not the parent or guardian of the child, in the county in which the child resides or in which the abuse or neglect is occurring or has occurred has been notified that abuse or neglect is known, suspected, or believed to have occurred.

(k) As used in this section, "peace officer" has the same meaning as in Ohio R.C. 2935.01.

(ORC 2901.13)

606.07. Requirements for criminal liability; voluntary intoxication.

(a) Except as provided in division (b) of this section, a person is not guilty of an offense unless both of the following apply:

(1) The person's liability is based on conduct that includes either a voluntary act, or an omission to perform an act or duty that the person is capable of performing;

(2) The person has the requisite degree of culpability for each element as to which a culpable mental state is specified by the section defining the offense.

(b) When the section defining an offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal liability for the conduct described in the section, then culpability is not required for a person to be guilty of the offense. ~~When the section neither specifies culpability nor plainly indicates a purpose to impose strict liability, recklessness is sufficient culpability to commit the offense.~~ The fact that one division of a section plainly indicates a purpose to impose strict liability for an offense defined in that division does not by itself plainly indicate a purpose to impose strict criminal liability for an offense defined in other divisions of the section that do not specify a degree of culpability.

(c)(1) When language defining an element of an offense that is related to knowledge or intent or to which mens rea could fairly be applied neither specifies culpability nor plainly indicates a purpose to impose strict liability, the element of the offense is established only if a person acts recklessly.

(2) Division (C)(1) of this section does not apply to offenses defined in Ohio R.C. Title XLV.

- (3) Division (C)(1) of this section does not relieve the prosecution of the burden of proving the culpable mental state required by any definition incorporated into the offense.
- ~~(c)~~ (d) Voluntary intoxication may not be taken into consideration in determining the existence of a mental state that is an element of a criminal offense. Voluntary intoxication does not relieve a person of a duty to act if failure to act constitutes a criminal offense. Evidence that a person was voluntarily intoxicated may be admissible to show whether or not the person was physically capable of performing the act with which the person is charged.
- ~~(d)~~ (e) As used in this section:
- (1) "Culpability." Purpose, knowledge, recklessness, or negligence, as defined in Ohio R.C. 2901.22.
 - (2) "Intoxication." Includes but is not limited to intoxication resulting from the ingestion of alcohol, a drug, or alcohol and a drug.
 - (3) "Involuntary acts." Reflexes, convulsions, body movements during unconsciousness or sleep, and body movements that are not otherwise a product of the actor's volition are involuntary acts.
 - (4) "Possession." A voluntary act if the possessor knowingly procured or received the thing possessed, or was aware of the possessor's control of the thing possessed for a sufficient time to have ended possession.

(ORC 2901.21)

606.10. Falsification.

- (a) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:
- (1) The statement is made in any official proceeding.
 - (2) The statement is made with purpose to incriminate another.
 - (3) The statement is made with purpose to mislead a public official in performing his or her official function.
 - (4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio Works First; prevention, retention and contingency benefits and services; disability financial assistance; retirement benefits or health care coverage from a state retirement system; economic development assistance as defined in Ohio R.C. 9.66; or other benefits administered by a governmental agency or paid out of a public treasury.
 - (5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release, or provider agreement.
 - (6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.
 - (7) The statement is in writing on or in connection with a report or return that is required or authorized by law.
 - (8) The statement is in writing, and is made with purpose to induce another to extend credit to or employ the offender, or to confer any degree, diploma, certificate of attainment, award of excellence, or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to his or her detriment.
 - (9) The statement is made with purpose to commit or facilitate the commission of a theft offense.

- (10) The statement is knowingly made to a probate court in connection with any action, proceeding, or other matter within its jurisdiction, either orally or in a written document, including, but not limited to, an application, petition, complaint, or other pleading, or an inventory, account, or report.
- (11) The statement is made on an account, form, record, stamp, label or other writing that is required by law.
- (12) The statement is made in connection with the purchase of a firearm, as defined in Ohio R.C. 2923.11, and in conjunction with the furnishing to the seller of the firearm of a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.
- (13) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the secretary of state, a county recorder, or the clerk of a court of record.
- (14) The statement is made in an application filed with a county sheriff pursuant to R.C. § 2923.125 in order to obtain or renew a concealed handgun license or is made in an affidavit submitted to a county sheriff to obtain a concealed handgun license on a temporary emergency basis under R.C. § 2923.1213.
- (15) The statement is required under Ohio R.C. 5743.71 in connection with the person's purchase of cigarettes or tobacco products in a delivery sale.
- (b) No person, in connection with the purchase of a firearm as defined in Ohio R.C. 2923.11, shall knowingly furnish to the seller of the firearm a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.
- (c) No person, in an attempt to obtain a concealed handgun license under R.C. § 2923.125, shall knowingly present to a sheriff a fictitious or altered document that purports to be certification of the person's competence in handling a handgun as described in division (B)(3) of that section.
- (d) It is no defense to a charge under division (a)(6) of this section that the oath or affirmation was administered or taken in an irregular manner.
- (e) If contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false, but only that one or the other was false.
- (f) (1) Whoever violates division (a)(1), (2), (3), (4), (5), (6), (7), (8), (10), (11), (13), or (15) of this section is guilty of falsification, a misdemeanor of the first degree.
- (2) Whoever violates division (a)(9) of this section is guilty of falsification in a theft offense. Except as otherwise provided in this division, falsification in a theft offense is a misdemeanor of the first degree. If the value of the property or services stolen is \$1,000 or more, falsification in a theft offense is a felony to be prosecuted under appropriate state law.
- (3) Whoever violates division (a)(12) or (b) of this section is guilty of falsification to purchase a firearm, a felony to be prosecuted under appropriate State law.
- (4) Whoever violates division (a)(14) or (c) of this section is guilty of falsification to obtain a concealed handgun license, a felony to be prosecuted under appropriate state law.
- (5) Whoever violates division (a) of this section in removal proceedings under Ohio R.C. 319.26, 321.37, 507.13, or 733.78 is guilty of falsification regarding a removal proceeding, a felony to be prosecuted under appropriate state law.
- (g) A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this division. A civil action under this division is not

the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section.

(ORC 2921.13)

606.12. Failure to report a crime or death.

- (a) (1) Except as provided in division (a)(2) of this section, no person, knowing that a felony has been or is being committed, shall knowingly fail to report the information to law enforcement authorities.
- (2) No person, knowing that a violation of R.C. § 2913.04(B) has been or is being committed or that the person has received information derived from such a violation, shall knowingly fail to report the violation to law enforcement authorities.
- (b) Except for conditions that are within the scope of division (e) of this section, no person who is a physician, limited practitioner, nurse, or other person giving aid to a sick or injured person shall negligently fail to report to law enforcement authorities any gunshot or stab wound that the person treated or observed, or any serious physical harm to other persons that the person knows or has reasonable cause to believe resulted from an offense of violence.
- (c) No person who discovers a body or acquires the first knowledge of the death of a person shall fail to report the death immediately to a physician or advanced practice registered nurse whom the person knows to be treating the deceased for a condition from which death at that time would not be unexpected, or to a law enforcement officer, ambulance service, emergency squad, or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained. For purposes of this division, "advanced practice registered nurse" does not include a certified registered nurse anesthetist.
- (d) No person shall fail to provide upon request of the person to whom a report required by division (c) of this section was made, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within his or her knowledge that may have a bearing on the investigation of the death.
- (e) (1) As used in this section, "burn injury" means any of the following:
- a. Second or third degree burns;
 - b. Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of super-heated air;
 - c. Any burn injury or wound that may result in death.
 - d. Any physical harm to persons caused by or as the result of the use of fireworks, novelties and trick noisemakers, and wire sparklers, as each is defined by Ohio R.C. 3743.01.
- (2) No physician, nurse, physician assistant, or limited practitioner who, outside a hospital, sanitarium, or other medical facility, attends or treats a person who has sustained a burn injury inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is ~~such a~~ bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.
- (3) No manager, superintendent, or other person in charge of a hospital, sanitarium, or other medical facility in which a person is attended or treated for any burn injury inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is ~~such a~~ bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

- (4) No person who is required to report any burn injury under division (e)(2) or (3) of this section shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the office of the state fire marshal. ~~The report shall be made on a form provided by the state fire marshal~~ The report shall comply with the uniform standard developed by the state fire marshal pursuant to section 3737.22(A)(15).
- (5) Anyone participating in the making of reports under division (e) of this section or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding Ohio R.C. 4731.22, the physician-patient relationship ~~or advanced practice registered nurse-patient relationship~~ is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted pursuant to division (e) of this section.
- (f) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, ~~registered or licensed practical nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, or licensed professional counselor, independent marriage and family therapist, or marriage and family therapist~~ who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence as defined in Ohio R.C. 3113.31 shall note that knowledge or belief and the basis for it in the patient's or client's records.
- (2) Notwithstanding Ohio R.C. 4731.22, the physician-patient privilege ~~or advanced practice registered nurse-patient privilege~~ shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted pursuant to division (f)(1), and the information may be admitted as evidence in accordance with the rules of evidence.
- (g) Division (a) or (d) of this section does not require disclosure of information, when any of the following applies:
- (1) ~~The information is privileged by reason of the relationship between attorney and client, doctor and patient, licensed psychologist or licensed school psychologist and client, member of the clergy or rabbi or minister or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister or priest for a religious counseling purpose in the professional character of the member of the clergy, rabbi, minister or priest, husband and wife, or a communications assistant and those who are a party to a telecommunications relay service call. The information is privileged by reason of the relationship between attorney and client; physician and patient; advanced practice registered nurse and patient; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.~~
- (2) The information would tend to incriminate a member of the actor's immediate family.
- (3) Disclosure of the information would amount to revealing a news source, privileged under Ohio R.C. 2739.04 or 2739.12.
- (4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to him or her in his or her capacity as such by a person seeking his or her aid or counsel.
- (5) Disclosure would amount to revealing information acquired by the actor in the course of his or her duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a ~~hospital, clinic, person, agency, or organization certified pursuant to~~ hospital, clinic, person, agency, or community addiction services provider whose alcohol and drug addiction services are certified pursuant to Ohio R.C. 3793.06.

- (6) Disclosure would amount to revealing information acquired by the actor in the course of his or her duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of Ohio R.C. 2907.02 or 2907.05, or to victims of felonious sexual penetration in violation of former Ohio R.C. 2907.12. As used in this division, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide such services.
- (h) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.
- (i) Whoever violates division (a) or (b) of this section is guilty of failure to report a crime. Violation of division (a)(1) of this section is a misdemeanor of the fourth degree. Violation of division (a)(2) or (b) of this section is a misdemeanor of the second degree.
- (j) Whoever violates division (c) or (d) of this section is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.
- (k) (1) Whoever negligently violates division (e) of this section is guilty of a minor misdemeanor.
 (2) Whoever knowingly violates division (e) of this section is guilty of a misdemeanor of the second degree.
- (l) As used in this section, "nurse" includes an advanced practice registered nurse, registered nurse, and licensed practical nurse.

(ORC 2921.22)

606.15. Obstructing justice.

- (a) No person, with purpose to hinder the discovery, apprehension, prosecution, conviction, or punishment of another for crime, or to assist another to benefit from the commission of a crime, and no person, with purpose to hinder the discovery, apprehension, prosecution, adjudication as a delinquent child, or disposition of a child for an act that if committed by an adult would be a crime or to assist a child to benefit from the commission of an act that if committed by an adult would be a crime, shall do any of the following:
- (1) Harbor or conceal the other person or child.
 - (2) Provide the other person or child with money, transportation, a weapon, a disguise, or other means of avoiding discovery or apprehension.
 - (3) Warn the other person or child of impending discovery or apprehension.
 - (4) Destroy or conceal physical evidence of the crime or act, or induce any person to withhold testimony or information or to elude legal process summoning him or her to testify or supply evidence.
 - (5) Communicate false information to any person.
 - (6) Prevent or obstruct any person, by means of force, intimidation, or deception, from performing any act to aid in the discovery, apprehension, or prosecution of the other person or child.
- (b) A person may be prosecuted for, and may be convicted of or adjudicated a delinquent child for committing, a violation of division (a) of this section regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed. The crime or act the person or child aided committed shall be used under division (c) of this section in determining the penalty for violation of division (a) of this section, regardless of whether the person or child aided ultimately is apprehended for, is charge with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed.
- (c) Whoever violates this section is guilty of obstructing justice.

- (1) If the crime committed by the person aided is a misdemeanor or if the act committed by the child aided would be a misdemeanor if committed by an adult, obstructing justice is a misdemeanor of the same degree as the crime committed by the person aided or a misdemeanor of the same degree that the act committed by the child aided would be if committed by an adult.
- (2) If the crime committed by the person aided is a felony or if the act committed by the child aided would be a felony if committed by an adult, or if the crime or act committed by the person or child aided is an act of terrorism, obstructing justice is a felony to be prosecuted under appropriate state law.
- (3) Except as otherwise provided in division (C)(5) of this section, if the crime committed by the person aided is aggravated murder, murder, or a felony of the first or second degree or if the act committed by the child aided would be one of those offenses if committed by an adult and if the offender knows or has reason to believe that the crime committed by the person aided is one of those offenses or that the act committed by the child aided would be one of those offenses if committed by an adult, obstructing justice is a felony to be prosecuted under appropriate state law.
- (4) If the crime or act committed by the person or child aided is an act of terrorism, obstructing justice is a felony to be prosecuted under appropriate state law.
- (5) If the crime committed by the person is trafficking in persons or if the act committed by the child aided would be trafficking in persons if committed by an adult, obstructing justice is a felony to be prosecuted under appropriate state law.

(d) As used in this section:

- (1) "Act of terrorism" has the same meaning as in Ohio R.C. 2909.21.
- (2) "Adult" and "child" have the same meaning as in Ohio R.C. 2151.011.
- (3) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02.

(ORC 2921.32)

606.19. Dereliction of duty.

(a) No law enforcement officer shall negligently do any of the following:

- (1) Fail to serve a lawful warrant without delay.
- (2) Fail to prevent or halt the commission of an offense or to apprehend an offender, when it is in the law enforcement officer's power to do so alone or with available assistance.

(b) No law enforcement, ministerial, or judicial officer shall negligently fail to perform a lawful duty in a criminal case or proceeding.

(c) No officer, having charge of a detention facility, shall negligently do any of the following:

- (1) Allow the detention facility to become littered or unsanitary.
- (2) Fail to provide persons confined in the detention facility with adequate food, clothing, bedding, shelter, and medical attention.
- (3) Fail to control an unruly prisoner, or to prevent intimidation of or physical harm to a prisoner by another.
- (4) Allow a prisoner to escape.
- (5) Fail to observe any lawful and reasonable regulation for the management of the detention facility.

- (d) No public official shall recklessly create a deficiency, incur a liability, or expend a greater sum than is appropriated by the council for the use in any one year of the department, agency, or institution with which the public official is connected.
- (e) No public servant shall recklessly fail to perform a duty expressly imposed by law with respect to the public servant's office, or recklessly do any act expressly forbidden by law with respect to the public servant's office.
- (f) Whoever violates this section is guilty of dereliction of duty, a misdemeanor of the second degree.
- (g) Except as otherwise provided by law, a public servant who is a county treasurer; county auditor; township fiscal officer; city auditor; city treasurer; village fiscal officer; village clerk-treasurer; village clerk; in the case of a municipal corporation having a charter that designates an officer who, by virtue of the charter, has duties and functions similar to those of the city or village officers referred to in this section, the officer so designated by the charter; school district treasurer; fiscal officer of a community school established under Ohio R.C. ch. 3314; treasurer of a science, technology, engineering, and mathematics school established under Ohio R.C. ch. 3326; or fiscal officer of a college-preparatory boarding school established under Ohio R.C. 3328 and is convicted of or pleads guilty to dereliction of duty is disqualified from holding any public office, employment, or position of trust in this state for four years following the date of conviction or of entry of the plea, and is not entitled to hold any public office until any repayment or restitution required by the court is satisfied.
- (g) As used in this section, "public servant" includes an officer or employee of a contractor as defined in Ohio R.C. 9.08 and s fiscal officer employed by the operator of a community school established under Ohio R.C. ch. 3314 or by the operator of a college-preparatory boarding school established under Ohio R.C. ch. 3328.

(ORC 2921.44)

606.24. Disposition of unclaimed or forfeited property held by police department.

- (a) *Safekeeping of property in custody.*
- (1) a. Any property that has been lost, abandoned, stolen, seized pursuant to a search warrant, or otherwise lawfully seized or forfeited and that is in the custody of the police department shall be kept safely by the police department, pending the time it no longer is needed as evidence or for another lawful purpose, and shall be disposed of pursuant to this section or Ohio R.C. 2981.12 and 2981.13.
- b. This section does not apply to the custody and disposal of any of the following:
1. Vehicles subject to forfeiture under Ohio R.C. Title 45, except as provided in division (b)(1)F. of this section;
 2. Abandoned junk motor vehicles or other property of negligible value;
 3. Property held by a department of rehabilitation and correction institution that is unclaimed, that does not have an identified owner, that the owner agrees to dispose of, or that is identified by the department as having little value;
 4. Animals taken, and devices used in unlawfully taking animals, under Ohio R.C. 1531.20;
 5. Controlled substances sold by a peace officer in the performance of the officer's official duties under Ohio R.C. 3719.141;
 6. Property recovered by a township law enforcement agency under Ohio R.C. 505.105 to 505.109;

7. Property held and disposed of under an ordinance of the municipality or under Ohio R.C. 737.29 to 737.33, except that if the municipality has received notice of a citizens' reward program as provided in division (b)(5) of this section and disposes of property under an ordinance shall pay 25 percent of any moneys acquired from any sale or auction to the citizens' reward program.
- (2) a. The police department shall adopt and comply with a written internal control policy that does all of the following:
1. Provides for keeping detailed records as to the amount of property acquired by the police department and the date property was acquired;
 2. Provides for keeping detailed records of the disposition of the property, which shall include, but not be limited to, both of the following:
 - a) The manner in which it was disposed, the date of disposition, detailed financial records concerning any property sold, and the name of any person who received the property. The record shall not identify or enable identification of the individual officer who seized any item of property.
 - b) The general types of expenditures made with amounts that are gained from the sale of the property and that are retained by the agency, including the specific amount expended on each general type of expenditure, except that the policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation.
 3. Complies with Ohio R.C. 2981.13 if the police department has a law enforcement trust fund or similar fund created under that section.
- b. The records kept under the internal control policy shall be open to public inspection during the police department's regular business hours. The policy adopted under this section is a public record open for inspection under Ohio R.C. 149.43.
- (3) The Police Department, with custody of property to be disposed of under this section or Ohio R.C. 2981.12 or 2981.13, shall make a reasonable effort to locate persons entitled to possession of the property, to notify them of when and where it may be claimed, and to return the property to them at the earliest possible time. In the absence of evidence identifying persons entitled to possession, it is sufficient notice to advertise in a newspaper of general circulation in the county and to briefly describe the nature of the property in custody and inviting persons to view and establish their right to it.
- (4) As used in this section:
- a. "Citizens' reward program" has the same meaning as in Ohio R.C. 9.92.
 - b. "Law enforcement agency" includes correctional institutions.
 - c. "Township law enforcement agency" means an organized police department of a township, a police district, a joint township police district, or the office of a township constable.

(b) Disposition of unclaimed or forfeited property.

- (1) Unclaimed or forfeited property in the custody of the police department, other than property described in division (a)(1)b. of this section, shall be disposed of by order of any court of record that has territorial jurisdiction over the municipality, as follows:
- a. Drugs shall be disposed of pursuant to Ohio R.C. 3719.11 or placed in the custody of the secretary of the treasury of the United States for disposal or use for medical or scientific purposes under applicable federal law.
 - b. Firearms and dangerous ordnance suitable for police work may be given to a law enforcement agency for that purpose. Firearms suitable for sporting use or as museum pieces or collectors' items may be sold at public auction pursuant to division (b)(2) of this section. The police department may sell other firearms and dangerous ordnance to a federally licensed

firearms dealer in a manner that the court considers proper. The police department shall destroy any firearms or dangerous ordnance not given to a law enforcement agency or sold or shall send them to the bureau of criminal identification and investigation for destruction by the bureau.

- c. Obscene materials shall be destroyed.
- d. Beer, intoxicating liquor, or alcohol seized from a person who does not hold a permit issued under Ohio R.C. Chapters 4301 and 4303 or otherwise forfeited to the state for an offense under Ohio R.C. 4301.45 or Ohio R.C. 4301.53 shall be sold by the division of liquor control if the division determines that it is fit for sale or shall be placed in the custody of the investigations unit in the Ohio Department of Public Safety and be used for training relating to law enforcement activities. The Ohio Department of Public Safety, with the assistance of the division of liquor control, shall adopt rules in accordance with Ohio R.C. Chapter 119 to provide for the distribution to state or local law enforcement agencies upon their request. If any tax imposed under Ohio R.C. Title 43 has not been paid in relation to the beer, intoxicating liquor, or alcohol, any moneys acquired from the sale shall first be used to pay the tax. All other money collected under this division (b)(1)D. shall be paid into the state treasury. Any beer, intoxicating liquor, or alcohol that the division determines to be unfit for sale shall be destroyed.
- e. Money received by an inmate of a correctional institution from an unauthorized source or in an unauthorized manner shall be returned to the sender, if known, or deposited in the inmates' industrial and entertainment fund of the institution if the sender is not known.
- f. 1. Any mobile instrumentality forfeited under Ohio R.C. Chapter 2981 may be given to the law enforcement agency that initially seized the mobile instrumentality for use in performing its duties, if the agency wants the mobile instrumentality. The agency shall take the mobile instrumentality subject to any security interest or lien on the mobile instrumentality.
- 2. Vehicles and vehicle parts forfeited under Ohio R.C. 4549.61 to 4549.63 may be given to a law enforcement agency for use in performing its duties. Those parts may be incorporated into any other official vehicle. Parts that do not bear vehicle identification numbers or derivatives of them may be sold or disposed of as provided by rules of the director of public safety. Parts from which a vehicle identification number or derivative of it has been removed, defaced, covered, altered, or destroyed and that are not suitable for police work or incorporation into an official vehicle shall be destroyed and sold as junk or scrap.
- g. Computers, computer networks, computer systems, and computer software suitable for police work may be given to a law enforcement agency for that purpose or disposed of under division (b)(2) of this section.
- h. Money seized in connection with a violation of R.C. § 2905.32, 2907.21, or 2907.22 shall be deposited in the victims of human trafficking fund created by R.C. § 5101.87.
- (2) Unclaimed or forfeited property that is not described in division (b)(1) of this section or division (a)(1)b. of this section, with court approval, may be used by the law enforcement agency in possession of it. If it is not used by the agency, it may be sold without appraisal at a public auction to the highest bidder for cash or disposed of in another manner that the court considers proper.
- (3) Except as provided in divisions (b)(1) and (b)(5) of this section and after compliance with division (b)(4) of this section when applicable, any moneys acquired from the sale of property disposed of pursuant to this section shall be placed in the general revenue fund of the state, or the general fund of the municipality.
- (4) If the property was in the possession of the police department in relation to a delinquent child proceeding in a juvenile court, ten percent of any moneys acquired from the sale of property disposed of under this section shall be applied to one or more ~~alcohol and drug addiction treatment programs that are certified by the department of alcohol and drug addiction services~~

~~under Ohio R.C. 3793.06~~ community addiction services providers, as defined in Ohio R.C. 5119.01. A juvenile court shall not specify a program, except as provided in this division, unless the program is in the same county as the court or in a contiguous county. If no certified program is located in any of those counties, the juvenile court may specify a certified program anywhere in Ohio. The remaining 90 percent of the proceeds or cash shall be applied as provided in division (b)(3) of this section.

Each services provider that receives in any calendar year forfeited money under this division shall file an annual report for that year with the attorney general and with the court of common pleas and board of county commissioners of the county in which the services provider is located and of any other county from which the services provider received forfeited money. The services provider shall file the report on or before the first day of March in the calendar year following the calendar year in which the services provider received the money. The report shall include statistics on the number of persons the services provider served, identify the types of treatment services it provided to them, and include a specific accounting of the purposes for which it used the money so received. No information contained in the report shall identify, or enable a person to determine the identity of, any person served by the services provider.

- (5) Each community addiction services provider that receives in any calendar year money under this section or under Ohio R.C. 2981.13 as the result of a juvenile forfeiture order shall file an annual report for that calendar year with the attorney general and with the court of common pleas and board of county commissioners of the county in which the services provider is located and of any other county from which the services provider received the money. The services provider shall file the report on or before the first day of March in the calendar year following the year in which the services provider received the money. The report shall include statistics on the number of persons served with the money, identify the types of treatment services provided, and specifically account for how the money was used. No information in the report shall identify or enable a person to determine the identity of anyone served by the services provider.

As used in this division, "juvenile-related forfeiture order" means any forfeiture order issued by a juvenile court under Ohio R.C. 2981.04 or 2981.05 and any disposal of property ordered by a court under Ohio R.C. 2981.11 regarding property that was in the possession of a law enforcement agency in relation to a delinquent child proceeding in a juvenile court.

- ~~(5)~~(6) a. If the board of county commissioners recognizes a citizens' reward program under Ohio R.C. 9.92, the board shall notify the police department of the recognition by filing a copy of its resolution conferring that recognition with the police department. When the board recognizes a citizens' reward program and the county includes a part, but not all, of the territory of the municipality, the board shall so notify the police department of the recognition of the citizens' reward program only if the county contains the highest percentage of the municipality's population.
- b. Upon being so notified, the police department shall pay 25 percent of any forfeited proceeds or cash derived from each sale of property disposed of pursuant to this section to the citizens' reward program for use exclusively to pay rewards. No part of the funds may be used to pay expenses associated with the program. If a citizens' reward program that operates in more than one county or in another state in addition to this state receives funds under this section, the funds shall be used to pay rewards only for tips and information to law enforcement agencies concerning offenses committed in the county from which the funds were received.

Receiving funds under this section or Ohio R.C. 2981.11 does not make the citizens' reward program a governmental unit or public office for purposes of Ohio R.C. 149.43.

- ~~(6)~~ (7) Any property forfeited under Ohio R.C. Chapter 2981 not be used to pay any fine imposed upon a person who is convicted of or pleads guilty to an underlying criminal offense or a different offense arising out of the same facts and circumstances.
- ~~(7)~~ (8) Any moneys acquired from the sale of personal effects, tools, or other property seized because the personal effects, tools, or other property were used in the commission of a violation of Ohio R.C. § 2905.32, 2907.21, or 2907.22 or derived from the proceeds of the commission of a violation

of R.C. § 2905.32, 2907.21, or 2907.22 and disposed of pursuant to this division (b) shall be placed in the victims of human trafficking fund created by Ohio R.C. § 5101.87.

- (c) *Disposition of contraband, proceeds, or instrumentalities.* Except as otherwise provided in Ohio R.C. 2981.13, property ordered forfeited as contraband, proceeds, or an instrumentality pursuant to Ohio R.C. Chapter 2981 shall be disposed of, used, or sold pursuant to division (b) of this section or Ohio R.C. 2981.12. If the property is to be sold under division (b) of this section or Ohio R.C. 2981.12, the prosecutor shall cause notice of the proposed sale to be given in accordance with law.

(ORC 2981.11, 2981.12, 2981.13(A))

606.30. Self defense: Limitations on duty to retreat prior to using force.

- (a) As used in this section, "residence" and "vehicle" have the same meanings as in Ohio R.C. 2901.05.
- ~~(b) For purposes of any section of this Code that sets forth a criminal offense, a person who lawfully is in that person's residence has no duty to retreat before using force in self-defense, defense of another, or defense of that person's residence, and a person who lawfully is an occupant of that person's vehicle or who lawfully is an occupant in a vehicle owned by an immediate family member of the person has no duty to retreat before using force in self-defense or defense of another.~~
- (b) For purposes of any section of the Revised Code that sets forth a criminal offense, a person has no duty to retreat before using force in self-defense, defense of another, or defense of that person's residence if that person is in a place in which the person lawfully has a right to be.
- (c) A trier of fact shall not consider the possibility of retreat as a factor in determining whether or not a person who used force in self-defense, defense of another, or defense of that person's residence reasonably believed that the force was necessary to prevent injury, loss, or risk to life or safety.

(ORC 2901.09)

612.01. Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Alcohol. Ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. The term does not include denatured alcohol and wood alcohol.

At retail. For use or consumption by the purchaser and not for resale.

Beer. Includes all beverages brewed or fermented wholly or in part from malt products and containing 0.5 percent or more, ~~but not more than 12 percent,~~ of alcohol by volume.

Cider. All liquids that are fit to use for beverage purposes that contain 0.5 percent of alcohol by volume, but not more than six percent of alcohol by weight that are made through the normal alcoholic fermentation of the juice of sound, ripe apples, including, without limitation, flavored, sparkling, or carbonated cider and cider made from pure condensed apple must.

Club. A corporation or association of individuals organized in good faith for social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purposes, which is the owner, lessor, or occupant of a permanent building or part of a permanent building operated solely for such purposes, membership in which entails the prepayment of regular dues, and includes the place so operated.

Community facility. Means either of the following:

- (1) Any convention, sports or entertainment facility or complex, or any combination of these, that is used by or accessible to the general public and that is owned or operated in whole or in part by the state, a state agency, or a political subdivision of the state or that is leased from, or located

on property owned by or leased from, the state, a state agency, a political subdivision of the state, or a convention facilities authority created pursuant to Ohio R.C. 351.02;

(2) An area designated as a community entertainment district pursuant to Ohio R.C. 4301.80.

Controlled access alcohol and beverage cabinet. A closed container, either refrigerated, in whole or in part, or nonrefrigerated, access to the interior of which is restricted by means of a device that requires the use of a key, magnetic card, or similar device and from which beer, intoxicating liquor, other beverages, or food may be sold.

Hotel. The same meaning as in Ohio R.C. 3731.01, subject to the exceptions mentioned in Ohio R.C. 3731.03.

Intoxicating liquor and liquor. All liquids and compounds, other than beer, containing 0.5 percent or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether they are medicated, proprietary, or patented. "Intoxicating liquor" and "liquor" ~~include wine even if it contains less than four percent of alcohol by volume, mixed beverages even if they contain less than four percent of alcohol by volume,~~ cider, alcohol, and all solids and confections which contain any alcohol.

Low-alcohol beverage. Any brewed or fermented malt product or any product made from the fermented juices of grapes, fruits, or other agricultural products that contains either no alcohol or less than 0.5 percent of alcohol by volume. The beverages described in this definition do not include a soft drink such as root beer, birch beer, or ginger beer.

Manufacture. All processes by which beer or intoxicating liquor is produced, whether by distillation, rectifying, fortifying, blending, fermentation, brewing, or in any other manner.

Manufacturer. Any person engaged in the business of manufacturing beer or intoxicating liquor.

Mixed beverages. Bottled and prepared cordials, cocktails, and highballs, produced by mixing any type of whiskey, neutral spirits, brandy, gin or other distilled spirits with, or over, carbonated or plain water, pure juices from flowers and plants, and other flavoring materials. The completed product shall contain not less than 0.5 percent of alcohol by volume and not more than 21 percent of alcohol by volume. Mixed beverages include the contents of a pod.

Nightclub. A place habitually operated for profit, where food is served for consumption on the premises, and one or more forms of amusement are provided or permitted for a consideration that may be in the form of a cover charge or may be included in the price of the food and beverages, or both, purchased by patrons.

Person. Includes firms and corporations.

Pharmacy. An establishment as defined in Ohio R.C. 4729.01, that is under the management or control of a licensed pharmacist in accordance with Ohio R.C. 4729.27.

Pod. A sealed capsule made from plastic, glass, aluminum, or a combination thereof to which all of the following apply:

(1) The capsule contains intoxicating liquor of more than twenty-one per cent of alcohol by volume.

(2) The capsule also contains a concentrated flavoring mixture.

(3) The contents of the capsule are not readily accessible or intended for consumption unless certain manufacturer's processing instructions are followed.

(4) The instructions include releasing the contents of the capsule through a machine specifically designed to process the contents.

(5) After being properly processed according to the manufacturer's instructions, the final product produced from the capsule contains not less than one-half of one per cent of alcohol by volume and not more than twenty-one per cent of alcohol by volume.

Restaurant. A place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold, and served at noon and evening, as the principal business of the place. The term does not include pharmacies, confectionery stores, lunch stands, nightclubs, and filling stations.

Sale and sell. The exchange, barter, gift, offer for sale, sale, distribution, and delivery of any kind, and the transfer of title or possession of beer and intoxicating liquor either by constructive or actual delivery by any means or devices whatever, including the sale of beer or intoxicating liquor by means of a controlled access alcohol and beverage cabinet pursuant to Ohio R.C. 4301.21. Such terms do not include the mere solicitation of orders for beer or intoxicating liquor from the holders of permits issued by the division of liquor control authorizing the sale of the beer or intoxicating liquor, but no solicitor shall solicit any orders until the solicitor has been registered with the division pursuant to Ohio R.C. 4303.25.

Sales area or territory. An exclusive geographic area or territory that is assigned to a particular A or B permit holder and that either has one or more political subdivisions as its boundaries or consists of an area of land with readily identifiable geographic boundaries. "Sales area or territory" does not include, however, any particular retail location in an exclusive geographic area or territory that had been assigned to another A or B permit holder before April 9, 2001.

Sealed container. Any container having a capacity of not more than 128 fluid ounces, the opening of which is closed to prevent the entrance of air.

Spirituos liquor. All intoxicating liquors containing more than 21 percent of alcohol by volume. Spirituos liquor does not include the contents of a pod.

Vehicle. All means of transportation by land, by water, or by air, and everything made use of in any way for such transportation.

Wholesale distributor and distributor. A person engaged in the business of selling to retail dealers for purposes of resale.

Wine. All liquids fit to use for beverage purposes containing not less than 0.5 percent of alcohol by volume and not more than 21 percent of alcohol by volume, which is made from the fermented juices of grapes, fruits, or other agricultural products. Except as provided in Ohio R.C. 4301.01(B)(3), the term does not include cider.

(ORC 4301.01)

612.07. Open container prohibited.

(a) As used in this section:

Chauffeured limousine means a vehicle registered under Ohio R.C. 4503.24.

Street, highway, and motor vehicle have the same meanings as in Ohio R.C. 4511.01.

(b) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:

- (1) Except as provided in division (c)(1)e. of this section, in a state liquor store;
- (2) Except as provided in division (c) of this section, on the premises of the holder of any permit issued by the division of liquor control;
- (3) In any other public place;
- (4) Except as provided in division (d) or (e) of this section, while operating or being a passenger in or on a motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking;

(5) Except as provided in division (d) or (e) of this section, while being in or on a stationary motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

(c) (1) A person may have in the person's possession an opened container of any of the following:

- a. Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-2f, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7, or F-8 permit;
- b. Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit, wine served as a tasting sample by an A-2, S-1, or S-2 permit holder for consumption on the premises of a farmers market for which an F-10 permit has been issued, or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;
- c. Beer or intoxicating liquor consumed on the premises of a convention facility as provided in Ohio R.C. 4303.201;
- d. Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the liquor control commission;
- e. Spiritous liquor to be consumed for purposes of a tasting sample, as defined in R.C. § 4301.171.

(2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this division (c)(2), "music festival" means a series of outdoor live musical performances extending for a period of at least three consecutive days and located on an area of land of at least 40 acres.

(3) a. A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.

b. As used in division (c)(3)A. of this section:

1. "Orchestral performance" means a concert comprised of a group of not fewer than 40 musicians playing various musical instruments.
2. "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than 150 acres of land and that is open for performances from the first day of April to the last day of October of each year.

(4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in division (c)(3)b. of this section if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.

(5) ~~a. A person may have in the person's possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending an orchestral performance and the holder of the F-9 permit grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued.~~ A person may have in the person's possession on an F-9 liquor permit premises an

opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending either of the following:

a. An orchestral performance and the F-9 permit holder grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued;

b. An outdoor performing arts event or orchestral performance that is free of charge and the F-9 permit holder annually hosts not less than twenty-five other events or performances that are free of charge on the permit premises.

~~b.~~ As used in division (c)(5) of this section, "orchestral performance" has the same meaning as in division (c)(3)b. of this section.

- (d) This section does not apply to a person who pays all or a portion of the fee imposed for use of a chauffeured limousine pursuant to a prearranged contract or the guest of the person, when all of the following apply:
- (1) The person or guest is a passenger in the limousine.
 - (2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located.
 - (3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.
- (e) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply:
- (1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.
 - (2) The opened bottle of wine that is resealed in accordance with division (e)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.
- (f) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4301.62, 4301.99(A))

612.09. Conveying intoxicating liquor or cash onto grounds of detention facilities or other specified governmental facilities.

- (a) No person shall knowingly convey, or attempt to convey, onto the grounds of a detention facility or of an institution, office building, or other place that is under the control of the department of mental health and addiction services, the department of developmental disabilities, the department of youth services, or the department of rehabilitation and correction, any of the following items:
- (1) Any deadly weapon or dangerous ordnance, as defined in Ohio R.C. 2923.11, or any part of or ammunition for use in such deadly weapon or dangerous ordnance.
 - (2) Any drug of abuse, as defined in Ohio R.C. 3719.011.
 - (3) Any intoxicating liquor, as defined in Ohio R.C. 4301.01, except for small amounts of wine for sacramental purposes when the person engaging in the specified conduct is a cleric, as defined in Ohio R.C. 2317.02.
- (b) Division (a) of this section does not apply to any person who conveys or attempts to convey an item onto the grounds of a detention facility or of an institution, office building, or other place under the

control of the department of mental health and addiction services, the department of developmental disabilities, the department of youth services, or the department of rehabilitation and correction, with written authorization of the person in charge of the detention facility or the institution, office building or other place and in accordance with the written rules of the detention facility or the institution, office building, or other place.

- (c) No person shall knowingly deliver, or attempt to deliver, to any person who is confined in a detention facility, to a child confined in a youth services facility, to a prisoner who is temporarily released from confinement for a work assignment, or to any patient in an institution under the control of the department of mental health and addiction services or the department of developmental disabilities, any item listed in division (a).
- (d) No person shall knowingly deliver or attempt to deliver cash to any person who is confined in a detention facility, to a child confined in a youth services facility, or to a prisoner who is temporarily released from confinement for a work assignment.
- (e) No person shall knowingly deliver, or attempt to deliver, to any person who is confined in a detention facility, to a child confined in a youth services facility, or to a prisoner who is temporarily released from confinement for a work assignment a cellular telephone, two-way radio or other electronic communications device.
- (f) (1) It is an affirmative defense to a charge under division (a)(1) of this section that the weapon or dangerous ordnance in question was being transported in a motor vehicle for any lawful purpose, that it was not on the actor's person, and if the weapon or dangerous ordnance was a firearm, that it was unloaded and was being carried in a closed package, box or case or in a compartment that can be reached only by leaving the vehicle.
- (2) It is an affirmative defense to a charge under division (c) of this section that the actor was not otherwise prohibited by law from delivering the item to the confined person, the child, the prisoner, or the patient and that either of the following applies:
 - a. The actor was permitted by the written rules of the detention facility or the institution, office building, or other place to deliver the item to the confined person or the patient.
 - b. The actor was given written authorization by the person in charge of the detention facility or the institution, office building, or other place to deliver the item to the confined person or the patient.
- (g) (1) Whoever violates division (a)(1) of this section or commits a violation of division (c) of this section involving any item listed in division (a)(1) of this section is guilty of illegal conveyance of weapons onto the grounds of a specified governmental facility, a felony to be prosecuted under appropriate state law.
- (2) Whoever violates division (a)(2) of this section or commits a violation of division (c) of this section involving any drug of abuse is guilty of illegal conveyance of drugs of abuse onto the grounds of a specified governmental facility, a felony to be prosecuted under appropriate state law.
- (3) Whoever violates division (a)(3) of this section or commits a violation of division (c) of this section involving any intoxicating liquor is guilty of illegal conveyance of intoxicating liquor onto the grounds of a specified governmental facility, a misdemeanor of the second degree.
- (4) Whoever violates division (d) of this section is guilty of illegal conveyance of cash onto the grounds of a detention facility, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (d) of this section or a substantially equivalent state law or municipal ordinance, illegal conveyance of cash onto the grounds of a detention facility is a felony to be prosecuted under appropriate state law.
- (5) Whoever violates division (e) of this section is guilty of illegal conveyance of a communications device onto the grounds of a specified governmental facility, a misdemeanor of the first degree. If the offender previously has been convicted or pleaded guilty to a violation of division (e) of this section or a substantially equivalent state law or municipal ordinance, illegal conveyance of a

communications device onto the grounds of a detention facility is a felony to be prosecuted under appropriate state law.

(ORC 2921.36)

618.05. Cruelty to animals; cruelty to companion animals.

(a) No person shall:

- (1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during the confinement with a sufficient quantity of good wholesome food and water;
- (2) Impound or confine an animal without affording it, during the confinement, access to shelter from wind, rain, snow, or excessive direct sunlight, if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. This division does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, "shelter" means an artificial enclosure, windbreak, sunshade, or natural windbreak or sunshade that is developed from the earth's contour, tree development, or vegetation;
- (3) Carry or convey an animal in a cruel or inhuman manner;
- (4) Keep animals other than cattle, poultry or fowl, swine, sheep, or goats in an enclosure without wholesome exercise and change of air, nor feed cows on food that produces impure or unwholesome milk;
- (5) Detain livestock in railroad cars or compartments longer than 28 hours after they are so placed without supplying them with necessary food, water, and attention, nor permit the stock to be so crowded as to overlie, crush, wound, or kill each other.

(b) Upon the written request of the owner or person in custody of any particular shipment of livestock, which written request shall be separate and apart from any printed bill of lading or other railroad form, the length of time in which the livestock may be detained in any cars or compartment without food, water, and attention may be extended to 36 hours without penalty therefore. Division (a) of this section does not prevent the dehorning of cattle.

(c) All fines collected for violations of this section shall be paid to the society or association for the prevention of cruelty to animals, if there is one in the municipality; otherwise, all fines shall be paid to the general fund.

(d) Cruelty to companion animals.

(1) ~~As used in this section:~~

- a. ~~"Companion animal" means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept. "Companion animal" does not include livestock or any wild animal.~~
- b. ~~"Cruelty," "torment," and "torture" have the same meanings as in Ohio R.C. 1717.01.~~
- c. ~~"Federal Animal Welfare Act" means the "Laboratory Animal Act of 1966," Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C. 2131 et seq., as amended by the "Animal Welfare Act of 1970," Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976," Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985," Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.~~
- d. ~~"Practice of veterinary medicine" has the same meaning as in Ohio R.C. 4741.01.~~
- e. ~~"Residential dwelling" means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.~~
- f. ~~"Wild animal" has the same meaning as in Ohio R.C. 1531.01.~~

- ~~(2) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.~~
- ~~(3) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:~~
- ~~a. Torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against the companion animal;~~
 - ~~b. Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment or confinement in any of those specified manners.~~
- ~~(4) Divisions (d)(2) and (d)(3) of this section do not apply to any of the following:~~
- ~~a. A companion animal used in scientific research conducted by an institution in accordance with the Federal Animal Welfare Act and related regulations;~~
 - ~~b. The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Ohio R.C. Chapter 4741;~~
 - ~~c. Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;~~
 - ~~d. The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;~~
 - ~~e. The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Ohio R.C. Chapter 4741.~~
- ~~(5) Notwithstanding any section of the Ohio Revised Code that otherwise provides for the distribution of fine moneys, the clerk of court shall forward all fines the clerk collects that are so imposed for any violation of this division (c) to the treasurer of the municipality, whose county humane society or law enforcement agency is to be paid the fine money as determined under this division. The treasurer shall pay the fine moneys to the county humane society or the county, township, municipal corporation, or state law enforcement agency in this state that primarily was responsible for or involved in the investigation and prosecution of the violation. If a county humane society receives any fine moneys under this division, the county humane society shall use the fine moneys to provide the training that is required for humane agents under Ohio R.C. 1717.06.~~
- (1) As used in this section:
- a. *Companion animal* means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept, including a pet store as defined in section 956.01 of the Revised Code. "Companion animal" does not include livestock or any wild animal.
 - b. *Cruelty, torment, and torture* have the same meanings as in Ohio R.C. 1717.01.
 - c. *Residential dwelling* means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.
 - d. *Practice of veterinary medicine* has the same meaning as in Ohio R.C. 4741.01.
 - e. *Wild animal* has the same meaning as in Ohio R.C. 1531.01.
 - f. *Federal animal welfare act* means the "Laboratory Animal Act of 1966," Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the "Animal Welfare Act of 1970," Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976," Pub. L. No.

94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985," Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.

g. *Dog kennel* means an animal rescue for dogs that is registered under Ohio R.C. 956.06, a boarding kennel, or a training kennel.

h. *Boarding kennel* has the same meaning as in Ohio R.C. 956.01.

i. *Training kennel* means an establishment operating for profit that keeps, houses, and maintains dogs for the purpose of training the dogs in return for a fee or other consideration.

j. *Livestock* means horses, mules, and other equidae; cattle, sheep, goats, and other bovidae; swine and other suidae; poultry; alpacas; llamas; captive white-tailed deer; and any other animal that is raised or maintained domestically for food or fiber.

j. *Captive white-tailed deer* has the same meaning as in section 1531.01 of the Revised Code.

k. *Serious physical harm* means any of the following:

- i. Physical harm that carries an unnecessary or unjustifiable substantial risk of death;
- ii. Physical harm that involves either partial or total permanent incapacity;
- iii. Physical harm that involves acute pain of a duration that results in substantial suffering or that involves any degree of prolonged or intractable pain;
- iv. Physical harm that results from a person who confines or who is the custodian or caretaker of a companion animal depriving the companion animal of good, wholesome food and water that proximately causes the death of the companion animal.

(2) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.

(3) No person shall knowingly cause serious physical harm to a companion animal.

(4) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:

a. Torture, torment, or commit an act of cruelty against the companion animal;

b. Deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;

c. Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.

(5) No owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall knowingly do any of the following:

a. Torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against the companion animal;

b. Deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water if it is reasonably expected that the companion animal would die or experience unnecessary or unjustifiable pain or suffering as a result of the deprivation or confinement;

c. Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight

if it is reasonably expected that the companion animal would die or experience unnecessary or unjustifiable pain or suffering as a result of or due to the lack of adequate shelter.

(6) No owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall negligently do any of the following:

a. Torture, torment, or commit an act of cruelty against the companion animal;

b. Deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;

c. Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.

(7) Divisions (2), (3), (4), (5), and (6) of this section do not apply to any of the following:

a. A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;

b. The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Ohio R.C. ch. 4741;

c. Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;

d. The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;

e. The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Ohio R.C. ch. 4741.

(8) Notwithstanding any section of the Ohio Revised Code that otherwise provides for the distribution of fine moneys, the clerk of court shall forward all fines the clerk collects that are so imposed for any violation of this section to the treasurer of the political subdivision or the state, whose county humane society or law enforcement agency is to be paid the fine money as determined under this division. The treasurer to whom the fines are forwarded shall pay the fine moneys to the county humane society or the county, township, municipal corporation, or state law enforcement agency in this state that primarily was responsible for or involved in the investigation and prosecution of the violation. If a county humane society receives any fine moneys under this division, the county humane society shall use the fine moneys either to provide the training that is required for humane society agents under Ohio R.C. 1717.061 or to provide additional training for humane society agents.

(e) Whoever violates division (a) of this section is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this division, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.

(f) (1) Whoever violates division (d)(2) of this section is guilty of a misdemeanor of the first degree on a first offense and a felony to be prosecuted under appropriate state law on each subsequent offense.

(2) Whoever violates division (d)(3) of this section is guilty of a ~~misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.~~ felony to be prosecuted under appropriate state law.

- (3) a. A court may order a person who is convicted of or pleads guilty to a violation of division (d) of this section to forfeit to an impounding agency, as defined in Ohio R.C. 959.132, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.
- b. A court may order a person who is convicted of or pleads guilty to a violation of division (d) of this section to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under Ohio R.C. 959.132.
- (4) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of division (d) of this section suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

(ORC 959.13, 959.131, 959.99(D), 959.99(E))

624.01. Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words, terms and phrases and their derivatives used in this chapter which are not defined in this section shall have the meanings given to them in the Ohio Revised Code.

Administer. The direct application of a drug, whether by injection, inhalation, ingestion, or any other means to a person or an animal.

Adulterate. To cause a drug to be adulterated as described in Ohio R.C. 3715.63.

Alcohol and drug addiction services. Has the same meaning as in Ohio R.C. 5119.01.

Bulk amount. Of a controlled substance means any of the following:

- (1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II or Schedule III, with the exception of any controlled substance analog, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in division (2), ~~or~~ (5) or (6) of this definition, whichever of the following is applicable:
- An amount equal to or exceeding ten grams or 25 unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule I opiate or opium derivative;
 - An amount equal to or exceeding ten grams of a compound, mixture, preparation, or substance that is or contains any amount of raw or gum opium;
 - An amount equal to or exceeding 30 grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a Schedule I stimulant or depressant;
 - An amount equal to or exceeding 20 grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II opiate or opium derivative;
 - An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of phencyclidine;

- f. An amount equal to or exceeding 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the Federal drug abuse control laws, as defined in this section, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;
 - g. An amount equal to or exceeding three grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the federal drug abuse control laws;
- (2) An amount equal to or exceeding 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;
 - (3) An amount equal to or exceeding 20 grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III opiate or opium derivative;
 - (4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule V substance.
 - (5) An amount equal to or exceeding 200 solid dosage units, 16 grams, or 16 milliliters of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III anabolic steroid.
 - (6) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in schedule III, schedule IV, or schedule V, if the defendant is charged with a violation of section 2925.11 of the Revised Code or a substantially equivalent municipal ordinance and the sentencing provisions set forth in divisions (C)(10)(b) and (C)(11) of that section will not apply regarding the defendant and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in division (1), (2), (3), (4), or (5) above for the other schedule III, IV, or V controlled substance that is combined with the fentanyl-related compound.

Certified grievance committee. A duly constituted and organized committee of the Ohio State Bar Association or of one or more local bar associations of the STATE that complies with the criteria set forth in Rule V, Section 6 of the rules for the government of the Bar of Ohio.

Cocaine. Any of the following:

- (1) A cocaine salt, isomer, or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine.
- (2) Coca leaves or a salt, compound, derivative, or preparation of coca leaves, including ecgonine, a salt, isomer, or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine.
- (3) A salt, compound, derivative, or preparation of a substance identified in division (1) or (2) of this definition that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.

Committed in the vicinity of a juvenile. An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within 100 feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within 100 feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.

Committed in the vicinity of a school. An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises.

Controlled substance. A drug, compound, mixture, preparation, or substance included in Schedule I, II, III, IV, or V of Ohio R.C. 3719.41.

Controlled substance analog.

- (1) The phrase means, except as provided in division (2) of this definition, a substance to which both of the following apply:
 - a. The chemical structure of the substance is substantially similar to the structure of a controlled substance in Schedule I or II.
 - b. One of the following applies regarding the substance:
 1. The substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.
 2. With respect to a particular person, that person represents or intends the substance to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.
- (2) The phrase does not include any of the following:
 - a. A controlled substance;
 - b. Any substance for which there is an approved new drug application;
 - c. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent that conduct with respect to that substance is pursuant to that exemption;
 - d. Any substance to the extent it is not intended for human consumption before the exemption described in division (2)c. of this definition takes effect with respect to that substance.
- (3) Except as otherwise provided in R.C. § 2925.03 or R.C. § 2925.11, a "controlled substance analog", to the extent intended for human consumption, shall be treated for purposes of any provision of this Code or the Ohio Revised Code as a controlled substance in Schedule I.

Counterfeit controlled substance. Any of the following:

- (1) Any drug that bears, or whose container or label bears, a trademark, trade name, or other identifying mark used without authorization of the owner of rights to the trademark, trade name, or identifying mark.
- (2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed, or distributed by a person other than the person that manufactured, processed, packed, or distributed it.
- (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance.
- (4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size, and color, or its markings, labeling, packaging, distribution, or the price for which it is sold or offered for sale.

Cultivate. Includes planting, watering, fertilizing or tilling.

Dangerous drug. Any of the following:

- (1) Any drug to which either of the following applies:
 - a. Under the Federal Food, Drug, and Cosmetic Act, is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without a prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or may be dispensed only upon a prescription.
 - b. Under Ohio R.C. Chapter 3715 or 3719, may be dispensed only upon a prescription.
- (2) Any drug that contains a Schedule V controlled substance and that is exempt from Ohio R.C. Chapter 3719 or to which that chapter does not apply.
- (3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.
- (4) Any drug that is a biological product, as defined in Ohio R.C. 3715.01.

Deception. Has the same meaning as in Ohio R.C. 2913.01.

Delta-9 tetrahydrocannabinol. Has the same meaning as in Ohio R.C. 928.01.

Disciplinary counsel. The disciplinary counsel appointed by the board of commissioners on grievances and discipline of the Ohio Supreme Court under the rules for the government of the Bar of Ohio.

Dispense. Means to sell, leave with, give away, dispose of, or deliver.

Distribute. Means to deal in, ship, transport or deliver, but does not include administering or dispensing a drug.

Drug. Any of the following:

- (1) Any article recognized in the official United States pharmacopeia, national formulary, or any supplement intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.
- (2) Any other article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.
- (3) Any article, other than food, intended to affect the structure or any function of the body of humans or other animals.
- (4) Any article intended for use as a component of any article specified in division (1), (2), or (3) above; but does not include devices or their components, parts, or accessories.

Drug abuse offense. Any of the following:

- (1) A violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs, or any violation of Ohio R.C. 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36, or 2925.37.
- (2) A violation of an existing or former law of any municipality, state, or of the United States, that is substantially equivalent to any section listed in division (1) of this definition.
- (3) An offense under an existing or former law of any municipality, state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using, or otherwise dealing with a controlled substance is an element.
- (4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit, any offense under division (1), (2), or (3) of this definition.

Drug dependent person. Any person who, by reason of the use of any drug of abuse, is physically and/or psychologically dependent upon the use of such drug to the detriment of the person's health or welfare.

Drug of abuse. Any controlled substance, any harmful intoxicant, and any dangerous drug, as defined in this section.

Federal drug abuse control laws. The "Comprehensive Drug Abuse Prevention and Control Act of 1970," 21 U.S.C. 801 et seq., as amended.

Felony drug abuse offense. Any drug abuse offense that would constitute a felony under the laws of this state, any other state, or the United States.

Fentanyl-related compound means any of the following:

- (1) Fentanyl;
- (2) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- (3) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide);
- (4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl-4-piperidyl)-N-phenylpropanamide);
- (5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidyl]-N-phenylpropanamide);
- (6) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- (7) 3-methylthiofentanyl (N-[3-methyl-1-[2-(thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide);
- (8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidyl]propanamide);
- (9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidyl]-propanamide);
- (10) Alfentanil;
- (11) Carfentanil;
- (12) Remifentanil;
- (13) Sufentanil;
- (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidyl]-N-phenylacetamide); and
- (15) Any compound that meets all of the following fentanyl pharmacophore requirements to bind at the mu receptor, as identified by a report from an established forensic laboratory, including acetylfentanyl, furanylfentanyl, valerylfentanyl, butyrylfentanyl, isobutyrylfentanyl, 4-methoxybutyrylfentanyl, para-fluorobutyrylfentanyl, acrylfentanyl, and ortho-fluorofentanyl:
 - a. A chemical scaffold consisting of both of the following:
 - (i) A five, six, or seven member ring structure containing a nitrogen, whether or not further substituted;
 - (ii) An attached nitrogen to the ring, whether or not that nitrogen is enclosed in a ring structure, including an attached aromatic ring or other lipophilic group to that nitrogen.
 - b. A polar functional group attached to the chemical scaffold, including but not limited to a hydroxyl, ketone, amide, or ester;
 - c. An alkyl or aryl substitution off the ring nitrogen of the chemical scaffold; and
 - d. The compound has not been approved for medical use by the United States food and drug administration.

Harmful intoxicant. Does not include beer or intoxicating liquor, but means any of the following:

- (1) Any compound, mixture, preparation, or substance the gas, fumes, or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation, or other harmful physiological effects, and includes but is not limited to any of the following:
 - a. Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent.
 - b. Any aerosol propellant.
 - c. Any fluorocarbon refrigerant.
 - d. Any anesthetic gas.
- (2) Gamma Butyrolactone;
- (3) 1,4 Butanediol.

~~Hashish. The resin or a preparation of the resin contained in marijuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form. A resin or a preparation of a resin to which both of the following apply:~~

- (1) It is contained in or derived from any part of the plant of the genus cannabis, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.
- (2) It has a delta-9 tetrahydrocannabinol concentration of more than three-tenths per cent.

“Hashish” does not include a hemp byproduct in the possession of a licensed hemp processor under Ohio R.C. ch. 928, provided that the hemp byproduct is being produced, stored, and disposed of in accordance with rules adopted under Ohio R.C. 928.03.

Hypodermic. A hypodermic syringe or needle, or other instrument or device for the injection of medication.

Juvenile. A person under 18 years of age.

Laboratory. A laboratory approved by the state board of pharmacy as proper to be entrusted with the custody of controlled substances and the use of controlled substances for scientific and clinical purposes and for purposes of instruction.

Licensed health professional authorized to prescribe drugs or prescriber. An individual who is authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual's professional practice, including only the following:

- (1) A dentist licensed under Ohio R.C. Chapter 4715.
- (2) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under Ohio R.C. 4723.48.
- (3) Optometrist licensed under Ohio R.C. Chapter 4725 to practice optometry under a therapeutic pharmaceutical agents certificate.
- (4) A physician authorized under Ohio R.C. Chapter 4731 to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.
- (5) A physician assistant who holds a certificate to prescribe issued under Ohio R.C. Chapter 4730.
- (6) A veterinarian licensed under Ohio R.C. Chapter 4741.

L.S.D. Lysergic acid diethylamide.

Major drug offender. Has the same meaning as in Ohio R.C. 2929.01.

Mandatory prison term. Has the same meaning as in Ohio R.C. 2929.01.

Manufacture. To plant, cultivate, harvest, process, make, prepare, or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical synthesis, or compounding, or any combination of the same, and includes packaging, repackaging, labeling, and other activities incident to production.

Manufacturer. A person who manufactures a controlled substance, as "manufacture" is defined by this section and includes a "manufacturer of dangerous drugs" as defined in Ohio R.C. 4729.01.

Marihuana. All parts of a plant of the genus cannabis, whether growing or not, the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. "Marihuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil, or cake, or the sterilized seed of the plant that is incapable of germination. "Marihuana" does not include "hemp" or a "hemp product" as those terms are defined in Ohio R.C. 928.01. "Marihuana" does not include "hashish."

Methamphetamine. Methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer, or salt of an isomer of methamphetamine.

Minor drug possession offense. Either of the following:

- (1) A violation of Ohio R.C. 2925.11 as it existed prior to July 1, 1996, or a substantially equivalent municipal ordinance.
- (2) A violation of Ohio R.C. 2925.11 as it exists on and after July 1, 1996, or a substantially equivalent municipal ordinance, that is a misdemeanor or a felony of the fifth degree.

Official written order. An order written on a form provided for that purpose by the Director of the United States Drug Enforcement Administration, under any laws of the United States making provision for the order, if the order forms are authorized and required by federal law.

Person. Means any individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association or other legal entity.

Pharmacist. A person licensed under Ohio R.C. Chapter 4729 to engage in the practice of pharmacy.

Pharmacy. Except when used in a context that refers to the practice of pharmacy, means any area, room, rooms, place of business, department, or portion of any of the foregoing, where the practice of pharmacy is conducted.

Possess or possession. Having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

Prescription. A written, electronic or oral order for drugs or combination or mixtures of drugs to be used by a particular individual or for treating a particular animal, issued by a licensed health professional authorized to prescribe drugs.

Presumption for a prison term or presumption that a prison term shall be imposed. A presumption as described in Ohio R.C. 2929.13(D) that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under Ohio R.C. 2929.11.

Professional license. Any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate, or temporary registration that is described in ~~Ohio R.C. 2925.01(W)(1) to (36)~~ the definition herein of professionally licensed person and that qualifies a person as a professionally licensed person.

Professionally licensed person. Any of the following:

- (1) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under Ohio R.C. Chapter 4701 and who holds an Ohio permit issued under that chapter;

- (2) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under Ohio R.C. Chapter 4703;
- (3) A person who is registered as a landscape architect under Ohio R.C. Chapter 4703 or who holds a permit as a landscape architect issued under that chapter;
- (4) A person licensed under Ohio R.C. Chapter 4707;
- (5) A person who has been issued a certificate of registration as a registered barber under Ohio R.C. Chapter 4709;
- (6) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Ohio R.C. Chapter 4710;
- (7) ~~A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, managing cosmetologist's license, managing hair designer's license, managing manicurist's license, managing esthetician's license, managing natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under Ohio R.C. Chapter 4713;~~
A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, advanced cosmetologist's license, advanced hair designer's license, advanced manicurist's license, advanced esthetician's license, advanced natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under Ohio R.C. ch. 4713;
- (8) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious intravenous sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license, or a dental hygienist's teacher's certificate under Ohio R.C. Chapter 4715;
- (9) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license, or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under Ohio R.C. Chapter 4717;
- (10) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under Ohio R.C. Chapter 4723;
- (11) A person who has been licensed to practice optometry or to engage in optical dispensing under Ohio R.C. Chapter 4725;
- (12) A person licensed to act as a pawnbroker under Ohio R.C. Chapter 4727;
- (13) A person licensed to act as a precious metals dealer under Ohio R.C. Chapter 4728;
- (14) A person licensed under Chapter 4729 of the Revised Code as a pharmacist or pharmacy intern or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;
- (15) A person licensed under Chapter 4729 of the Revised Code as a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs;
- (16) A person who is authorized to practice as a physician assistant under Ohio R.C. Chapter 4730;
- (17) ~~A person who has been issued a certificate to practice medicine and surgery, osteopathic medicine and surgery, a limited branch of medicine, or podiatry under Ohio R.C. Chapter 4731;~~
A person who has been issued a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under Chapter 4731. of the Revised Code or has been issued a certificate to practice a limited branch of medicine under that chapter;
- (18) A person licensed as a psychologist or school psychologist under Ohio R.C. Chapter 4732;

- (19) A person registered to practice the profession of engineering or surveying under Ohio R.C. Chapter 4733;
- (20) A person who has been issued a license to practice chiropractic under Ohio R.C. Chapter 4734;
- (21) A person licensed to act as a real estate broker or real estate salesperson under Ohio R.C. Chapter 4735;
- (22) A person registered as a registered ~~sanitarian~~ environmental health specialist under Ohio R.C. Chapter 4736;
- (23) A person licensed to operate or maintain a junkyard under Ohio R.C. Chapter 4737;
- (24) A person who has been issued a motor vehicle salvage dealer's license under Ohio R.C. Chapter 4738;
- (25) A person who has been licensed to act as a steam engineer under Ohio R.C. Chapter 4739;
- (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Ohio R.C. Chapter 4741;
- (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Ohio R.C. Chapter 4747;
- (28) A person who has been issued a class A, class B, or class C license or who has been registered as an investigator or security guard employee under Ohio R.C. Chapter 4749;
- (29) A person licensed to practice as a nursing home administrator under Ohio R.C. Chapter 4751;
- (30) A person licensed to practice as a speech-language pathologist or audiologist under Ohio R.C. Chapter 4753;
- (31) A person issued a license as an occupational therapist or physical therapist under Ohio R.C. Chapter 4755;
- (32) ~~A person who is licensed as a professional clinical counselor or professional counselor, licensed as a social worker or independent social worker, or registered as a social work assistant under Ohio R.C. Chapter 4757; A person who is licensed as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under Ohio R.C. 4757;~~
- (33) A person issued a license to practice dietetics under Ohio R.C. Chapter 4759;
- (34) A person who has been issued a license or limited permit to practice respiratory therapy under Ohio R.C. Chapter 4761;
- (35) A person who has been issued a real estate appraiser certificate under Ohio R.C. Chapter 4763;
- (36) A person who has been issued a home inspector license under Ohio R.C. Chapter 4764.
- (37) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules.

Public premises. Any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.

Sale. Includes delivery, barter, exchange, transfer, or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant or employee.

Sample drug. A drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.

Schedule I, II, III, IV or V. Controlled substance Schedules I, II, III, IV, and V established pursuant to Ohio R.C. 3719.41, as amended pursuant to Ohio R.C. 3719.43 or 3719.44, or as established by emergency rule adopted under Ohio R.C. 3719.45.

School. Any school operated by a board of education, any community school established under Ohio R.C. Chapter 3314, or any nonpublic school for which the state board of education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a criminal offense is committed.

School building. Any building in which any of the instruction, extracurricular activities, or training provided by a school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted in the school building at the time a criminal offense is committed.

School premises. Either of the following:

- (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed.
- (2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under Ohio R.C. Chapter 3314, or the governing body of a nonpublic school for which the state board of education prescribes minimum standards under Ohio R.C. 3301.07 and on which some of the instruction, extracurricular activities, or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.

Standard pharmaceutical reference manual. The current edition, with cumulative changes if any, of references that are approved by the state board of pharmacy.

Theft offense. Has the same meaning as in Ohio R.C. 2913.01.

Unit dose. An amount or unit or a compound, mixture, or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.

Wholesaler. A person who, on official written orders other than prescriptions, supplies controlled substances that the person has not manufactured, produced or prepared personally and includes "wholesale distributor of dangerous drugs," which means a person engaged in the sale of dangerous drugs at wholesale and includes any agent or employee of that person authorized by that person to engage in the sale of dangerous drugs at wholesale.

(ORC 2925.01, 3719.01, 3719.011, 3719.013, 4729.01)

624.02. Trafficking in controlled substances; gift of marihuana.

(a) No person shall knowingly do any of the following:

- (1) Sell or offer to sell a controlled substance or a controlled substance analog;
- (2) Prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance or a controlled substance analog, when the offender knows or has reasonable cause to believe that the controlled substance or a controlled substance analog, is intended for sale or resale by the offender or another person.

(b) This section does not apply to any of the following:

- (1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741.

- (2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration.
- (3) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug and Cosmetic Act" (21 U.S.C. 301 et seq., as amended), and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that Act.
- (c) Whoever violates division (a) of this section is guilty of the following:
- (1) Except as otherwise provided in division (c)(2) of this section, trafficking in controlled substances is a felony to be prosecuted under appropriate state law.
- (2) Except as otherwise provided in this division, if the offense involves a gift of 20 grams or less of marihuana, trafficking in marihuana is a minor misdemeanor upon a first offense and a misdemeanor of the third degree upon a subsequent offense. If the offense involves a gift of 20 grams or less of marihuana and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.
- (d) In addition to any prison term authorized or required by division (c) of this section and Ohio R.C. 2929.13 and 2929.14, and in addition to any other sanction imposed for the offense under this section or Ohio R.C. 2929.11 through 2929.18, the court that sentences a person who is convicted of or pleads guilty to a violation of division (a) of this section shall do all of the following that are applicable regarding the offender:
- (1) The court shall suspend the driver's or commercial driver's license or permit of the offender in accordance with R.C. § 2925.03(G).
- (2) If the offender is a professionally licensed person, the court immediately shall comply with Ohio R.C. 2925.38.
- (e) (1) Notwithstanding any contrary provision of Ohio R.C. 3719.21 and except as provided in Ohio R.C. 2925.03(H), the clerk of the court shall pay any mandatory fine imposed pursuant to this section and any fine other than a mandatory fine that is imposed for a violation of this section pursuant to Ohio R.C. 2929.18(A) or (B)(5) to the county, township, municipality, park district, as created pursuant to Ohio R.C. 511.18 or 1545.04, or state law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender. However, the clerk shall not pay a mandatory fine so imposed to a law enforcement agency unless the agency has adopted a written internal control policy under division (e)(2) of this section that addresses the use of the fine moneys that it receives. Each agency shall use the mandatory fines so paid to subsidize the agency's law enforcement efforts that pertain to drug offenses, in accordance with the written internal control policy adopted by the recipient agency under division (e)(2) of this section.
- (2) a. Prior to receiving any fine moneys under division (e)(1) of this section or Ohio R.C. 2925.42(B), a law enforcement agency shall adopt a written internal control policy that addresses the agency's use and disposition of all fine moneys so received and that provides for the keeping of detailed financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure. The policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation. All financial records of the receipts of those fine moneys, the general type of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure by an agency are public records open for inspection under Ohio R.C. 149.43. Additionally, a written internal control policy adopted under this division is such a public record, and the agency that adopted it shall comply with it.
- ~~b. Each law enforcement agency that receives in any calendar year any fine moneys under division (e)(1) of this section or Ohio R.C. 2925.42(B), shall prepare a report covering the~~

~~calendar year that cumulates all of the information contained in all of the public financial records kept by the agency pursuant to division (e)(2)a. of this section for that calendar year, and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general. Each report received by the attorney general is a public record open for inspection under Ohio R.C. 149.43.~~

(3) As used in division (e) of this section:

- a. "Law enforcement agencies" includes, but is not limited to, the state board of pharmacy and the office of a prosecutor.
- b. "Prosecutor" has the same meaning as in Ohio R.C. 2935.01.

(f) As used in this section, "drug" includes any substance that is represented to be a drug.

(ORC 2925.03)

State Law reference— Felony drug trafficking offenses, see Ohio R.C. 2925.03(C).

624.03. Drug possession offenses.

(a) No person shall knowingly obtain, possess or use a controlled substance or a controlled substance analog.

(b) This section does not apply to any of the following:

- (1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741.
- (2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration.
- (3) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the Federal Food, Drug, and Cosmetic Act, and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that Act.
- (4) Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs if the prescription was issued for a legitimate medical purpose and not altered, forged, or obtained through deception or commission of a theft offense. As used in division (b)(4) of this section, "deception" and "theft offense" have the same meanings as in Ohio R.C. 2913.01.

(c) Whoever violates division (a) of this section is guilty of one of the following:

- (1) ~~Except as otherwise provided in divisions (c)(2), (c)(3), (c)(4), and (c)(5), if the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule I or II of Ohio R.C. 3719.41, or is cocaine, L.S.D., heroin, a controlled substance analog, or a compound, mixture or preparation containing such drugs, possession of drugs~~ If the drug involved in the violation is a compound, mixture, preparation, or substance included in schedule I or II, with the exception of marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, hashish, and any controlled substance analog, a felony to be prosecuted under appropriate state law.
- (2) If the drug involved is a compound, mixture, preparation, or substance included in Schedule III, IV, or V of Ohio R.C. 3719.41, whoever violates division (a) of this section is guilty of possession of drugs. The penalty for the offense shall be determined as follows:

- a. Except as otherwise provided in the following division, possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, it is a felony to be prosecuted under appropriate state law.
 - b. If the amount of the drug involved equals or exceeds the bulk amount, possession of drugs is a felony to be prosecuted under appropriate state law.
- (3) If the drug involved in the violation is marihuana or a compound, mixture, preparation or substance containing marihuana other than hashish, whoever violates division (a) of this section is guilty of possession of marihuana. The penalty for the offense shall be determined as follows:
- a. Except as otherwise provided in the following divisions, possession of marihuana is a minor misdemeanor.
 - b. If the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a misdemeanor of the fourth degree.
 - c. If the amount of the drug involved equals or exceeds 200 grams, possession of marihuana is a felony to be prosecuted under appropriate state law.
- (4) If the drug involved in the violation is hashish or a compound, mixture, preparation or substance containing hashish, whoever violates division (a) of this section is guilty of possession of hashish. The penalty for the offense shall be determined as follows:
- a. Except as otherwise provided in the following divisions, possession of hashish is a minor misdemeanor.
 - b. If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.
 - c. If the amount of the drug involved equals or exceeds ten grams of hashish in a solid form or equals or exceeds two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a felony to be prosecuted under appropriate state law.
- (d) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.
- (e) In addition to any prison term or jail term authorized or required by division (c) of this section and Ohio R.C. 2929.13, 2929.14, 2929.22, 2929.24, and 2929.25, or any substantially equivalent municipal ordinance, and in addition to any other sanction that is imposed for the offense under this section or Ohio R.C. 2929.11 through 2929.18, or Ohio R.C. 2929.21 to 2929.28, or any substantially equivalent municipal ordinance, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (a) of this section shall do the following if applicable regarding the offender:
- ~~(1) Notwithstanding any contrary provision of Ohio R.C. 3719.21, the clerk of court shall pay a fine imposed for a violation of this section pursuant to Ohio R.C. 2929.18(A) in accordance with and subject to the requirements of Ohio R.C. 2925.03(F). The agency that receives the fine shall use the fine as specified in Ohio R.C. 2925.03(F).~~
 - (2)(1) The court shall suspend for not less than six months nor more than five years the offender's driver's or commercial driver's license or permit.
 - ~~(3)(2)~~ 2 If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.

(ORC 2925.11)

624.04. Possession of drug abuse instruments.

- (a) No person shall knowingly make, obtain, possess, or use any instrument, article, or thing the customary and primary purpose of which is for the administration or use of a dangerous drug, other than marihuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article, or thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marihuana, or to prepare a dangerous drug, other than marihuana, for unlawful administration or use.
- (b) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741.
- (c) Whoever violates this section is guilty of possessing drug abuse instruments, a misdemeanor of the second degree. If the offender previously has been convicted of a drug abuse offense, violation of this section is a misdemeanor of the first degree.
- ~~(d) In addition to any other sanction imposed upon an offender for a violation of this section, the court shall suspend for not less than six months nor more than five years the offender's driver's or commercial driver's license or permit. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.~~
- (d) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.

(ORC 2925.12)

624.05. Permitting drug abuse.

- (a) No person who is the owner, operator, or person in charge of a locomotive, watercraft, aircraft, or other vehicle, as defined in Ohio R.C. 4501.01, shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.
- (b) No person, who is the owner, lessee, or occupant, or who has custody, control, or supervision of premises, or real estate, including vacant land, shall knowingly permit his or her premises, or real estate, including vacant land, to be used for the commission of a felony drug abuse offense by another person.
- (c) Whoever violates this section is guilty of permitting drug abuse.
 - (1) Except as provided in division (c)(2) of this section, permitting drug abuse is a misdemeanor of the first degree.
 - (2) Permitting drug abuse is a felony, and punishable under appropriate state law, if:
 - a. _____ The felony drug abuse offense in question is a violation of Ohio R.C. ~~2925.02 or 2925.03~~ 2925.02, 2925.03 or 2525.04.
 - b. _____ The felony drug abuse offense in question is a violation of Ohio R.C. 2925.041 and the offender had actual knowledge, at the time the offender permitted the vehicle, premises, or real estate to be used as described in division (A) or (B) of this section, that the person who assembled or possessed the chemicals in question in violation of section 2925.041 of the Revised Code had

assembled or possessed them with the intent to manufacture a controlled substance in schedule I or II in violation of section 2925.04 of the Revised Code.

- (d) ~~In addition to any prison term authorized or required by division (c) of this section and Ohio R.C. 2929.13 and 2929.14, and in addition to any other sanction imposed for the offense under this section or Ohio R.C. 2929.11 through 2929.18, the court that sentences a person who is convicted of or pleads guilty to a violation of division (a) of this section shall do all of the following that are applicable regarding the offender:~~
- (1) ~~The court shall suspend for not less than six months nor more than five years the offender's driver's or commercial driver's license or permit.~~
 - (2) ~~If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.~~
- (d) (1) In addition to any prison term authorized or required by division (c) of this section and Ohio R.C. 2929.13 and 2929.14, and in addition to any other sanction imposed for the offense under this section or Ohio R.C. 2929.11 to 2929.18 the court that sentences a person who is convicted of or pleads guilty to a violation of division (a) of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 of the Revised Code or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.
- (2) If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.
- (e) Notwithstanding any contrary provision of Ohio R.C. 3719.21, the clerk of court shall pay a fine imposed for a violation of this section pursuant to Ohio R.C. 2929.18(A) in accordance with and subject to the requirements of Ohio R.C. 2925.03(F). The agency that receives the fine shall use the fine as specified in Ohio R.C. 2925.03(F).
- (f) Any premises or real estate that is permitted to be used in violation of division (b) of this section constitutes a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767.

(ORC 2925.13).

624.07. Abusing harmful intoxicants.

- (a) Except for lawful research, clinical, medical, dental, or veterinary purposes, no person, with purpose to induce intoxication or similar physiological effects, shall obtain, possess, or use a harmful intoxicant.
- (b) Whoever violates this section is guilty of abusing harmful intoxicants, a misdemeanor of the first degree. If the offender previously has been convicted of a drug abuse offense, abusing harmful intoxicants is a felony to be prosecuted under appropriate state law.
- (c) ~~In addition to any other sanction imposed upon an offender for a violation of this section, the court shall suspend for not less than six months nor more than five years the offender's driver's or commercial driver's license or permit. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.~~ In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.

(ORC 2925.31)

624.076. Possessing nitrous oxide in motor vehicles.

- (a) As used in this section, "motor vehicle," "street," and "highway" have the same meaning as in Ohio R.C. 4511.01.
- (b) Unless authorized by these codified ordinances or by state law, no person shall possess an open cartridge of nitrous oxide in either of the following circumstances:
 - (1) While operating or being a passenger in or on a motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking.
 - (2) While being in or on a stationary motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking.
- (c) Whoever violates this section is guilty of possessing nitrous oxide in a motor vehicle, a misdemeanor of the fourth degree.
- (d) In addition to any other sanction imposed upon an offender for possessing nitrous oxide in a motor vehicle, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit.

(ORC 2925.33)

624.08. Illegal dispensing of drug samples.

- (a) No person shall knowingly furnish a sample drug to another person.
- (b) Division (a) of this section does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4723, 4725, 4729, 4730, 4731, and 4741.
- (c) (1) Whoever violates this section is guilty of illegal dispensing of drug samples.
 - (2) If the drug involved in the offense is a compound, mixture, preparation, or substance included in Schedule I or II of Ohio R.C. 3719.41 with the exception of marihuana, illegal dispensing of drug samples is a felony to be prosecuted under appropriate state law.
 - (3) If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in Schedule III, IV or V of Ohio R.C. 3719.41, or is marihuana, the penalty for the offense shall be determined as follows:
 - a. Except as otherwise provided in the following division, illegal dispensing of drug samples is a misdemeanor of the second degree.
 - b. If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a misdemeanor of the first degree.
- (d) In addition to any prison term authorized or required by division (c) of this section and Ohio R.C. 2929.13 and 2929.14, and in addition to any other sanction imposed for the offense under this section or Ohio R.C. 2929.11 through 2929.18, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (a) of this section shall do both of the following:
 - (1) The court shall suspend for not less than six months nor more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 = or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation,

the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

- (2) If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.
- (e) Notwithstanding any contrary provision of Ohio R.C. 3719.21, the clerk of court shall pay a fine imposed for a violation of this section pursuant to Ohio R.C. 2929.18(A) in accordance with and subject to the requirements of Ohio R.C. 2925.03(F). The agency that receives the fine shall use the fine as specified in Ohio R.C. 2925.03(F).

(ORC 2925.36)

624.11. Double jeopardy.

No person shall be prosecuted for a violation of this chapter if the person has been acquitted or convicted under the federal drug abuse control laws of the same act or omission which, it is alleged, constitutes a violation of this chapter.

(ORC 2925.50, 3719.19)

624.12. Controlled substance schedules.

Controlled Substance Schedules I, II, III, IV, and V, as established in Ohio R.C. 3719.41 and amended by Ohio R.C. 3719.43 and 3719.44, are hereby adopted by reference, and shall be treated as if set forth in full herein.

Statutory reference:

For comprehensive lists of drugs identified under each of the following Schedules, see Ohio R.C. 3719.41, as amended by Ohio R.C. 3719.43 and 3719.44:

Schedule I

- (a) Narcotics—Opiates
- (b) Narcotics—Opium derivatives
- (c) Hallucinogens
- (d) Depressants
- (e) Stimulants

Schedule II

- (a) Narcotics—Opium and opium derivatives
- (b) Narcotics—Opiates
- (c) Stimulants
- (d) Depressants
- (e) Hallucinogenic substances
- (f) Immediate precursors

Schedule III

- (a) Stimulants
- (b) Depressants
- (c) Narcotic antidotes
- (d) Narcotics—Narcotic preparations
- (e) Anabolic steroids
- (f) Hallucinogenic substances

Schedule IV

- (a) Narcotic drugs
- (b) Depressants
- (c) Fenfluramine
- (d) Stimulants
- (e) Other substances

Schedule V

- (a) Narcotic drugs
- (b) Narcotics—Narcotic preparations
- (c) Stimulants

624.13. Controlled substance or prescription labels.

- ~~(a) Whenever a manufacturer sells a controlled substance, and whenever a wholesaler sells a controlled substance in a package the wholesaler has prepared, the manufacturer or wholesaler shall securely affix to each package in which the controlled substance is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of controlled substance contained therein. No person, except a pharmacist for the purpose of dispensing a controlled substance upon a prescription, shall alter, deface or remove any label so affixed.~~
- ~~(b) No person shall alter, deface or remove any label affixed pursuant to Ohio R.C. 3719.08 as long as any of the original contents remain.~~
- (a) As used in this division, "repackager" and "outsourcing facility" have the same meanings as in Ohio R.C. 4729.01. Whenever a manufacturer sells a controlled substance, and whenever a wholesaler, repackager, or outsourcing facility sells a controlled substance in a package the wholesaler, repackager, or outsourcing facility has prepared, the manufacturer or the wholesaler, repackager, or outsourcing facility, as the case may be, shall securely affix to each package in which the controlled substance is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of controlled substance contained therein. No person, except a pharmacist for the purpose of dispensing a controlled substance upon a prescription shall alter, deface, or remove any label so affixed.
- (b) Except as provided in division (c) of this section, when a pharmacist dispenses any controlled substance on a prescription for use by a patient, or supplies a controlled substance to a licensed health professional authorized to prescribe drugs for use by the professional in personally furnishing patients with controlled substances, the pharmacist shall affix to the container in which the controlled substance is dispensed or supplied a label showing the following:
 - (1) The name and address of the pharmacy dispensing or supplying the controlled substance;

- (2) The name of the patient for whom the controlled substance is prescribed and, if the patient is an animal, the name of the owner and the species of the animal;
- (3) The name of the prescriber;
- (4) All directions for use stated on the prescription or provided by the prescriber;
- (5) The date on which the controlled substance was dispensed or supplied;
- (6) The name, quantity, and strength of the controlled substance and, if applicable, the name of the distributor or manufacturer.
- (c) The requirements of division (b) of this section do not apply when a controlled substance is prescribed or supplied for administration to an ultimate user who is institutionalized.
- (d) A licensed health professional authorized to prescribe drugs who personally furnishes a controlled substance to a patient shall comply with Ohio R.C. 4729.291(A) with respect to labeling and packaging of the controlled substance.
- (e) No person shall alter, deface, or remove any label affixed pursuant to this section as long as any of the original contents remain.
- (f) Every label for a schedule II, III, or IV controlled substance shall contain the following warning:
"Caution: federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed."
- ~~(e)~~ (g) Whoever violates this section is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, or Ohio R.C. 3719.07 or 3719.08, or a drug abuse offense, a violation of this section is a felony to be prosecuted under appropriate state law. If the violation involves the sale, offer to sell, or possession of a Schedule I or II controlled substance, with the exception of marihuana, and if the offender, as a result of the violation, is a major drug offender, then Ohio R.C. 3719.99(D) applies.

(ORC 3719.08(A), (E), 3719.99(C))

624.14. Use or possession of paraphernalia.

- (a) As used in this section, "drug paraphernalia" means any equipment, product, or material of any kind that is used by the offender, intended by the offender for use, or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introduced into the human body, a controlled substance in violation of this chapter. "Drug paraphernalia" includes, but is not limited to, any of the following equipment, products, or materials that are used by the offender, intended by the offender for use, or designed by the offender for use, in any of the following manners:
- (1) A kit for propagating, cultivating, growing, or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived.
 - (2) A kit for manufacturing, compounding, converting, producing, processing, or preparing a controlled substance.
 - (3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine.
 - (4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance.
 - (5) Testing equipment for identifying, or analyzing the strength, effectiveness, or purity of, a controlled substance.

- (6) A scale or balance for weighing or measuring a controlled substance.
 - (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, for cutting a controlled substance.
 - (8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana.
 - (9) A blender, bowl, container, spoon, or mixing device for compounding a controlled substance.
 - (10) A capsule, balloon, envelope, or container for packaging small quantities of a controlled substance.
 - (11) A container or device for storing or concealing a controlled substance.
 - (12) A hypodermic syringe, needle, or instrument for parenterally injecting a controlled substance into the human body.
 - (13) An object, instrument, or device for ingesting, inhaling, or otherwise introducing into the human body, marihuana, cocaine, hashish, or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe, with or without a screen, permanent screen, hashish head, or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.
- (b) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:
- (1) Any statement by the owner or by anyone in control of the equipment, product, or material, concerning its use.
 - (2) The proximity in time or space of the equipment, product, or material, or of the act relating to the equipment, product, or material, to a violation of any provision of this chapter or Ohio R.C. Chapter 2925.
 - (3) The proximity of the equipment, product, or material to any controlled substance.
 - (4) The existence of any residue of a controlled substance on the equipment, product, or material.
 - (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product, or material, to deliver it to any person whom he or she knows intends to use the equipment, product, or material to facilitate a violation of any provision of this chapter or Ohio R.C. Chapter 2925. A finding that the owner or anyone in control of the equipment, product, or material is not guilty of a violation of any other provision of this chapter or Ohio R.C. Chapter 2925 does not prevent a finding that the equipment, product, or material was intended or designed by the offender for use as drug paraphernalia.
 - (6) Any oral or written instruction provided with the equipment, product, or material concerning its use.
 - (7) Any descriptive material accompanying the equipment, product, or material and explaining or depicting its use.
 - (8) National or local advertising concerning the use of the equipment, product, or material.
 - (9) The manner and circumstances in which the equipment, product, or material is displayed for sale.
 - (10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product, or material to the total sales of the business enterprise.
 - (11) The existence and scope of legitimate uses of the equipment, product, or material in the community.
 - (12) Expert testimony concerning the use of the equipment, product, or material.

- (c) (1) Subject to division (d)(2) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.
- (2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if he or she knows or reasonably should know that the equipment, product, or material will be used as drug paraphernalia.
- (3) No person shall place an advertisement in any newspaper, magazine, handbill, or other publication that is published and printed and circulates primarily within this state, if he or she knows that the purpose of the advertisement is to promote the illegal sale in this municipality or in this state of the equipment, product, or material that the offender intended or designed for use as drug paraphernalia.
- (d) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Ohio R.C. 3719.172.
- (2) Division (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marijuana.
- (e) Notwithstanding Ohio R.C. Chapter 2981, any drug paraphernalia that was used, possessed, sold, or manufactured in violation of this section shall be seized, after a conviction for that violation, shall be forfeited, and upon forfeiture shall be disposed of pursuant to Ohio R.C. 2981.12(B).
- (f) (1) Whoever violates division (c)(1) of this section is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.
- (2) Except as provided in division (f)(3) of this section, whoever violates division (c)(2) of this section is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.
- (3) Whoever violates division (c)(2) of this section by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.
- (4) Whoever violates division (c)(3) of this section is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.
- (g) ~~In addition to any other sanction imposed upon an offender for a violation of this section, the court shall suspend for not less than six months nor more than five years the offender's driver's or commercial driver's license or permit. In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.~~ If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court shall immediately comply with Ohio R.C. 2925.38.
- (h) Illegal use or possession of marijuana drug paraphernalia.
- (1) As used in this division (h), "drug paraphernalia" has the same meaning as in division (a) of this section.
- (2) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, all factors identified in division (b) of this section.
- (3) No person shall knowingly use, or possess with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person

for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marihuana.

- (4) This division (h) does not apply to any person identified in division (d)(1) of this section, and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by R.C. § 3719.172.
- (5) Division (e) of this section applies with respect to any drug paraphernalia that was used or possessed in violation of this section.
- (6) Whoever violates division (h)(3) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a minor misdemeanor.
- (7) ~~In addition to any other sanction imposed upon an offender for a violation of this section, the court shall suspend for not less than six months or more than five years the offender's driver's or commercial driver's license or permit.~~ In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.

(ORC 2925.14, R.C. § 2925.141)

630.01. Definitions.

As used in this chapter:

Bet means the hazarding of anything of value upon the result of an event, undertaking, or contingency, but does not include a bona fide business risk.

Bingo means either of the following:

- (1) A game with all of the following characteristics:
 - a. The participants use bingo cards or sheets, including paper formats and electronic representation or image formats, that are divided into 25 spaces arranged in five horizontal and five vertical rows of spaces, with each space, except the central space, being designated by a combination of a letter and a number and with the central space being designated as a free space;
 - b. The participants cover the spaces on the bingo cards or sheets that correspond to combinations of letters and numbers that are announced by a bingo game operator;
 - c. A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically, from a receptacle that contains 75 objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the 75 possible combinations of a letter and a number that can appear on the bingo cards or sheets;
 - d. The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers, as described in division (1)c. of this definition, that a predetermined and pre-announced pattern of spaces has been covered on a bingo card or sheet being used by the participant.
- (2) Instant bingo, punch boards, and raffles.

Bingo game operator means ~~any person, except security personnel, who performs work or labor at the site of bingo including but not limited to collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages.~~ any person, except security personnel, who performs work or labor at the site of bingo, including, but not limited to, collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, selling or redeeming electronic instant bingo tickets, credits, or vouchers, accessing an electronic instant bingo system other than as a participant, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages. "Bingo game operator" does not include a person who is installing, maintaining, updating, or repairing an electronic instant bingo system.

Bingo session means a period that includes both of the following:

- (1) Not to exceed five continuous hours for the conduct of one or more games described in division (1) of the definition of "bingo" in this section, instant bingo, and ~~seal cards~~ electronic instant bingo;
- (2) A period for the conduct of instant bingo and ~~seal cards~~ electronic instant bingo for not more than two hours before and not more than two hours after the period described in division (1) of this definition.

Bingo supplies means bingo cards or sheets; instant bingo tickets or cards; electronic bingo aids; raffle tickets; punch boards; seal cards; instant bingo ticket dispensers; and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. Items that are "bingo supplies" are not gambling devices if sold or otherwise provided, and used, in accordance with this chapter or Ohio R.C. Chapter 2915. For purposes of this chapter, "bingo supplies" are not to be considered equipment used to conduct a bingo game.

Bookmaking means the business of receiving or paying off bets.

Chamber of commerce means any organization of individuals, professionals, and businesses that has the purpose to advance the commercial, financial, industrial, and civic interests of the community and that is, and has received from the Internal Revenue Service a determination letter that currently is in effect stating that the organization is, exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(6).

Charitable bingo game means any bingo game described in divisions (1) or (2) of the definition of "bingo" in this section that is conducted by a charitable organization that has obtained a license pursuant to Ohio R.C. 2915.08 and the proceeds of which are used for a charitable purpose.

Charitable instant bingo organization means an organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3) and is a charitable organization as defined in this section. A "charitable instant bingo organization" does not include a charitable organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3) and that is created by a veteran's organization, a fraternal organization, or a sporting organization in regards to bingo conducted or assisted by a veteran's organization, a fraternal organization, or a sporting organization pursuant to Ohio R.C. 2915.13, or any substantially equivalent municipal ordinance.

Charitable organization.

- (1) Except as otherwise provided in this chapter, "charitable organization" means either of the following:

- a. An organization that is and has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is exempt from federal income taxation under IRC § 501(a) and described in IRC § 501(c)(3);
 - b. A volunteer rescue service organization, volunteer firefighter's organization, veteran's organization, fraternal organization, or sporting organization that is exempt from federal income taxation under IRC §§ 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10) or 501(c)(19).
- (2) To qualify as a charitable organization, an organization shall have been in continuous existence as such in this state for a period of two years immediately preceding either the making of an application for a bingo license under R.C. § 2915.08 or the conducting of any game of chance as provided in R.C. § 2915.02(D), or a substantially equivalent municipal ordinance.

Charitable purpose means that the net profit of bingo, other than instant bingo or electronic instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:

- (1) Any organization that is described in IRC 509(a)(1), 501(a)(2), or 501(a)(3) and is either a governmental unit or an organization that is tax exempt under IRC 501(a) and described in IRC 501(c)(3);
- (2) A veteran's organization that is a post, chapter, or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least 75 percent of the members of which are veterans and substantially all of the other members of which are individuals who are spouses, widows, or widowers of veterans, or such individuals, provided that no part of the net earnings of such post, chapter, or organization inures to the benefit of any private shareholder or individual, and further provided that the net profit is used by the post, chapter, or organization for the charitable purposes set forth in Ohio R.C. 5739.02(B)(12), is used for awarding scholarships to or for attendance at an institution mentioned in that division of the Revised Code, is donated to a governmental agency, or is used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief;
- (3) A fraternal organization that has been in continuous existence in this state for 15 years and that uses the net profit exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, if contributions for such use would qualify as a deductible charitable contribution under IRC 170;
- (4) A volunteer firefighter's organization that uses the net profit for the purposes set forth in the definition of "volunteer firefighter's organization" in this section.

Community action agency has the same meaning as in Ohio R.C. 122.66.

Conduct means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance, a scheme of chance, or a sweepstakes.

~~*Deal of instant bingo tickets* means a single game of instant bingo tickets all with the same serial number.~~

Deal means a single game of instant bingo tickets, or a single game of electronic instant bingo tickets, all with the same serial number.

Distributor means any person who purchases or obtains bingo supplies and who does either of the following:

- (1) Sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this state;
- (2) Modifies, converts, adds to, or removes parts from the bingo supplies to further their promotion or sale for use in this state.

Electronic bingo aid.

- (1) "Electronic bingo aid" means an electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following:
 - a. It provides a means for a participant to input numbers and letters announced by a bingo caller.
 - b. It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device.
 - c. It identifies a winning bingo pattern.
- (2) "Electronic bingo aid" does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.

Electronic instant bingo.

(1) Electronic instant bingo means a form of bingo that consists of an electronic or digital representation of instant bingo in which a participant wins a prize if the participant's electronic instant bingo ticket contains a combination of numbers or symbols that was designated in advance as a winning combination, and to which all of the following apply:

- a. Each deal has a predetermined, finite number of winning and losing tickets and a predetermined prize amount and deal structure, provided that there may be multiple winning combinations in each deal and multiple winning tickets.
- b. Each electronic instant bingo ticket within a deal has a unique serial number that is not regenerated.
- c. Each electronic instant bingo ticket within a deal is sold for the same price.
- d. After a participant purchases an electronic instant bingo ticket, the combination of numbers or symbols on the ticket is revealed to the participant.
- e. The reveal of numbers or symbols on the ticket may incorporate an entertainment or bonus theme, provided that the reveal does not include spinning reels that resemble a slot machine.
- f. The reveal theme, if any, does not require additional consideration or award any prize other than any predetermined prize associated with the electronic instant bingo ticket.

(2) Electronic instant bingo shall not include any of the following:

- a. Any game, entertainment, or bonus theme that replicates or simulates any of the following:
 - i. The gambling games of keno, blackjack, roulette, poker, craps, other casino-style table games;
 - ii. Horse racing;
 - iii. Gambling games offered in this state on slot machines or video lottery terminals. As used in this definition, "video lottery terminal" has the same meaning as in Ohio R.C. 3770.21.
- b. Any device operated by dropping one or more coins or tokens into a slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or more rotating reels marked into horizontal segments by varying symbols, where the predetermined prize amount depends on how and how many of the symbols line up when the rotating reels come to a rest;
- c. Any device that includes a coin or token slot, tray, or hopper and the ability to dispense coins, cash, tokens, or anything of value other than a credit ticket voucher.

Electronic instant bingo system means both of the following:

(1) A mechanical, electronic, digital, or video device and associated software to which all of the following apply:

a. It is used by not more than one player at a time to play electronic instant bingo on a single screen that is physically connected to the device;

b. It is located on the premises of the principal place of business of a veteran's or fraternal organization that holds a type II or type III bingo license to conduct electronic instant bingo at that location issued under Ohio R.C. 2915.08.

(2) Any associated equipment or software used to manage, monitor, or document any aspect of electronic instant bingo.

Expenses means the reasonable amount of gross profit actually expended for all of the following:

- (1) The purchase or lease of bingo supplies;
- (2) The annual license fee required under Ohio R.C. 2915.08;
- (3) Bank fees and service charges for a bingo session or game account described in Ohio R.C. 2915.10;
- (4) Audits and accounting services;
- (5) Safes;
- (6) Cash registers;
- (7) Hiring security personnel;
- (8) Advertising bingo;
- (9) Renting premises in which to conduct a bingo session;
- (10) Tables and chairs;
- (11) Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;
- (12) Payment of real property taxes and assessments that are levied on a premises on which bingo is conducted;
- (13) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the attorney general under Ohio R.C. 2915.08~~(B)(F)~~(1).

Fraternal organization means any society, order, state headquarters, or association within this state, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge, or chapter of a national or state organization, that exists exclusively for the common business or sodality of its members.

Gambling device means any of the following:

- (1) A book, totalizer, or other equipment used for recording bets;
- (2) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance or evidencing a bet;
- (3) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;
- (4) Any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes;
- (5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter or Ohio R.C. Chapter 2915.

Gambling offense means any of the following:

- (1) A violation of Ohio R.C. ~~2915.02, 2915.03, 2915.04, 2915.05, 2915.06, 2915.07, 2915.08, 2915.081, 2915.082, 2915.09, 2915.091, 2915.092, 2915.10, or 2915.14~~ ch. 2915;

- (2) A violation of an existing or former municipal ordinance or law of this or any other state or of the United States substantially equivalent to any section listed in division (1) of this definition or a violation of Ohio R.C. 2915.06 as it existed prior to July 1, 1996;
- (3) An offense under an existing or former municipal ordinance or law of this or any other state or of the United States, of which gambling is an element;
- (4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (1), (2), or (3) of this definition.

Game flare means the board or placard, or electronic representation of a board or placard, that accompanies each deal of instant bingo or electronic instant bingo tickets and that ~~has printed on or affixed to it~~ includes the following information for the game:

- (1) The name of the game;
- (2) The manufacturer's name or distinctive logo;
- (3) The form number;
- (4) The ticket count;
- (5) The prize structure, including the number of winning instant bingo tickers by denomination and the respective winning symbol or number combinations for the winning instant bingo tickets;
- (6) The cost per play;
- (7) The serial number of the game.

Game of chance means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.

Game of chance conducted for profit means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.

Gross annual revenues means the annual gross receipts derived from the conduct of bingo described in division (1) of the definition of "bingo" in this section plus the annual net profit derived from the conduct of bingo described in division (2) of the definition of "bingo" in this section.

Gross profit means gross receipts minus the amount actually expended for the payment of prize awards.

Gross receipts means all money or assets, including admission fees, that a person receives from bingo without the deduction of any amounts for prizes paid out or for the expenses of conducting bingo. "Gross receipts" does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide auxiliary unit or society of a charitable organization conducting bingo, provided all of the following apply:

- (1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two years prior to conducting bingo.
- (2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage.
- (3) The food and beverages are sold at customary and reasonable prices.

~~*Historic railroad* means all or a portion of the tracks and right-of-way of a railroad that was owned and operated by a for-profit common carrier in this state at any time prior to January 1, 1950.~~

Instant bingo means a form of bingo that shall use folded or banded tickets or paper cards with perforated break-open tabs, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners, and may also include games in which some winners are determined by the random selection of one or more bingo numbers by the use of a seal card or bingo blower. In all "instant

bingo" the prize amount and structure shall be predetermined. The term does not include electronic instant bingo or any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations.

Instant bingo ticket dispenser means a mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has the following characteristics:

- (1) It is activated upon the insertion of United States currency.
- (2) It performs no gaming functions.
- (3) It does not contain a video display monitor or generate noise.
- (4) It is not capable of displaying any numbers, letters, symbols, or characters in winning or losing combinations.
- (5) It does not simulate or display rolling or spinning reels.
- (6) It is incapable of determining whether a dispensed bingo ticket or card is a winning or non-winning ticket or card and requires a winning ticket or card to be paid by a bingo game operator.
- (7) It may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses.
- (8) It is not part of an electronic network and is not interactive.

IRC or Internal Revenue Code means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1 et seq., as now or hereafter amended.

Manufacturer means any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale.

Merchandise prize means any item of value, but shall not include any of the following:

- (1) Cash, gift cards, or any equivalent thereof;
- (2) Plays on games of chance, state lottery tickets, bingo, or instant bingo;
- (3) Firearms, tobacco, or alcoholic beverages; or
- (4) A redeemable voucher that is redeemable for any of the items listed in division (1), (2), or (3) of this definition.

Net profit means gross profit minus expenses.

Net profit from the proceeds of the sale of instant bingo or electronic instant bingo means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of instant bingo supplies for the purpose of conducting instant bingo or electronic instant bingo, and, in the case of instant bingo or electronic instant bingo conducted by a veteran's, fraternal, or sporting organization, minus the payment by that organization of real property taxes and assessments levied on a premises on which instant bingo or electronic instant bingo is conducted.

Participant means any person who plays bingo.

Person has the same meaning as in Ohio R.C. 1.59 and includes any firm or any other legal entity, however organized.

Pool not conducted for profit means a scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.

Punch board means a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle when used in conjunction with instant bingo. A player may punch or draw the

numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.

Raffle means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one or more winners of the raffle are determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle. The term does not include the drawing of a ticket stub or other detachable section of a ticket purchased to attend a professional sporting event if both of the following apply:

- (1) The ticket stub or other detachable section is used to select the winner of a free prize given away at the professional sporting event; and
- (2) The cost of the ticket is the same as the cost of a ticket to the professional sporting event on days when no free prize is given away.

Redeemable voucher means any ticket, token, coupon, receipt, or other noncash representation of value.

Religious organization means any church, body of communicants, or group that is not organized or operated for profit and that gathers in common membership for regular worship and religious observances.

Revoke means to void permanently all rights and privileges of the holder of a license issued under Ohio R.C. 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.

Scheme of chance means a slot machine, ~~lottery, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit.~~ unless authorized under Ohio R.C. ch. 3772, lottery unless authorized under Ohio R.C. ch. 3770, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit. "Scheme of chance" includes the use of an electronic device to reveal the results of a game entry if valuable consideration is paid, directly or indirectly, for a chance to win a prize. Valuable consideration is deemed to be paid for a chance to win a prize in the following instances:

- (1) Less than fifty per cent of the goods or services sold by a scheme of chance operator in exchange for game entries are used or redeemed by participants at any one location;
- (2) Less than fifty per cent of participants who purchase goods or services at any one location do not accept, use, or redeem the goods or services sold or purportedly sold;
- (3) More than fifty per cent of prizes at any one location are revealed to participants through an electronic device simulating a game of chance or a "casino game" as defined in Ohio R.C. 3772.01;
- (4) The good or service sold by a scheme of chance operator in exchange for a game entry cannot be used or redeemed in the manner advertised;
- (5) A participant pays more than fair market value for goods or services offered by a scheme of chance operator in order to receive one or more game entries;
- (6) A participant may use the electronic device to purchase additional game entries;
- (7) A participant may purchase additional game entries by using points or credits won as prizes while using the electronic device;
- (8) A scheme of chance operator pays out in prize money more than twenty per cent of the gross revenue received at one location; or
- (9) A participant makes a purchase or exchange in order to obtain any good or service that may be used to facilitate play on the electronic device.

As used in this division, "electronic device" means a mechanical, video, digital, or electronic machine or device that is capable of displaying information on a screen or other mechanism and that is owned, leased, or otherwise possessed by any person conducting a scheme of chance, or by that person's partners, affiliates, subsidiaries, or contractors. "Electronic device" does not include an electronic instant bingo system.

Seal card means a form of instant bingo that uses instant bingo tickets in conjunction with a board or placard that contains one or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols.

Security personnel includes any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, township constable, or member of an organized police department of a municipal corporation or has successfully completed a peace officer's training course pursuant to Ohio R.C. 109.71 to 109.79 and who is hired to provide security for the premises on which bingo is conducted.

Skill-based amusement machine.

- (1) a. A mechanical, video, digital, or electronic device that rewards the player or players, if at all, only with merchandise prizes or with redeemable vouchers redeemable only for merchandise prizes, provided that with respect to rewards for playing the game all of the following apply:
 1. The wholesale value of a merchandise prize awarded as a result of the single play of a machine does not exceed \$10.00;
 2. Redeemable vouchers awarded for any single play of a machine are not redeemable for a merchandise prize with a wholesale value of more than \$10.00;
 3. Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than \$10.00 times the fewest number of single plays necessary to accrue the redeemable vouchers required to obtain that prize; and
 4. Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.
- b. A card for the purchase of gasoline is a redeemable voucher for purposes of division (1) of this definition even if the skill-based amusement machine for the play of which the card is awarded is located at a place where gasoline may not be legally distributed to the public or the card is not redeemable at the location of, or at the time of playing, the skill-based amusement machine.
- (2) A device shall not be considered a skill-based amusement machine and shall be considered a slot machine if it pays cash or one or more of the following apply:
 - a. The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game;
 - b. Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the player's score;
 - c. The outcome of the game, or the value of the redeemable voucher or merchandise prize awarded for winning the game, can be controlled by a source other than any player playing the game;
 - d. The success of any player is or may be determined by a chance event that cannot be altered by player actions;
 - e. The ability of any player to succeed at the game is determined by game features not visible or known to the player;
 - f. The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.
- (3) All of the following apply to any machine that is operated as described in division (1) of this definition:

- a. As used in this definition of "skill-based amusement machine", "game" and "play" mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single game, play, contest, competition, or tournament may be awarded redeemable vouchers or merchandise prizes based on the results of play.
 - b. Advance play for a single game, play, contest, competition, or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single non-contest, competition, or tournament play.
 - c. To the extent that the machine is used in a contest, competition, or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of redeemable vouchers or merchandise prizes that are stated prior to the start of the contest, competition, or tournament.
- (4) For purposes of division (1) of this definition, the mere presence of a device, such as a pin-setting, ball-releasing, or scoring mechanism, that does not contribute to or affect the outcome of the play of the game does not make the device a skill-based amusement machine.

Slot machine.

(1) Means either of the following:

- a. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain;
- b. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct bingo or a scheme or game of chance.

(2) "Slot machine" does not include a skill-based amusement machine or an instant bingo ticket dispenser.

Sporting organization means a hunting, fishing, or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to, the League of Ohio Sportsmen, and that has been in continuous existence in this state for a period of three years.

Sweepstakes means any game, contest, advertising scheme or plan, or other promotion where consideration is not required for a person to enter to win or become eligible to receive any prize, the determination of which is based upon chance. "Sweepstakes" does not include bingo as authorized under this chapter, pari-mutuel wagering as authorized by Ohio R.C. ch. 3769, lotteries conducted by the state lottery commission as authorized by Ohio R.C. ch. 3770, and casino gaming as authorized by Ohio R.C. ch. 3772.

Sweepstakes terminal device means a mechanical, video, digital, or electronic machine or device that is owned, leased, or otherwise possessed by any person conducting a sweepstakes, or by that person's partners, affiliates, subsidiaries, or contractors, that is intended to be used by a sweepstakes participant, and that is capable of displaying information on a screen or other mechanism. A device is a sweepstakes terminal device if any of the following apply:

- (1) The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
- (2) The device utilizes software such that the simulated game influences or determines the winning or value of the prize.
- (3) The device selects prizes from a predetermined finite pool of entries.
- (4) The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.

(5) The device predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.

(6) The device utilizes software to create a game result.

(7) The device reveals the prize incrementally, even though the device does not influence the awarding of the prize or the value of any prize awarded.

(8) The device determines and associates the prize with an entry or entries at the time the sweepstakes is entered.

As used in this the definition of sweepstakes terminal device and in Ohio R.C. 2915.02:

(1) *Enter* means the act by which a person becomes eligible to receive any prize offered in a sweepstakes.

(2) *Entry* means one event from the initial activation of the sweepstakes terminal device until all the sweepstakes prize results from that activation are revealed.

(3) *Prize* means any gift, award, gratuity, good, service, credit, reward, or any other thing of value that may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.

(4) *Sweepstakes terminal device facility* means any location in this state where a sweepstakes terminal device is provided to a sweepstakes participant, except as provided in Ohio R.C. 2915.02(G).

Suspend means to interrupt temporarily all rights and privileges of the holder of a license issued under Ohio R.C. 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.

Veteran's organization means any individual post or state headquarters of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post, state headquarters, or auxiliary unit is incorporated as a nonprofit corporation and either has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association or has received a letter from the national veteran's association indicating that the state headquarters is in good standing with the national veteran's association. As used in this division, "National Veteran's Association" means any veteran's association that has been in continuous existence as such for a period of at least five years and either is incorporated by an act of the United States Congress or has a national dues-paying membership of at least 5,000 persons.

Volunteer firefighter's organization means any organization of volunteer firefighters, as defined in Ohio R.C. 146.01, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company and that is recognized or ratified by a county, municipal corporation, or township.

Volunteer rescue service organization means any organization of volunteers organized to function as an emergency medical service organization, as defined in Ohio R.C. 4765.01.

Youth athletic organization means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are 21 years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

Youth athletic park organization means any organization, not organized for profit, that satisfies both of the following:

(1) It owns, operates, and maintains playing fields that satisfy both of the following:

- a. The playing fields are used ~~at least 100 days per year~~ for athletic activities by one or more organizations, not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are 18 years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

- b. The playing fields are not used for any profit-making activity at any time during the year.
- (2) It uses the proceeds of bingo it conducts exclusively for the operation, maintenance, and improvement of its playing fields of the type described in division (1) of this definition.

(ORC 2915.01)

630.02. Gambling in general.

(a) No person shall do any of the following:

- (1) Engage in bookmaking, or knowingly engage in conduct that facilitates bookmaking.
- (2) Establish, promote, or operate or knowingly engage in conduct that facilitates any game of chance conducted for profit or any scheme of chance.
- (3) Knowingly procure, transmit, exchange, or engage in conduct that facilitates the procurement, transmission, or exchange of information for use in establishing odds or determining winners in connection with bookmaking or with any game of chance conducted for profit or any scheme of chance.
- (4) Engage in betting or in playing any scheme or game of chance as a substantial source of income or livelihood.
- (5) Conduct, or participate in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility and either:
 - a. Give to another person any item described in Ohio R.C. 2915.01VV(1), (2), (3), or (4) as a prize for playing or participating in a sweepstakes; or
 - b. Give to another person any merchandise prize, or a redeemable voucher for a merchandise prize, the wholesale value of which is in excess of ten dollars and which is awarded as a single entry for playing or participating in a sweepstakes. Redeemable vouchers shall not be redeemable for a merchandise prize that has a wholesale value of more than ten dollars.
- (6) Conduct, or participate in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility without first obtaining a current annual "certificate of registration" from the attorney general as required by division (f) of this section;
- ~~(5)(7)~~ (7) With purpose to violate division (a)(1), (2), (3), ~~(4)~~, (5), or (6) of this section, acquire, possess, control, or operate any gambling device.

(b) For purposes of division (a)(1) of this section, a person facilitates bookmaking if the person in any way knowingly aids an illegal bookmaking operation, including, without limitation, placing a bet with a person engaged in or facilitating illegal bookmaking. For purposes of division (a)(2) of this section, a person facilitates a game of chance conducted for profit or a scheme of chance if the person in any way knowingly aids in the conduct or operation of any such game or scheme, including, without limitation, playing any such game or scheme.

(c) This section does not prohibit conduct in connection with gambling expressly permitted by law.

(d) This section does not apply to any of the following:

- (1) Games of chance, if all of the following apply:
 - a. The games of chance are not craps for money or roulette for money.
 - b. The games of chance are conducted by a charitable organization that is and has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3).

- c. The games of chance are conducted at festivals of the charitable organization that are conducted not more than a total of five days a calendar year, and are conducted on premises owned by the charitable organization for a period of no less than one year immediately preceding the conducting of the games of chance, on premises leased from a governmental unit, or on premises that are leased from a veteran's or fraternal organization and that have been owned by the lessor veteran's or fraternal organization for a period of no less than one year immediately preceding the conducting of the games of chance. A charitable organization shall not lease premises from a veteran's or fraternal organization to conduct a festival described in this division, if the veteran's or fraternal organization already has leased the premises 12 times during the preceding year to charitable organizations for that purpose. If a charitable organization leases premises from a veteran's or fraternal organization to conduct a festival described in this division, the charitable organization shall not pay a rental rate for the premises per day of the festival that exceeds the rental rate per bingo session that a charitable organization may pay under Ohio R.C. 2915.09(B)(1) or a substantially equivalent municipal ordinance when it leases premises from another charitable organization to conduct bingo games.
- d. All of the money or assets received from the games of chance after deduction only of prizes paid out during the conduct of the games of chance are used by, given, donated or otherwise transferred to any organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that is tax exempt under IRC 501(a) and described in IRC 501(c)(3).
- e. The games of chance are not conducted during or within ten hours of a bingo game conducted for amusement purposes only pursuant to Ohio R.C. 2915.12 or a substantially equivalent municipal ordinance. No person shall receive any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, for operating or assisting in the operation of any game of chance.
- (2) Any tag fishing tournament, as defined in Ohio R.C. 1531.01, operated under a permit issued under Ohio R.C. 1533.92.
- (3) Bingo conducted by a charitable organization that holds a license issued under Ohio R.C. 2915.08.
- (e) Division (d) of this section shall not be construed to authorize the sale, lease, or other temporary or permanent transfer of the right to conduct games of chance, as granted by that division, by any charitable organization that is granted that right.
- (f) Any person desiring to conduct, or participate in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility shall first register with the office of the attorney general and obtain an annual certificate of registration by providing a filing fee of two hundred dollars and all information as required by rule adopted under division (h) of this section. Not later than the tenth day of each month, each sweepstakes terminal device operator shall file a sweepstakes terminal device monthly report with the attorney general and provide a filing fee of fifty dollars and all information required by rule adopted under division (h) of this section. All information provided to the attorney general under this division shall be available to law enforcement upon request.
- (g) A person may apply to the attorney general, on a form prescribed by the attorney general, for a certificate of compliance that the person is not operating a sweepstakes terminal device facility. The form shall require the person to include the address of the business location where sweepstakes terminal devices will be used and to make the following certifications:
- (1) That the person will not use more than two sweepstakes terminal devices at the business location;
- (2) That the retail value of sweepstakes prizes to be awarded at the business location using sweepstakes terminal devices during a reporting period will be less than three per cent of the gross revenue received at the business location during the reporting period;
- (3) That no other form of gaming except lottery ticket sales as authorized under Ohio R.C. ch. 3770 will be conducted at the business location or in an adjoining area of the business location;

(4) That any sweepstakes terminal device at the business location will not allow any deposit of any money, coin, or token, or the use of any credit card, debit card, prepaid card, or any other method of similar payment to be used, directly or indirectly, to participate in a sweepstakes;

(5) That notification of any prize will not take place on the same day as a participant's sweepstakes entry; and

(6) That the person consents to provide any other information to the attorney general as required by rule adopted under division (h) of this section.

The filing fee for a certificate of compliance is two hundred fifty dollars. The attorney general may charge up to an additional two hundred fifty dollars for reasonable expenses resulting from any investigation related to an application for a certificate of compliance.

A certificate of compliance is effective for one year. The certificate holder may reapply for a certificate of compliance. A person issued a certificate of compliance shall file semiannual reports with the attorney general stating the number of sweepstakes terminal devices at the business location and that the retail value of prizes awarded at the business location using sweepstakes terminal devices is less than three per cent of the gross revenue received at the business location.

(h) The attorney general shall adopt rules setting forth:

(1) The required information to be submitted by persons conducting a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility as described in division (F) of this section; and

(2) The requirements pertaining to a certificate of compliance under division (G) of this section, which shall provide for a person to file a consolidated application and a consolidated semiannual report if a person has more than one business location.

The attorney general shall issue a certificate of registration or a certificate of compliance to all persons who have successfully satisfied the applicable requirements of this section. The attorney general shall post online a registry of all properly registered and certified sweepstakes terminal device operators.

(i) The attorney general may refuse to issue an annual certificate of registration or certificate of compliance to any person or, if one has been issued, the attorney general may revoke a certificate of registration or a certificate of compliance if the applicant has provided any information to the attorney general as part of a registration, certification, monthly report, semiannual report, or any other information that is materially false or misleading, or if the applicant or any officer, partner, or owner of five per cent or more interest in the applicant has violated any provision of this chapter.

(j) The attorney general may take any necessary and reasonable action to determine a violation of this chapter, including requesting documents and information, performing inspections of premises, or requiring the attendance of any person at an examination under oath.

~~(f)~~(k) Whoever violates this section is guilty of gambling, a misdemeanor of the first degree. If the offender previously has been convicted of any gambling offense, gambling is a felony to be prosecuted under appropriate state law. Notwithstanding this division, failing to file a sweepstakes terminal device monthly report as required by division (f) of this section or the semiannual report required by division (g) of this section is a misdemeanor of the first degree.

(ORC 2915.02)

630.06. Responsibility of charitable organization conducting bingo game.

(a) No charitable organization that conducts bingo shall fail to do any of the following:

(1) Own all of the equipment used to conduct bingo or lease that equipment from a charitable organization that is licensed to conduct bingo, or from the landlord of a premises where bingo is conducted, for a rental rate that is not more than is customary and reasonable for that equipment;

- (2) Except as otherwise provided in division (a)(3) of this section, use all of the gross receipts from bingo for paying prizes, for reimbursement of expenses for or for renting premises in which to conduct bingo, for reimbursement of expenses for or for purchasing or leasing bingo supplies used in conducting bingo, for reimbursement of expenses for or for hiring security personnel, for reimbursement of expenses for or for advertising bingo, or for reimbursement of other expenses or for other expenses listed in the definition for "expenses" in Ohio R.C. 2915.01, provided that the amount of the receipts so spent is not more than is customary and reasonable for a similar purchase, lease, hiring, advertising, or expense. If the building in which bingo is conducted is owned by the charitable organization conducting bingo and the bingo conducted includes a form of bingo described in division (1) of the definition of "bingo" in Ohio R.C. 2915.01(O)(1), the charitable organization may deduct from the total amount of the gross receipts from each session a sum equal to the lesser of \$600.00 or 45 percent of the gross receipts from the bingo described in that division as consideration for the use of the premises;
- (3) ~~Use, or give, donate, or otherwise transfer, all of the net profit derived from bingo, other than instant bingo, for a charitable purpose listed in its license application and described in the definition for "charitable purpose" in Ohio R.C. 2915.01, or distribute all of the net profit from the proceeds of the sale of instant bingo as stated in its license application and in accordance with Ohio R.C. 2915.101.~~ Use, or give, donate, or otherwise transfer, all of the net profit derived from bingo described in Ohio R.C. 2915.01(O)(1) for a charitable purpose listed in its license application and described in Ohio R.C. 2915.01(V), or distribute all of the net profit from the proceeds of the sale of instant bingo or electronic instant bingo as stated in its license application and in accordance with Ohio R.C. 2915.101, as applicable.
- (b) No charitable organization that conducts a bingo game described in ~~division (1) of the definition of "bingo"~~ in Ohio R.C. 2915.01(O)(1) shall fail to do any of the following:
- (1) Conduct the bingo game on premises that are owned by the charitable organization, on premises that are owned by another charitable organization and leased from that charitable organization for a rental rate not in excess of the lesser of ~~\$650.00~~ \$600.00 per bingo session or 45 percent of the gross receipts of the bingo session, on premises that are leased from a person other than a charitable organization for a rental rate that is not more than is customary and reasonable for premises that are similar in location, size, and quality but not in excess of \$450.00 per bingo session, or on premises that are owned by a person other than a charitable organization, that are leased from that person by another charitable organization, and that are subleased from that other charitable organization by the charitable organization for a rental rate not in excess of \$450.00 per bingo session. No charitable organization is required to pay property taxes or assessments on premises that the charitable organization leases from another person to conduct bingo sessions. If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo sessions, the lessor of the premises shall provide only the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo supplies, or any other type of service. A charitable organization shall not lease or sublease premises that it owns or leases to more than three other charitable organizations per calendar week for the purpose of conducting bingo sessions on the premises. A person that is not a charitable organization shall not lease premises that it owns, leases, or otherwise is empowered to lease to more than three charitable organizations per calendar week for conducting bingo sessions on the premises. In no case shall more than nine bingo sessions be conducted on any premises in any calendar week;
 - (2) Display its license conspicuously at the premises where the bingo session is conducted;
 - (3) Conduct the bingo session in accordance ~~division (1) of the definition of "bingo"~~ in Ohio R.C. 2915.01(O)(1)
- (c) No charitable organization that conducts a bingo game described ~~division (1) of the definition of "bingo"~~ in Ohio R.C. 2915.01(O)(1) shall do any of the following:
- (1) Pay any compensation to a bingo game operator for operating a bingo session that is conducted by the charitable organization or for preparing, selling, or serving food or beverages at the site of

the bingo session, permit any auxiliary unit or society of the charitable organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at a bingo session conducted by the charitable organization, or permit any auxiliary unit or society of the charitable organization to prepare, sell, or serve food or beverages at a bingo session conducted by the charitable organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;

- (2) Pay consulting fees to any person for any services performed in relation to the bingo session;
- (3) Pay concession fees to any person who provides refreshments to the participants in the bingo session;
- (4) Except as otherwise provided in division (c)(4) of this section, conduct more than three bingo sessions in any seven-day period. A volunteer firefighter's organization or a volunteer rescue service organization that conducts not more than five bingo sessions in a calendar year may conduct more than three bingo sessions in a seven-day period after notifying the attorney general when it will conduct the sessions;
- (5) Pay out more than \$6,000.00 in prizes for bingo games described in Ohio R.C. 2915.01~~(S)(4)(O)(1)~~ during any bingo session that is conducted by the charitable organization. "Prizes" does not include awards from the conduct of instant bingo;
- (6) Conduct a bingo session at any time during the eight-hour period between 2:00 a.m. and 10:00 a.m., at any time during, or within ten hours of, a bingo game conducted for amusement only pursuant to Ohio R.C. 2915.12 or any substantially equivalent municipal ordinance, at any premises not specified on its license, or on any day of the week or during any time period not specified on its license. This division does not prohibit the sale of instant bingo tickets beginning at 9:00 a.m. for a bingo session that begins at 10:00 a.m. If circumstances make it impractical for the charitable organization to conduct a bingo session at the premises, or on the day of the week or at the time specified on its license or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license, the charitable organization may apply in writing to the attorney general for an amended license pursuant to Ohio R.C. 2915.08~~(F)(J)~~. A charitable organization may apply twice in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license. If the amended license is granted, the organization may conduct bingo sessions at the premises, on the day of the week, and at the time specified on its amended license;
- (7) Permit any person whom the charitable organization knows, or should have known, is under the age of 18 to work as a bingo game operator;
- (8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;
- (9) Permit the lessor of the premises on which the bingo session is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo supplies, or any other type of service;
- (10) Purchase or lease bingo supplies from any person except a distributor issued a license under Ohio R.C. 2915.081;
- (11) a. Use or permit the use of electronic bingo aids except under the following circumstances:
 1. For any single participant, not more than 90 bingo faces can be played using an electronic bingo aid or aids.
 2. The charitable organization shall provide a participant using an electronic bingo aid with corresponding paper bingo cards or sheets.
 3. The total price of bingo faces played with an electronic bingo aid shall be equal to the total price of the same number of bingo faces played with a paper bingo card or sheet sold at the same bingo session but without an electronic bingo aid.

4. An electronic bingo aid cannot be part of an electronic network other than a network that includes only bingo aids and devices that are located on the premises at which the bingo is being conducted or be interactive with any device not located on the premises at which the bingo is being conducted.
 5. An electronic bingo aid cannot be used to participate in bingo that is conducted at a location other than the location at which the bingo session is conducted and at which the electronic bingo aid is used.
 6. An electronic bingo aid cannot be used to provide for the input of numbers and letters announced by a bingo caller other than the bingo caller who physically calls the numbers and letters at the location at which the bingo session is conducted and at which the electronic bingo aid is used.
- b. The attorney general may adopt rules in accordance with Ohio R.C. ch.119 that govern the use of electronic bingo aids. The rules may include a requirement that an electronic bingo aid be capable of being audited by the attorney general to verify the number of bingo cards or sheets played during each bingo session.
- (12) Permit any person the charitable organization knows, or should have known, to be under 18 years of age to play bingo described in ~~division (1) of the definition of "bingo"~~ in Ohio R.C. 2915.01(O)(1).
- (d) (1) Except as otherwise provided in division (d)(3) of this section, no charitable organization shall provide to a bingo game operator, and no bingo game operator shall receive or accept, any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting bingo or providing other work or labor at the site of bingo during a bingo session.
- (2) Except as otherwise provided in division (d)(3) of this section, no charitable organization shall provide to a bingo game operator any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly regardless of the source, for conducting instant bingo, electronic instant bingo, or both other than at a bingo session at the site of instant bingo, electronic instant bingo, or both other than at a bingo session.
- (3) Nothing in this division (d) of this section prohibits an employee of a fraternal organization, veteran's organization, or sporting organization from selling instant bingo tickets or cards to the organization's members or invited guests, as long as no portion of the employee's compensation is paid from any receipts of bingo.
- (e) Notwithstanding division (b)(1) of this section, a charitable organization that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to another charitable organization or other charitable organizations for the conducting of bingo sessions so that more than two bingo sessions are conducted per calendar week on the premises, and a person that is not a charitable organization and that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to charitable organizations for the conducting of more than two bingo sessions per calendar week on the premises, may continue to lease the premises to those charitable organizations, provided that no more than four sessions are conducted per calendar week, that the lessor organization or person has notified the attorney general in writing of the organizations that will conduct the sessions and the days of the week and the times of the day on which the sessions will be conducted, that the initial lease entered into with each organization that will conduct the sessions was filed with the attorney general prior to December 6, 1977, and that each organization that will conduct the sessions was issued a license to conduct bingo games by the attorney general prior to December 6, 1977.
- (f) This section does not prohibit a bingo licensed charitable organization or a game operator from giving any person an instant bingo ticket as a prize.
- (g) Whoever violates division (a)(2) of this section is guilty of illegally conducting a bingo game, a felony to be prosecuted under appropriate state law. Except as otherwise provided in this division, whoever violates division (a)(1), (a)(3), (b)(1), (b)(2), (b)(3), (c)(1) to (c)(11), or (d) of this section is guilty of a

minor misdemeanor. If the offender previously has been convicted of a violation of division (a)(1), (a)(3), (b)(1), (b)(2), (b)(3), (c)(1) to (c)(11), or (d) of this section, a violation of division (a)(1), (a)(3), (b)(1), (b)(2), (b)(3), (c)(1) to (c)(11), or (d) of this section is a misdemeanor of the first degree. Whoever violates division (c)(12) of this section is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (c)(12) of this section, a violation of division (c)(12) of this section is a felony to be prosecuted under appropriate state law.

(ORC 2915.09)

630.07. Maintenance of records by charitable organizations.

- (a) No charitable organization that conducts bingo or a game of chance pursuant to Ohio R.C. 2915.02(D), or any substantially equivalent municipal ordinance, shall fail to maintain the following records for at least three years from the date on which the bingo or game of chance is conducted:
- (1) An itemized list of the gross receipts of each bingo session, each game of instant bingo by serial number, each electronic instant bingo game by serial number, each raffle, each punch board game, and each game of chance, and an itemized list of the gross profits of each game of instant bingo by serial number and each electronic instant bingo game by serial number;
 - (2) An itemized list of all expenses, other than prizes, that are incurred in conducting bingo or instant bingo, the name of each person to whom the expenses are paid, and a receipt for all of the expenses;
 - (3) A list of all prizes awarded during each bingo session, each raffle, each punch board game, and each game of chance conducted by the charitable organization, the total prizes awarded from each game of instant bingo by serial number and each electronic instant bingo game by serial number, and the name, address, and social security number of all persons who are winners of prizes of \$600.00 or more in value;
 - (4) An itemized list of the recipients of the net profit of bingo or game of chance, including the name and address of each recipient to whom the money is distributed, and if the organization uses the net profit of bingo, or the money or assets received from a game of chance, for any charitable or other purpose set forth in Ohio R.C. 2915.01(V), Ohio R.C. 2915.02(D), or Ohio R.C. 2915.101, a list of each purpose and an itemized list of each expenditure for each purpose;
 - (5) The number of persons who participate in any bingo session or game of chance that is conducted by the charitable organization;
 - (6) A list of receipts from the sale of food and beverages by the charitable organization or one of its auxiliary units or societies, if the receipts were excluded from "gross receipts" under Ohio R.C. 2915.01(T);
 - (7) An itemized list of all expenses incurred at each bingo session, each raffle, each punch board game, or each game of instant bingo or electronic instant bingo conducted by the charitable organization in the sale of food and beverages by the charitable organization or by an auxiliary unit or society of the charitable organization, the name of each person to whom the expenses are paid, and a receipt for all of the expenses.
- (b) A charitable organization shall keep the records that it is required to maintain pursuant to division (a) of this section at its principal place of business in this state or at its headquarters in this state and shall notify the attorney general of the location at which those records are kept.
- (c) The gross profit from each bingo session or game described in division (1) or (2) of the definition of "bingo" in Ohio R.C. 2915.01 shall be deposited into a checking account devoted exclusively to the bingo session or game. Payments for allowable expenses incurred in conducting the bingo session or game and payments to recipients of some or all of the net profit of the bingo session or game shall be made only by checks or electronic fund transfers drawn on the bingo session or game account.

- (d) Each charitable organization shall conduct and record an inventory of all of its bingo supplies as of the first day of November of each year.
- (e) The attorney general may adopt rules in accordance with Ohio R.C. Chapter 119 that establish standards of accounting, record keeping, and reporting to ensure that gross receipts from bingo or games of chance are properly accounted for.
- (f) A distributor shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing to another person bingo supplies for use in this state. The record shall include all of the following for each instance:
- (1) The name of the manufacturer from which the distributor purchased the bingo supplies and the date of the purchase;
 - (2) The name and address of the charitable organization or other distributor to which the bingo supplies were sold or otherwise provided;
 - (3) A description that clearly identifies the bingo supplies;
 - (4) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each charitable organization.
- (g) A manufacturer shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies for use in this state. The record shall include all of the following for each instance:
- (1) The name and address of the distributor to whom the bingo supplies were sold or otherwise provided;
 - (2) A description that clearly identifies the bingo supplies, including serial numbers;
 - (3) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each distributor.
- (h) (1) The attorney general or any law enforcement agency may do all of the following:
- a. Investigate any charitable organization, distributor, or manufacture or any officer, agent, trustee, member, or employee of the organization, distributor, or manufacture;
 - b. Examine the accounts and records of the charitable organization, distributor, or manufacturer or of any officer, agent, trustee, member, or employee of the organization, distributor, or manufacture;
 - c. Conduct inspections, audits, and observations of bingo or games of chance;
 - d. Conduct inspections of the premises where bingo or games of chance are conducted or where bingo supplies are manufactured or distributed;
 - e. Take any other necessary and reasonable action to determine if a violation of any provision of this chapter or Ohio R.C. Chapter 2915 has occurred and to determine whether Ohio R.C. 2915.11, or any substantially equivalent municipal ordinance, has been complied with.
- (2) If any law enforcement agency has reasonable grounds to believe that a charitable organization, distributor, or manufacturer or an officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer has violated any provision of this chapter or Ohio R.C. Chapter 2915, the law enforcement agency may proceed by action in the proper court to enforce this chapter or Ohio R.C. Chapter 2915, provided that the law enforcement agency shall give written notice to the attorney general when commencing an action as described in this division.
- (i) No person shall destroy, alter, conceal, withhold, or deny access to any accounts or records of a charitable organization, distributor, or manufacturer that have been requested for examination, or obstruct, impede, or interfere with any inspection, audit, or observation of bingo or a game of chance or premises where bingo or a game of chance is conducted, or of premises where bingo supplies are manufactured or distributed, or refuse to comply with any reasonable request of, or obstruct, impede,

or interfere with any other reasonable action undertaken by, the attorney general or a law enforcement agency pursuant to division (h) of this section.

(j) Whoever violates division (a) or (i) of this section is guilty of a misdemeanor of the first degree.

(ORC 2915.10)

630.11. Raffle drawings.

- (a) (1) Subject to division (a)(2) of this section, a ~~charitable organization, a public school, a chartered nonpublic school, a community school, or a veteran's organization, fraternal organization, or sporting organization~~ person or entity that is exempt from federal income taxation under IRC 501(a) and is described in IRC 501(c)(3), 501(c)(4), ~~501(c)(6)~~, 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) may conduct a raffle to raise money for the organization or school and does not need a license to conduct bingo in order to conduct a raffle drawing that is not for profit.
- (2) If a charitable organization that is described in division (a)(1) of this section, but that is not also described in IRC 501(c)(3), conducts a raffle, the charitable organization shall distribute at least 50 percent of the net profit from the raffle to a charitable purpose described in Ohio R.C. 2915.01(V) or to a department or agency of the federal government, the state, or any political subdivision.
- (b) A chamber of commerce may conduct not more than one raffle per year to raise money for the chamber of commerce.
- (c) Except as provided in division (a) or (b) of this section, no person shall conduct a raffle drawing that is for profit or a raffle drawing that is not for profit.
- (d) Whoever violates division (c) of this section is guilty of illegal conduct of a raffle. Except as otherwise provided in this division, illegal conduct of a raffle is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (c) of this section, illegal conduct of a raffle is a felony to be prosecuted under appropriate state law.

(ORC 2915.092)

630.12. Instant bingo other than at bingo sessions.

- (a) As used in this section, "retail income from all commercial activity" means the income that a person receives from the provision of goods, services, or activities that are provided at the location where instant bingo other than at a bingo session is conducted, including the sale of instant bingo tickets. A religious organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3), at not more than one location at which it conducts its charitable programs, may include donations from its members and guests as retail income.
- (b) (1) If a charitable instant bingo organization conducts instant bingo other than at a bingo session under a type III license issued under Ohio R.C. 2915.08, the charitable instant bingo organization shall enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted to allow the owner or lessor to assist in the conduct of instant bingo other than at a bingo session, identify each location where the instant bingo other than at a bingo session is being conducted, and identify the owner or lessor of each location.
- (2) A charitable instant bingo organization that conducts instant bingo other than at a bingo session is not required to enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted provided that the owner or lessor is not assisting in the conduct of the instant bingo other than at a bingo session and provided that the conduct of the instant bingo other than at a bingo session at that location is not more than five days per calendar year and not more than ten hours per day.

- (c) Except as provided in division (f) of this section, charitable instant bingo organization shall conduct instant bingo other than at a bingo session at a location where the primary source of retail income from all commercial activity at that location is the sale of instant bingo tickets.
- (d) (1) The owner or lessor of a location that enters into a contract pursuant to division (b) of this section shall pay the full gross profit to the charitable instant bingo organization, in return for the deal of instant bingo tickets. The owner or lessor may retain the money that the owner or lessor receives for selling the instant bingo tickets, provided, however, that after the deal has been sold, the owner or lessor shall pay to the charitable instant bingo organization the value of any unredeemed instant bingo prizes remaining in the deal of instant bingo tickets. As used in this division, "full gross profit" means the amount by which the total receipts of all instant bingo tickets, if the deal has been sold in full, exceeds the amount that would be paid out if all prizes were redeemed.
- (2) The charitable instant bingo organization shall pay six percent of the total gross receipts of any deal of instant bingo tickets for the purpose of reimbursing the owner or lessor for expenses described in this division.
- (3) As used in this division, "expenses" means those items provided for in R.C. § 2915.01(GG)(4), (GG)(5), (GG)(6), (GG)(7), (GG)(8), (GG)(12), and (GG)(13) and that percentage of the owner's or lessor's rent for the location where instant bingo is conducted. Expenses, in the aggregate, shall not exceed six percent of the total gross receipts of any deal of instant bingo tickets.
- (e) A charitable instant bingo organization shall provide the attorney general with all of the following information:
- (1) That the charitable instant bingo organization has terminated a contract entered into pursuant to division (b) of this section with an owner or lessor of a location;
 - (2) That the charitable instant bingo organization has entered into a written contract pursuant to division (b) of this section with a new owner or lessor of a location;
 - (3) That the charitable instant bingo organization is aware of conduct by the owner or lessor of a location at which instant bingo is conducted that is in violation of Ohio R.C. Chapter 2915.
- (f) Division ~~(e)~~ (c) of this section does not apply to a volunteer firefighter's organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(C)(3), that conducts instant bingo other than at a bingo session on the premises where the organization conducts firefighter training, that has conducted instant bingo continuously for at least five years prior to July 1, 2003, and that, during each of those five years, had gross receipts of at least \$1,500,000.00.
- (g) (1) Subject to the requirements of Ohio R.C. 2915.14 and 2915.15 concerning electronic instant bingo, A veteran's organization, a fraternal organization, or a sporting organization authorized to conduct a bingo session pursuant to Ohio R.C. Chapter 2915 may conduct instant bingo, ~~other than at a bingo session~~ electronic instant bingo, or both other than at a bingo session under a type III license issued under Ohio R.C. 2915.08 if all of the following apply:
- a. The veteran's organization, fraternal organization, or sporting organization limits the sale of instant bingo to 12 hours during any day, provided that the sale does not begin earlier than 10:00 a.m. and ends not later than 2:00 a.m.
 - b. The veteran's organization, fraternal organization, or sporting organization limits the sale of instant bingo to its own premises and to its own members and invited guests.
 - c. The veteran's organization, fraternal organization, or sporting organization is raising money for an organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3), and that is in good standing in this state and executes a written contract with that organization as required in division (g)(2) of this section.
- (2) If a veteran's organization, fraternal organization, or sporting organization authorized to conduct instant bingo or electronic instant bingo pursuant to division (g)(1) of this section is raising money

for another organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c), and that is in good standing in this state, the veteran's organization, fraternal organization, or sporting organization shall execute a written contract with the organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c), and that is in good standing in this state in order to conduct instant bingo or electronic instant bingo. That contract shall include a statement of the percentage of the net proceeds that the veteran's, fraternal, or sporting organization will be distributing to the charitable organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c), and that is in good standing in this state.

- (3) a. If a veteran's organization, fraternal organization, or sporting organization authorized to conduct instant bingo pursuant to division (g)(1) of this section has been issued a liquor permit under Ohio R.C. Chapter 4303, that permit may be subject to suspension, revocation, or cancellation if the veteran's organization, fraternal organization, or sporting organization violates a provision of this chapter or Ohio R.C. Chapter 2915.
- b. No veteran's organization, fraternal organization, or sporting organization that enters into a written contract pursuant to division (g)(2) of this section shall violate any provision of this chapter or Ohio R.C. Chapter 2915, or permit, aid, or abet any other person in violating any provision of this chapter or Ohio R.C. Chapter 2915.
- (4) A veteran's organization, fraternal organization, or sporting organization shall give all required proceeds earned from the conduct of instant bingo to the organization with which the veteran's organization, fraternal organization, or sporting organization has entered into a written contract.
- (5) Whoever violates division (g) of this section is guilty of illegal instant bingo conduct. Except as otherwise provided in this division, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (g) of this section, illegal instant bingo conduct is a felony to be prosecuted under appropriate state law.

(ORC 2915.093, 2915.13)

636.04. Aggravated menacing.

- (a) No person shall knowingly cause another to believe that the offender will cause serious physical harm to the person or property of the other person, such other person's unborn, or a member of such other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause serious physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs.
- (b) Whoever violates this section is guilty of aggravated menacing. Except as otherwise provided in this division (b), aggravated menacing is a misdemeanor of the first degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, aggravated menacing is a felony to be prosecuted under appropriate state law or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, a felony to be prosecuted under appropriate state law.

(ORC 2903.21)

636.045. Menacing by stalking.

(a) *Prohibited conduct.*

(1) a. ~~No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person. No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or a family or household member of the other person or cause mental distress to the other person or a family or household member of the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person's family or household member or mental distress to the other person or the other person's family or household member, the other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs.~~

b. No person, through the use of any electronic method of remotely transferring information, including but not limited to any computer, computer network, computer program, or computer system, shall post a message with purpose to ~~urge or incite another to commit a violation of division (a)(1)a. of this section.~~ do either of the following:

i. Violate division (a)(1)a. of this section;

ii. Urge or incite another to commit a violation of division (a)(1)a. of this section.

c. No person, with a sexual motivation, shall violate division (a)(1)a. or (a)(1)b. of this section.

(2) Whoever violates division (a)(1) of this section is guilty of menacing by stalking.

a. Except as otherwise provided in division (a)(2)b. of this section, menacing by stalking is a misdemeanor of the first degree.

b. Menacing by stalking is a felony, to be prosecuted under appropriate state law, if any of the following applies:

1. The offender previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 2903.211 or a violation of Ohio R.C. 2911.211, or a substantially equivalent municipal ordinance to either of these offenses.

2. In committing the offense under division (a)(1)a., (a)(1)b. or (a)(1)c. of this section, the offender made a threat of physical harm to or against the victim, or as a result of an offense committed under division (a)(1)b. or (a)(1)c. of this section, a third person induced by the offender's posted message made a threat of physical harm to or against the victim.

3. In committing the offense under division (a)(1)A., (a)(1)B. or (a)(1)C. of this section, the offender trespassed on the land or premises where the victim lives, is employed, or attends school, or as a result of an offense committed under division (a)(1)b. or (a)(1)c. of this section, a third person induced by the offender's posted message trespassed on the land or premises where the victim lives, is employed, or attends school.

4. The victim of the offense is a minor.

5. The offender has a history of violence towards the victim or any other person or a history of other violent acts towards the victim or any other person.

6. While committing the offense under division (a)(1)a. of this section or a violation of division (a)(1)c. of this section based on conduct in violation of division (a)(1)a. of this section, the offender had a deadly weapon on or about the offender's person or under the

offender's control. Division (a)(2)b.6. of this section does not apply in determining the penalty for a violation of division (a)(1)b. of this section or a violation of division (a)(1)c. of this section based on conduct in violation of division (a)(1)b. of this section.

7. At the time of the commission of the offense, the offender was the subject of a protection order issued under Ohio R.C. 2903.213 or Ohio R.C. 2903.214, regardless of whether or not the person to be protected under the order is the victim of the offense or another person.
8. In committing the offense under division (a)(1)a., (a)(1)b. or (a)(1)c. of this section, the offender caused serious physical harm to the premises at which the victim resides, to the real property on which that premises is located, or to any personal property located on that premises, or as a result of an offense committed under division (a)(1)b. of this section or an offense committed under division (a)(1)c. of this section based on a violation of division (a)(1)b. of this section, a third person induced by the offender's posted message caused serious physical harm to that premises, that real property, or any personal property on that premises.
9. Prior to committing the offense, the offender had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious harm, or other evidence of then-present dangerousness.
10. The victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties.
11. The offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties.

(3) Ohio R.C. 2919.271 applies in relation to a defendant charged with a violation of this section.

(4) As used in division (a) of this section:

- a. "Computer," "computer network," "computer program," "computer system," and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.
- b. "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
- c. "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
- d. "Family or household member" means any of the following:

1. Any of the following who is residing or has resided with the person against whom the act prohibited in division (A)(1) of this section is committed:

i. A spouse, a person living as a spouse, or a former spouse of the person;

ii. A parent, a foster parent, or a child of the person, or another person related by consanguinity or affinity to the person;

iii. A parent or a child of a spouse, person living as a spouse, or former spouse of the person, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the person.

2. The natural parent of any child of whom the person against whom the act prohibited in division (a)(1) of this section is committed is the other natural parent or is the putative other natural parent.

~~d-e.~~ "Mental distress" means any of the following:

1. Any mental illness or condition that involves some temporary substantial incapacity;
2. Any mental illness or condition that would normally require psychiatric treatment, psychological treatment, or other mental health services, whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services.

f. "Organization" includes an entity other than a public employer.

~~e-g.~~ "Pattern of conduct" means two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, or two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, directed at one or more persons employed by or belonging to the same corporation, association, or other organization. Actions or incidents that prevent, obstruct, or delay the performance by a public official, firefighter, rescuer, emergency medical services person, or emergency facility person of any authorized act within the public official's, firefighter's, rescuer's, emergency medical services person's, or emergency facility person's official capacity, or the posting of messages or receipt of information or data through the use of an electronic method of remotely transferring information, including but not limited to a computer, computer network, computer program, computer system, or telecommunications device, may constitute a "pattern of conduct."

~~h.~~ "Person living as a spouse" means a person who is living or has lived with the person against whom the act prohibited in division (a)(1) of this section is committed in a common law marital relationship, who otherwise is cohabiting with that person, or who otherwise has cohabited with the person within five years prior to the date of the alleged commission of the act in question.

~~f. i.~~ "Post a message" means transferring, sending, posting, publishing, disseminating, or otherwise communicating, or attempting to transfer, send, post, publish, disseminate, or otherwise communicate, any message or information, whether truthful or untruthful, about an individual, and whether done under one's own name, under the name of another, or while impersonating another.

~~g-l.~~ "Public official" has the same meaning as in Ohio R.C. 2921.01.

~~h-k.~~ "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.

~~i-l.~~ "Third person" means, in relation to conduct as described in division (a)(1)b. of this section, an individual who is neither the offender nor the victim of the conduct.

(5) The prosecution does not need to prove in a prosecution under division (a) of this section that a person requested or received psychiatric treatment, psychological treatment, or other mental health services in order to show that the person was caused mental distress as described in division (a)(4)d.2. of this section.

(6) a. Division (a) of this section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that it believes is or will be sent in violation of division (a) of this section.

b. Division (a)(6)a. of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any

information that it believes is or will be sent in violation of division (a) of this section except as otherwise provided by law.

- c. Division (a)(6)a. of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of division (a) of this section or who knowingly advertises the availability of material of that nature.

(b) *Protection order.* Consult Ohio R.C. 2903.213 for current provisions regarding protection orders, consent agreements, anti-stalking protection orders and orders issued by a court of another state.

(c) *Violating a protection order, consent agreement, anti-stalking protection order or order issued by a court of another state.*

(1) No person shall recklessly violate the terms of any of the following:

- a. A protection order issued or consent agreement approved pursuant to Ohio R.C. 2919.26 or Ohio R.C. 3113.31;
- b. A protection order issued pursuant to Ohio R.C. 2151.34, Ohio R.C. 2903.213 or Ohio R.C. 2903.214;
- c. A protection order issued by a court of another state.

(2) a. Whoever violates division (c) of this section is guilty of violating a protection order.

b. Except as otherwise provided in division (c)(2)c. or d. of this section, violating a protection order is a misdemeanor of the first degree.

c. If the offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for a violation of a protection order issued pursuant to Ohio R.C. 2151.34, Ohio R.C. 2903.213 or Ohio R.C. 2903.214, Ohio R.C. 2010.26 or Ohio R.C. 3113.31, two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22 or 2911.211, or a substantially equivalent state law or municipal ordinance, or a combination of those offenses, that involved the same person who is the subject of the protection order or consent agreement, or one or more violations of this section or a substantially equivalent state law or municipal ordinance, violating a protection order is a felony to be prosecuted under appropriate state law.

d. If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony to be prosecuted under appropriate state law.

e. If the protection order violated by the offender was an order issued pursuant to Ohio R.C. 2151.34 or 2903.214 that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires under this division that the offender be electronically monitored, unless the court determines that the offender is indigent, the court shall order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device. If the court determines that the offender is indigent and subject to the maximum amount allowable and the rules promulgated by the Attorney General under Ohio R.C. 2903.214, the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device may be paid out of funds from the reparations fund created pursuant to R.C. § 2743.191. The total amount paid from the Reparations Fund created pursuant to Ohio R.C. 2743.191 for electronic monitoring under Ohio R.C. 2151.34, 2903.214 and 2919.27 shall not exceed \$300,000 per year.

(3) It is an affirmative defense to a charge under division (c)(1)c. of this section that the protection order issued by a court of another state does not comply with the requirements specified in 18 U.S.C. 2265(b) for a protection order that must be accorded full faith a credit by a court of this state or that it is not entitled to full faith and credit under 18 U.S.C. 2265(c).

- (4) As used in this section, "protection order issued by a court of another state" means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a pendente lite order in a proceeding for other relief, if the court issued it in response to a complaint, petition or motion filed by or on behalf of a person seeking protection. The term does not include an order for support or for custody of a child issued pursuant to the divorce and child custody laws of another state, except to the extent that the order for support or for custody of a child is entitled to full faith and credit under the laws of the United States.

(ORC 2903.211, 2919.27)

636.05. Menacing.

- (a) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs.
- (b) Whoever violates this section is guilty of menacing. Except as otherwise provided in this division (b), menacing is a misdemeanor of the fourth degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, menacing is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, a felony to be prosecuted under appropriate State law.
- (c) As used in this section, "organization" includes an entity that is a governmental employer.

(ORC 2903.22)

636.08. Criminal child enticement.

- (a) No person, by any means and without privilege to do so, shall knowingly solicit, coax, entice, or lure any child under 14 years of age to accompany the person in any manner, including entering into any vehicle or onto any vessel, whether or not the offender knows the age of the child, if both of the following apply:
- (1) The actor does not have the express or implied permission of the parent, guardian, or other legal custodian of the child in undertaking the activity.
 - (2) The actor is not a law enforcement officer, medic, firefighter, or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer acting under the direction of, any board of education, or the actor is any such person, but at the time the actor undertakes the activity, the actor is not acting within the scope of the actor's lawful duties in that capacity.
- (b) No person, with a sexual motivation, shall violate division (a) of this section.
- (c) No person, for any unlawful purpose other than, or in addition to, that proscribed by division (A) of this section, shall engage in any activity described in division (a) of this section.

~~(c)~~(d) It is an affirmative defense to a charge under division (a) of this section that the actor undertook the activity in response to a bona fide emergency situation or that the actor undertook the activity in a reasonable belief that it was necessary to preserve the health, safety, or welfare of the child.

~~(d)~~(e) Whoever violates this section is guilty of criminal child enticement, a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, a substantially equivalent state law or municipal ordinance, Ohio R.C. 2907.02, 2907.03, or former Ohio R.C. 2907.12, or Ohio R.C. 2905.01 or 2907.05 when the victim of that prior offense was under 17 years of age at the time of the offense, criminal child enticement is a felony to be prosecuted under appropriate state law.

~~(e)~~(f) As used in this section:

- (1) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.
- (2) "Vehicle" has the same meaning as in Ohio R.C. 4501.01.
- (3) "Vessel" has the same meaning as in Ohio R.C. 1547.01.

(ORC 2905.05)

636.09. Coercion.

(a) No person, with purpose to coerce another into taking or refraining from action concerning which he or she has a legal freedom of choice, shall do any of the following:

- (1) Threaten to commit any offense.
- (2) Utter or threaten any slander against any person.
- (3) Expose or threaten to expose any matter tending to subject any person to hatred, contempt, or ridicule, or to damage his or her personal or business repute, or to impair his or her credit.
- (4) Institute or threaten criminal proceedings against any person.
- (5) Take or withhold, or threaten to take or withhold official action, or cause or threaten to cause official action to be taken or withheld.

(b) Divisions (a)(4) and (5) of this section shall not be construed to prohibit a prosecutor or court from doing any of the following in good faith and in the interests of justice:

- (1) Offering or agreeing to grant, or granting immunity from prosecution pursuant to Ohio R.C. 2945.44.
- (2) In return for a plea of guilty to one or more offenses charged or to one or more other or lesser offenses, or in return for the testimony of the accused in a case to which he or she is not a party, offering or agreeing to dismiss, or dismissing one or more charges pending against an accused, or offering or agreeing to impose, or imposing a certain sentence or modification of sentence.
- (3) Imposing ~~probation~~ a community control sanction on certain conditions, including without limitation requiring the offender to make restitution or redress to the victim of his or her offense.

(c) It is an affirmative defense to a charge under division (a)(3), (4), or (5) of this section that the actor's conduct was a reasonable response to the circumstances which occasioned it, and that his or her purpose was limited to:

- (1) Compelling another to refrain from misconduct or to desist from further misconduct.
- (2) Preventing or redressing a wrong or injustice.
- (3) Preventing another from taking action for which the actor reasonably believed the other person to be disqualified.
- (4) Compelling another to take action which the actor reasonably believed the other person to be under a duty to take.

(d) Whoever violates this section is guilty of coercion, a misdemeanor of the second degree.

(e) As used in this section:

(1) "Threat" includes a direct threat and a threat by innuendo.

(2) "Community control sanction" has the same meaning as in Ohio R.C. 2929.01.

(ORC 2905.12)

636.10. Nonsupport of dependents.

(a) No person shall abandon, or fail to provide adequate support to:

(1) His or her spouse, as required by law;

(2) His or her legitimate or illegitimate child who is under age 18, or mentally or physically disabled child who is under age 21;

(3) His or her aged or infirm parent or adoptive parent, who from lack of ability and means is unable to provide adequately for his or her own support.

(b) (1) No person shall abandon or fail to provide support as established by court order to another person whom, by court order or decree, the person:

a. Is legally obligated to support.

b. Was legally obligated to support, and an amount for support:

(i) Was due and owing prior to the date the person's duty to pay current support terminated; and

(ii) Remains unpaid.

(2) The period of limitation under section 2901.13 of the Revised Code applicable to division (b)(1)(ii) of this section shall begin to run on the date the person's duty to pay current support terminates.

(c) No person shall aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming a dependent child, as defined in Ohio R.C. 2151.04, or a neglected child, as defined in Ohio R.C. 2151.03.

(d) It is an affirmative defense to a charge of failure to provide adequate support under division (a) of this section or a charge of failure to provide support established by a court order under division (b) of this section that the accused was unable to provide adequate support or the established support, but did provide the support that was within his or her ability and means.

(e) It is an affirmative defense to a charge under division (a)(3) of this section that the parent abandoned the accused, or failed to support the accused as required by law, while the accused was under age 18, or was mentally or physically disabled and under age 21.

(f) It is not a defense to a charge under division (b) of this section that the person whom a court has ordered the accused to support is being adequately supported by someone other than the accused.

(g) (1) Except as otherwise provided in this division, whoever violates division (a) or (b) of this section is guilty of nonsupport of dependents, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (a)(2) or (b) of this section or a substantially equivalent state law or municipal ordinance, or if the offender has failed to provide support under division (a)(2) or (b) of this section for a total accumulated period of 26 weeks out of 104 consecutive weeks, whether or not the 26 weeks were consecutive, then a violation of division (a)(2) or (b) of this section is a felony to be prosecuted under appropriate state law. If the offender previously has been convicted of or pleaded guilty to a felony violation of this section or a substantially equivalent state law or municipal ordinance, a violation of division (a)(2) or (b) of this section is a felony to be prosecuted under appropriate state law.

- (2) If the offender is guilty of nonsupport of dependents by reason of failing to provide support to his or her child as required by a child support order issued on or after April 15, 1985, pursuant to Ohio R.C. 2151.23, 2151.231, 2151.232, 2151.33, 3105.21, 3109.05, 3111.13, 3113.04, 3113.31, 3115.401 or former Ohio R.C. 3115.31, the court, in addition to any other sentence imposed, shall assess all court costs arising out of the charge against the person and require the person to pay any reasonable attorney's fees of any adverse party other than the state, as determined by the court, that arose in relation to the charge.
- (3) Whoever violates division (c) of this section is guilty of contributing to the nonsupport of dependents, a misdemeanor of the first degree. Each day of a violation of division (c) of this section is a separate offense.

(ORC 2919.21)

636.11. Endangering children.

- (a) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under 18 years of age or a mentally or physically disabled child under 21 years of age, shall create a substantial risk to the health or safety of the child by violating a duty of care, protection, or support. It is not a violation of a duty of care, protection, or support under this division when the parent, guardian, custodian, or person having custody or control of a child treats the physical or mental illness or disability of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.
- (b) No person shall do any of the following to a child under 18 years of age or a mentally or physically disabled child under 21 years of age:
- (1) Abuse the child.
 - (2) Torture or cruelly abuse the child.
 - (3) Administer corporal punishment or other physical disciplinary measure, or physically restrain the child in a cruel manner or for a prolonged period, which punishment, discipline or restraint is excessive under the circumstances and creates a substantial risk of serious physical harm to the child.
 - (4) Repeatedly administer unwarranted disciplinary measures to a child when there is a substantial risk that such conduct, if continued, will seriously impair or retard the child's mental health or development.
 - (5) Entice, coerce, permit, encourage, compel, hire, employ, use, or allow the child to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter.
 - (6) Allow the child to be on the same parcel of real property and within 100 feet of, or, in the case of more than one housing unit on the same parcel of real property, in the same housing unit and within 100 feet of, any act in violation of Ohio R.C. 2925.04 or 2925.041 when the person knows that the act is occurring, whether or not any person is prosecuted for or convicted of the violation of Ohio R.C. 2925.04 or 2925.041 that is the basis of the violation of this division.
- (c) (1) No person shall operate a vehicle, as defined by Ohio R.C. 4511.01, within the municipality and in violation of Ohio R.C. 4511.19(A), or a substantially equivalent municipal ordinance, when one or more children under 18 years of age are in the vehicle. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of this division and a violation of Ohio R.C. 4511.19(A), or a substantially equivalent municipal ordinance, that constitutes the basis of the charge of the violation of this division. For purposes of Ohio R.C. 4511.191 to 4511.197 and all related provisions of law, a person arrested for a violation of this division shall be considered to be under arrest for operating a vehicle while under the influence

of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

- (2) As used in division (c)(1) of this section:
- a. "Controlled substance" has the same meaning as in Ohio R.C. 3719.01.
 - b. "Vehicle" has the same meanings as in Ohio R.C. 4511.01.
- (d) (1) Division (b)(5) of this section does not apply to any material or performance that is produced, presented, or disseminated for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies for research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance.
- (2) Mistake of age is not a defense to a charge under division (b)(5) of this section.
- (3) In a prosecution under division (b)(5) of this section, the trier of fact may infer that an actor, model, or participant in the material or performance involved is a juvenile if the material or performance, through its title, text, visual representation, or otherwise, represents or depicts the actor, model, or participant as a juvenile.
- (4) As used in this division and division (b)(5) of this section:
- a. "Material," "performance," "obscene," and "sexual activity" have the same meanings as in Ohio R.C. 2907.01.
 - b. "Nudity-oriented matter" means any material or performance that shows a minor in a state of nudity and that, taken as a whole by the average person applying contemporary community standards, appeals to the prurient interest.
 - c. "Sexually oriented matter" means any material or performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality.
- (e) Whoever violates this section is guilty of endangering children.
- (1) If the offender violates division (a) or (b)(1) of this section, endangering children is one of the following:
- a. Except as otherwise provided in division (e)(1)b., c., or d., a misdemeanor of the first degree.
 - b. If the offender previously has been convicted of an offense under this section or a substantially equivalent state law or municipal ordinance, or of any offense involving neglect, abandonment, or contributing to the delinquency of or physical abuse of a child, except as otherwise provided in division (e)(1)c. or d. of this section, endangering children is a felony to be prosecuted under appropriate state law.
 - c. If the violation is a violation of division (a) of this section and results in serious physical harm to the child involved, endangering children is a felony to be prosecuted under appropriate state law.
 - d. In addition to any term of imprisonment, fine, or other sentence, penalty or sanction it imposes upon the offender pursuant to divisions (e)(3)a., b. or c. of this section or pursuant to any other provision of law and in addition to any suspension of the offender's driver's license or commercial driver's license or permit or nonresident operating privilege under Ohio R.C. Chapter 4506, 4509, 4510, or 4511, or any other provision of law, the court also may impose upon the offender a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(7).
 - e. In addition to any term of imprisonment, fine, or other sentence, penalty or sanction imposed upon the offender pursuant to division (e)(3)a., b., c. or d. of this section or pursuant to any other provision of law for the violation of division (c) of this section, if as a part of the same

trial or proceeding the offender also is convicted of or pleads guilty to a separate charge charging the violation of Ohio R.C. 4511.19(A), or a substantially equivalent municipal ordinance, that was the basis of the charge of the violation of division (c) of this section, the offender also shall be sentenced in accordance with Ohio R.C. 4511.19, or a substantially equivalent municipal ordinance, for that violation of Ohio R.C. 4511.19(A), or a substantially equivalent municipal ordinance.

- (f) (1) If a person violates division (c) of this section and if, at the time of the violation, there were two or more children under 18 years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of division (c) of this section for each of the children, but the court may sentence the offender for only one of the violations.
- (2) a. If a person is convicted of or pleads guilty to a violation of division (c) of this section but the person is not also convicted of and does not also plead guilty to a separate charge of violating Ohio R.C. 4511.19(A), or a substantially equivalent municipal ordinance, that was the basis of the charge of the violation of division (c) of this section, both the following apply:
1. For purposes of the provisions of Ohio R.C. 4511.19, or a substantially equivalent municipal ordinance, that set forth the penalties and sanctions for a violation of Ohio R.C. 4511.19(A), or a substantially equivalent municipal ordinance, the conviction of or plea of guilty to the violation of division (c) of this section shall not constitute a violation of Ohio R.C. 4511.19(A), or a substantially equivalent municipal ordinance.
 2. For purposes of the provisions of law that refers to a conviction of or plea of guilty to a violation of Ohio R.C. 4511.19(A), or a substantially equivalent municipal ordinance, and that is not described in division (f)(2)a.1. of this section, the conviction of or plea of guilty to the violation of division (c) of this section shall constitute a conviction or plea of guilty to a violation of Ohio R.C. 4511.19(A), or a substantially equivalent municipal ordinance.
- b. If a person is convicted of or pleads guilty to a violation of division (c) of this section and the person also is convicted of or pleads guilty to a separate charge of violating Ohio R.C. 4511.19(A), or a substantially equivalent municipal ordinance, that was the basis of the charge of the violation of division (c) of this section, the conviction of or plea of guilty to the violation of division (c) of this section shall not constitute, for the purposes of any provision of law that refers to a conviction of or a plea of guilty to a violation of Ohio R.C. 4511.19(A) or a substantially equivalent municipal ordinance, a conviction of or a plea of guilty to a violation of Ohio R.C. 4511.19(A) or a substantially equivalent municipal ordinance.

(ORC 2919.22(A)—(E), (H))

636.12. Interference with custody.

- (a) No person, knowing that he or she is without privilege to do so or being reckless in that regard, shall entice, take, keep, or harbor a person identified in division (a)(1), (2) or (3) of this section from the parent, guardian, or custodian of the person identified in division (a)(1), (2) or (3) of this section:
- (1) A child under the age of 18, or a mentally or physically disabled child under the age of 21;
 - (2) A person committed by law to an institution for delinquent, unruly, neglected, abused, or dependent children;
 - (3) A person committed by law to an institution for the mentally ill or ~~mentally disabled~~ an institution for persons with intellectual disabilities.
- (b) No person shall aid, abet, induce, cause, or encourage a child or a ward of the juvenile court who has been committed to the custody of any person, department, or public or private institution to leave the custody of that person, department, or institution without legal consent.

- (c) It is an affirmative defense to a charge of enticing or taking under division (a)(1) of this section that the actor reasonably believed that his or her conduct was necessary to preserve the child's health or safety. It is an affirmative defense to a charge of keeping or harboring under division (a) of this section that the actor in good faith gave notice to law enforcement or judicial authorities within a reasonable time after the child or committed person came under his or her shelter, protection, or influence.
- (d) Whoever violates this section is guilty of interference with custody.
- (1) Except as otherwise provided in this subdivision, a violation of division (a)(1) above is a misdemeanor of the first degree. If the child who is the subject of a violation of division (a)(1) is removed from the state or if the offender previously has been convicted of an offense under this section or a substantially equivalent state law or municipal ordinance, a violation of division (a)(1) of this section is a felony to be prosecuted under appropriate state law. If the child who is the subject of a violation of division (a)(1) suffers physical harm as a result of the violation, a violation of division (a)(1) of this section is a felony to be prosecuted under appropriate state law.
 - (2) A violation of division (a)(2) or (3) of this section is a misdemeanor of the third degree.
 - (3) A violation of division (b) of this section is a misdemeanor of the first degree. Each day of a violation of division (b) is a separate offense.

(ORC 2919.23)

636.13. Contributing to the unruliness or delinquency of a child.

- ~~(a) No person, including a parent, guardian, or other custodian of a child, shall do any of the following:~~
- ~~(1) Aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming an unruly child, as defined in Ohio R.C. 2151.022, or a delinquent child, as defined in Ohio R.C. 2152.02.~~
 - ~~(2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child, as defined in Ohio R.C. 2151.022, or a delinquent child, as defined in Ohio R.C. 2152.02.~~
 - ~~(3) If the person is the parent, guardian, or custodian of a child who has the duties under Ohio R.C. Chapters 2152 and 2950 to register, register a new residence address, and periodically verify a residence address, and, if applicable, to send a notice of intent to reside, and if the child is not emancipated, as defined in Ohio R.C. 2919.121, fail to ensure that the child complies with those duties under Ohio R.C. Chapters 2152 and 2950.~~
- (a) As used in this section:
- (1) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02.
 - (2) "Unruly child" has the same meaning as in Ohio R.C. 2151.022.
- (c) No person, including a parent, guardian, or other custodian of a child, shall do any of the following:
- (1) Aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming an unruly child or a delinquent child;
 - (2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child or a delinquent child;
 - (3) Act in a way that contributes to an adjudication of the child as a delinquent child based on the child's violation of a court order adjudicating the child an unruly child for being an habitual truant;
 - (4) If the person is the parent, guardian, or custodian of a child who has the duties under Ohio R.C. chs. 2152 and 2950 to register, register a new residence address, and periodically verify a residence address, and, if applicable, to send a notice of intent to reside, and if the child is not emancipated, as defined in Ohio R.C. 2919.121, fail to ensure that the child complies with those duties under Ohio R.C. chs. 2152 and 2950.

~~(b)~~(c) Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of a violation of this section is a separate offense.

(ORC 2919.24)

636.15. Threatening or harassing telecommunications.

(a) No person shall knowingly make or cause to be made a telecommunication, or knowingly permit a telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:

- (1) ~~Fails to identify the caller to the recipient of the telecommunication and~~ Makes the telecommunication with purpose to harass, intimidate, or abuse any person at the premises to which the telecommunication is made, whether or not actual communication takes place between the caller and a recipient.
- (2) Describes, suggests, requests, or proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made.
- (3) During the telecommunication, violates Ohio R.C. 2903.21 or a substantially equivalent municipal ordinance.
- (4) Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged.
- (5) Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication to those premises or to any persons at those premises.
- (6) Knowingly makes any comment, request, suggestion, or proposal to the recipient of the telecommunication that is threatening, intimidating, menacing, coercive, or obscene with the intent to abuse, threaten, or harass the recipient.
- (7) Without a lawful business purpose, knowingly interrupts the telecommunication service of any person.
- (8) Without a lawful business purpose, knowingly transmits to any person, regardless of whether the telecommunication is heard in its entirety, any file, document, or other communication that prevents that person from using the person's telephone service or electronic communication device.
- (9) Knowingly makes any false statement concerning the death, injury, illness, disfigurement, reputation, indecent conduct, or criminal conduct of the recipient of the telecommunication or family or household member of the recipient with purpose to abuse, threaten, intimidate, or harass the recipient.
- (10) Knowingly incites another person through a telecommunication or other means to harass or participate in the harassment of a person.
- (11) Knowingly alarms the recipient by making a telecommunication without a lawful purpose at an hour or hours known to be inconvenient to the recipient and in an offensive or repetitive manner.

- (b) (1) No person shall make or cause to be made a telecommunication or permit a telecommunication to be made from a telecommunications device under the person's control, with purpose to abuse, threaten, or harass another person.
- (2) No person shall knowingly post a text or audio statement or an image on an internet web site or web page for the purpose of abusing, threatening, or harassing another person.
- (c) (1) Whoever violates divisions (a) or (b) of this section is guilty of telecommunications harassment.
- (2) A violation of ~~division (a)(1), (a)(2), (a)(3) or (a)(5) or (b) (a)(1), (2), (3), (5), (6), (7), (8), (9), (10), or (11) or (B)~~ of this section is a misdemeanor of the first degree on a first offense and a felony on each subsequent offense, which shall be prosecuted under appropriate state law.
- (3) Except as otherwise provided in this division (c)(3), a violation of division (a)(4) of this section is a misdemeanor of the first degree on a first offense and a felony on each subsequent offense, to be prosecuted under appropriate state law. If a violation of division (a)(4) of this section results in economic harm of \$1,000.00 or more, telecommunications harassment is a felony to be prosecuted under appropriate state law.
- ~~(d) No cause of action may be assessed in any court of this municipality against any provider of a telecommunications service or information service, or against any officer, employee, or agent of a telecommunications service or information service, for any injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section. A provider of a telecommunications service or information service, or an officer, employee, or agent of a telecommunications service or information service, is immune from any civil or criminal liability for injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employees, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section. No cause of action may be asserted in any court of this state against any provider of a telecommunications service, interactive computer service as defined in section 230 of Title 47 of the United States Code, or information service, or against any officer, employee, or agent of a telecommunication service, interactive computer service as defined in section 230 of Title 47 of the United States Code, or information service, for any injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section. A provider of a telecommunications service, interactive computer service as defined in section 230 of Title 47 of the United States Code, or information service, or an officer, employee, or agent of a telecommunications service, interactive computer service as defined in section 230 of Title 47 of the United States Code, or information service, is immune from any civil or criminal liability for injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section.~~
- (e) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that the person believes is, or will be sent, in violation of this section.
- (2) Division (e)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's

control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.

(3) Division (e)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature.

(4) A provider or user of an interactive computer service, as defined in section 230 of Title 47 of the United States Code, shall neither be treated as the publisher or speaker of any information provided by another information content provider, as defined in section 230 of Title 47 of the United States Code, nor held civilly or criminally liable for the creation or development of information provided by another information content provider, as defined in section 230 of Title 47 of the United States Code. Nothing in this division shall be construed to protect a person from liability to the extent that the person developed or created any content in violation of this section.

(F) Divisions (a)(5) to (11) and (b)(2) of this section do not apply to a person who, while employed or contracted by a newspaper, magazine, press association, news agency, news wire service, cable channel or cable operator, or radio or television station, is gathering, processing, transmitting, compiling, editing, or disseminating information for the general public within the scope of the person's employment in that capacity or the person's contractual authority in that capacity.

(e) As used in ~~divisions (a) through (d)~~ of this section:

(1) "Cable operator" has the same meaning as in Ohio R.C. 1332.21.

~~(4)~~(2) "Caller" means the person described in division (a) of this section who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person's control.

~~(2)~~(3) "Economic harm" means all direct, incidental and consequential pecuniary harm suffered by a victim as a result of the criminal conduct. The term includes but is not limited to all of the following:

- a. All wages, salaries or other compensation lost as a result of the criminal conduct;
- b. The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
- c. The overhead costs incurred from the time that a business is shut down as a result of the criminal conduct;
- d. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

(4) "Family or household member" means any of the following:

a. Any of the following who is residing or has resided with the recipient of the telecommunication against whom the act prohibited in division (A)(9) of this section is committed:

i. A spouse, a person living as a spouse, or a former spouse of the recipient;

ii. A parent, a foster parent, or a child of the recipient, or another person related by consanguinity or affinity to the recipient;

iii. A parent or a child of a spouse, person living as a spouse, or former spouse of the recipient, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the recipient.

b. The natural parent of any child of whom the recipient of the telecommunication against whom the act prohibited in division (A)(9) of this section is committed is the other natural parent or is the putative other natural parent.

(5) "Person living as a spouse" means a person who is living or has lived with the recipient of the telecommunication against whom the act prohibited in division (a)(9) of this section is committed in a common law marital relationship, who otherwise is cohabiting with the recipient, or who otherwise has cohabited with the recipient within five years prior to the date of the alleged commission of the act in question.

~~(3)~~(6) "Sexual activity" has the same meaning as in Ohio R.C. 2907.01.

~~(4)~~(7) "Telecommunication" and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.

(f) Nothing in this section prohibits a person from making a telecommunication to a debtor that is in compliance with the "Fair Debt Collection Practices Act," 15 U.S.C. 1692, as amended, or the "Telephone Consumer Protection Act," 47 U.S.C. 227, as amended.

(ORC 2917.21)

636.17. Domestic violence.

(a) *Prohibited conduct.*

(1) No person shall knowingly cause or attempt to cause physical harm to a family or household member.

(2) No person shall recklessly cause serious physical harm to a family or household member.

(3) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

(4) a. Whoever violates this section is guilty of domestic violence, and the court shall sentence the offender as provided in divisions (a)(4)b. to (a)(4)e. of this section.

b. Except as otherwise provided in division (a)(4)c., (a)(4)d. or (a)(4)e. of this section, a violation of division (a)(3) is a misdemeanor of the fourth degree and a violation of division (a)(1) or (a)(2) is a misdemeanor of the first degree.

c. Except as otherwise provided in division (a)(4)d. of this section, if the offender previously has pleaded guilty to or been convicted of domestic violence, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially equivalent to domestic violence, a violation of R.C. § 2903.14, § 2909.06, § 2909.07, § 2911.12, § 2911.211 or § 2919.22 if the victim of the violation was a family or household member at the time of the violation, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially equivalent to any of those sections if the victim of the violation was a family or household member at the time of the commission of the violation, or any offense of violence if the victim of the offense was a family or household member at the time of the commission of the offense, a violation of division (a)(1) or (a)(2) is a felony to be prosecuted under appropriate state law, and a violation of division (a)(3) is a misdemeanor of the second degree.

d. If the offender previously has pleaded guilty to or been convicted of two or more offenses of domestic violence or two or more violations or offenses of the type described in division (a)(4)c. of this section involving a person who was a family or household member at the time of the violations or offenses, a violation of division (a)(1) or (a)(2) of this section is a felony to be prosecuted under appropriate state law, and a violation of division (a)(3) of this section is a misdemeanor of the first degree.

e. Except as otherwise provided in division (a)(4)c. or (a)(4)d. of this section, if the offender knew that the victim of the violation was pregnant at the time of the violation, a violation of division (a)(1) or (a)(2) of this section is a felony to be prosecuted under appropriate state law, and a violation of division (a)(3) of this section is a misdemeanor of the third degree.

- (5) Notwithstanding any provision of law to the contrary, no court or unit of state or local government shall charge any fee, cost, deposit, or money in connection with the filing of charges against a person alleging that the person violated this section or a municipal ordinance substantially equivalent to this section or in connection with the prosecution of any charges so filed.
- (6) As used in this section:
- a. "Family or household member." Any of the following:
 1. Any of the following who is residing or has resided with the offender:
 - a) A spouse, a person living as a spouse as defined below, or a former spouse of the offender;
 - b) A parent, a foster parent, or a child of the offender, or another person related by consanguinity or affinity to the offender;
 - c) A parent or a child of a spouse, person living as a spouse, or former spouse of the offender, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the offender.
 2. The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.
 - b. "Person living as a spouse." A person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question.
- (b) *Temporary protection order.* Consult Ohio R.C. 2919.26 for current provisions regarding protection orders.
- (c) Violating a protection order, consent agreement, anti-stalking protection order or order issued by a court of another state. See section 636.045(c) for current provisions.

(ORC 2919.25)

636.18. Safety of crowds attending live entertainment performances.

- (a) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:
- (1) "Concert." A musical performance of which the primary component is a presentation by persons singing or playing musical instruments, that is intended by its sponsors mainly, but not necessarily exclusively, for the listening enjoyment of the audience, and that is held in a facility. A "concert" does not include any performance in which music is a part of the presentation and the primary component of which is acting, dancing, a motion picture, a demonstration of skills or talent other than singing or playing an instrument, an athletic event, an exhibition or a speech.
 - (2) "Facility." Any structure that has a roof or partial roof and that has walls that wholly surround the area on all sides, including, but not limited to, a stadium, hall, arena, armory, auditorium, ballroom, exhibition hall, convention center or music hall.
 - (3) "Live entertainment performance." Any live speech; any live musical performance, including a concert; any live dramatic performance; any live variety show; and any other live performance with respect to which the primary intent of the audience can be construed to be viewing the performers. A "live entertainment performance" does not include any form of entertainment with respect to which the person purchasing a ticket routinely participates in amusements as well as views performers.

- (4) "Person." Includes, in addition to an individual or entity specified in Ohio R.C. 1.59(C), any governmental entity.
- (5) "Restricted entertainment area." Any wholly or partially enclosed area, whether indoors or outdoors, that has limited access through established entrances or established turnstiles or similar devices.
- (b) (1) No person shall sell, offer to sell, or offer in return for a donation, any ticket that is not numbered and that does not correspond to a specific seat for admission to either of the following:
- a. A live entertainment performance that is not exempted under division (d) of this section, that is held in a restricted entertainment area, and for which more than 8,000 tickets are offered to the public;
 - b. A concert that is not exempted under division (d) of this section and for which more than 3,000 tickets are offered to the public.
- (2) No person shall advertise any live entertainment performance as described in division (b)(1)a. of this section or any concert as described in division (b)(1)b. of this section, unless the advertisement contains the words "Reserved Seats Only."
- (c) Unless exempted by division (d)(1) of this section, no person who owns or operates any restricted entertainment area shall fail to open, maintain and properly staff at least the number of entrances designated under division (e) of this section for a minimum of 90 minutes prior to the scheduled start of any live entertainment performance that is held in the restricted entertainment area and for which more than 3,000 tickets are sold, offered for sale or offered in return for a donation.
- (d) (1) A live entertainment performance, other than a concert, is exempted from the provisions of divisions (b) and (c) of this section if both of the following apply:
- a. The restricted entertainment area in which the performance is held has at least eight entrances or, if both entrances and separate admission turnstiles or similar devices are used, has at least eight turnstiles or similar devices.
 - b. The eight entrances or, if applicable, the eight turnstiles or similar devices, are opened, maintained and properly staffed at least one hour prior to the scheduled start of the performance.
- (2) a. The officer responsible for public safety in the municipality may, upon application of the sponsor of a concert covered by division (b) of this section, exempt the concert from the provisions of that division if such officer finds that the health, safety and welfare of the participants and spectators would not be substantially affected by failure to comply with the provisions of that division. In determining whether to grant an exemption, the officer shall consider the following factors:
1. The size and design of the facility in which the concert is scheduled;
 2. The size, age and anticipated conduct of the crowd expected to attend the concert;
 3. The ability of the sponsor to manage and control the expected crowd.
- If the sponsor of any concert desires to obtain an exemption under this division, the sponsor shall apply to the appropriate official on a form prescribed by that official. The official shall issue an order that grants or denies the exemption within five days after receipt of the application. The sponsor may appeal any order that denies an exemption to the court of common pleas of the county in which the facility is located.
- b. If an official grants an exemption under division (d)(2)a. of this section, the official shall designate an on-duty law enforcement officer to be present at the concert. The designated officer has authority to issue orders to all security personnel at the concert to protect the health, safety and welfare of the participants and spectators.
- (3) Notwithstanding division (d)(2) of this section, in the case of a concert held in a facility located on the campus of an educational institution covered by Ohio R.C. 3345.04, a state university law

enforcement officer appointed pursuant to Ohio R.C. 3345.04 and 3345.21 shall do both of the following:

- a. Exercise the authority to grant exemptions provided by division (d)(2)a. of this section in lieu of an official designated in that division;
 - b. If the officer grants an exemption under division (d)(3)a. of this section, designate an on-duty state university law enforcement officer to be present at the concert. The designated officer has authority to issue orders to all security personnel at the concert to protect the health, safety and welfare of the participants and spectators.
- (e) (1) Unless a live entertainment performance is exempted by division (d)(1) of this section, the officer responsible for public safety within the municipality shall designate, for purposes of division (c) of this section, the minimum number of entrances required to be opened, maintained and staffed at each live entertainment performance so as to permit crowd control and reduce congestion at the entrances. The designation shall be based on such factors as the size and nature of the crowd expected to attend the live entertainment performance, the length of time prior to the live entertainment performance that crowds are expected to congregate at the entrances and the amount of security provided at the restricted entertainment area.
- (2) Notwithstanding division (e)(1) of this section, a state university law enforcement officer appointed pursuant to Ohio R.C. 3345.04 and 3345.21 shall designate the number of entrances required to be opened, maintained and staffed in the case of a live entertainment performance that is held at a restricted entertainment area located on the campus of an educational institution covered by Ohio R.C. 3345.04.
- (f) No person shall enter into any contract for a live entertainment performance that does not permit or require compliance with this section.
- (g) (1) This section does not apply to a live entertainment performance held in a restricted entertainment area if one admission ticket entitles the holder to view or participate in three or more different games, rides, activities or live entertainment performances occurring simultaneously at different sites within the restricted entertainment area and if the initial admittance entrance to the restricted entertainment area, for which the ticket is required, is separate from the entrance to any specific live entertainment performance and an additional ticket is not required for admission to the particular live entertainment performance.
- (2) This section does not apply to a symphony orchestra performance, a ballet performance, horse races, dances or fairs.
- (h) This section does not prohibit the council from imposing additional requirements, not in conflict with the section, for the promotion or holding of live entertainment performances.
- (i) Whoever violates division (b), (c) or (f) of this section is guilty of a misdemeanor of the first degree. If any individual suffers physical harm to his or her person as a result of a violation of this section, the sentencing court shall consider this factor in favor of imposing a term of imprisonment upon the offender.

(ORC 2917.40)

636.19. Hazing.

(a) As used in this section:

(1) "Hazing" means doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person, including coercing another to consume alcohol or a drug of abuse, as defined in Ohio R.C. 3719.011.

(2) "Organization" includes a national or international organization with which a fraternity or sorority is affiliated.

(b) (1) No person shall recklessly participate in the hazing of another.

~~(2) No administrator, employee, or faculty member of any primary, secondary, or post-secondary school or of any other educational institution, public or private, shall recklessly permit the hazing of any person. No administrator, employee, faculty member, teacher, consultant, alumnus, or volunteer of any organization, including any primary, secondary, or post-secondary school or any other educational institution, public or private, shall recklessly permit the hazing of any person associated with the organization.~~

(c) Whoever violates this section is guilty of hazing, a misdemeanor of the ~~fourth~~ second degree.

(ORC 2903.31)

636.20. Illegal distribution of cigarettes or other tobacco products; transaction scans.

(a) *Illegal distribution of cigarettes or other tobacco products.*

(1) As used in this section:

a. "Child" has the same meaning as in Ohio R.C. 2151.011.

b. "Cigarette" includes clove cigarettes and hand-rolled cigarettes.

c. "Distribute" means to furnish, give, or provide cigarettes, other tobacco products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, or papers used to roll cigarettes.

d. "Proof of age" means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under Ohio R.C. 4507.50 to 4507.52 that shows that a person is 18 years of age or older.

e. "Vending machine" has the same meaning as "Coin Machine" in Ohio R.C. 2913.01.

~~(2) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, or any papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, or papers used to roll cigarettes, and no other person shall do any of the following:~~

~~a. Give, sell, or otherwise distribute cigarettes, other tobacco products, or papers used to roll cigarettes to any person under 21 years of age;~~

~~b. Give away, sell, or distribute cigarettes, other tobacco products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a legibly printed sign in letters at least one-half inch high stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, or papers used to roll cigarettes to a person under 21 years of age is prohibited by law;~~

~~c. Knowingly furnish any false information regarding the name, age, or other identification of any person under 21 years of age with purpose to obtain cigarettes, other tobacco products, or papers used to roll cigarettes for that person;~~

~~d. Manufacture, sell, or distribute in this state any pack or other container of cigarettes containing fewer than 20 cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco;~~

~~e. Sell cigarettes in a smaller quantity than that placed in the pack or other container by the manufacturer.~~

- ~~(3) No person shall sell or offer to sell cigarettes or other tobacco products by or from a vending machine except in the following locations:~~
- ~~a. An area within a factory, business, office, or other place not open to the general public;~~
 - ~~b. An area to which persons under 21 years of age are not generally permitted access;~~
 - ~~c. Any other place not identified in division (a)(3)a. or (a)(3)b. of this section, upon all of the following conditions:~~
 - ~~1. The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes and other tobacco product purchases from the vending machine will be readily observed by the person who owns or operates the place, or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.~~
 - ~~2. The vending machine is inaccessible to the public when the place is closed.~~
 - ~~3. A clearly visible notice is posted in the area where the vending machine is located that states the following in letters that are legibly printed and at least one-half inch high:
"It is illegal for any person under the age of 21 to purchase tobacco or alternative nicotine products."~~
- ~~(4) The following are affirmative defenses to a charge under division (a)(2)a. of this section:~~
- ~~a. The person under 21 years of age was accompanied by a parent, spouse who is 21 years of age or older, or legal guardian of the child.~~
 - ~~b. The person who gave, sold, or distributed cigarettes, other tobacco products, or papers used to roll cigarettes to a child under division (a)(2)a. of this section is a parent, spouse who is 18 years of age or older, or legal guardian of the person under 21 years of age.~~
- ~~(5) It is not a violation of division (a)(2)a. or (a)(2)b. of this section for a person to give or otherwise distribute to a person under 21 years of age cigarettes, other tobacco products, or papers used to roll cigarettes while the person under 21 years of age is participating in a research protocol if all of the following apply:~~
- ~~a. The parent, guardian, or legal custodian of the person under 21 years of age has consented in writing to the person under 21 years of age participating in the research protocol.~~
 - ~~b. An institutional human subjects protection review board, or an equivalent entity, has approved of the research protocol.~~
 - ~~c. The person under 21 years of age is participating in the research protocol at the facility or location specified in the research protocol.~~
- ~~(6) a. Whoever violates division (a)(2)a., (a)(2)b., (a)(2)d. or (a)(2)e. or (a)(3) of this section is guilty of illegal distribution of cigarettes or other tobacco products, a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of division (a)(2)a., (a)(2)b., (a)(2)d., (a)(2)e. or (a)(3) of this section or a substantially equivalent state law or municipal ordinance, illegal distribution of cigarettes or other tobacco products is a misdemeanor of the third degree.~~
- ~~b. Whoever violates division (a)(2)c. of this section is guilty of permitting children to use cigarettes or other tobacco products, a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of division (a)(2)c. or a substantially equivalent state law or municipal ordinance, permitting children to use cigarettes or other tobacco products is a misdemeanor of the third degree.~~

~~(7) Any cigarettes, other tobacco products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a child in violation of this division (a) and that are used, possessed, purchased, or received by a child in violation of Ohio R.C. 2151.87 are subject to seizure and~~

“Age verification” means a service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes) that compares information available from a commercially available database, or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is twenty-one years of age or older.

“Alternative nicotine product” means, subject to division (A)(2)(b) of this section, an electronic smoking device, vapor product, or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving, or inhaling. “Alternative nicotine product” does not include any of the following:

- (i) Any cigarette or other tobacco product;
- (ii) Any product that is a “drug” as that term is defined in 21 U.S.C. 321(g)(1);
- (iii) Any product that is a “device” as that term is defined in 21 U.S.C. 321(h);
- (iv) Any product that is a “combination product” as described in 21 U.S.C. 353(g).

“Cigarette” includes clove cigarettes and hand-rolled cigarettes.

“Distribute” means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.

“Electronic smoking device” means any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device including an electronic cigarette, electronic cigar, electronic hookah, vaping pen, or electronic pipe. “Electronic smoking device” includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. “Electronic smoking device” does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).

“Proof of age” means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under Ohio R.C. 4507.50 to 4507.52 that shows that a person is eighteen years of age or older.

“Tobacco product” means any product that is made or derived from tobacco or that contains any form of nicotine, if it is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. “Tobacco product” also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. “Tobacco product” does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).

“Vapor product” means a product, other than a cigarette or other tobacco product as defined in Ohio R.C. ch. 5743, that contains or is made or derived from nicotine and that is intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. “Vapor product” includes any component, part, or additive that is intended for use in an electronic smoking device, a mechanical heating element, battery, or electronic circuit and is used to deliver the product. “Vapor product” does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g). “Vapor product” includes any product containing nicotine, regardless of concentration.

“Vending machine” has the same meaning as “coin machine” in Ohio R.C. 2913.01.

(2) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, and no other person shall do any of the following:

- a. Give, sell, or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any person underb. twenty-one years of age;
- b. Give away, sell, or distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a legibly printed sign in letters at least one-half inch high stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under twenty-one years of age is prohibited by law;
- c. Knowingly furnish any false information regarding the name, age, or other identification of any person under twenty-one years of age with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that person;
- d. Manufacture, sell, or distribute in this state any pack or other container of cigarettes containing fewer than twenty cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco;
- e. Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;
- f. Give, sell, or otherwise distribute alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes over the internet or through another remote method without age verification.

(3) No person shall sell or offer to sell cigarettes, other tobacco products, or alternative nicotine products by or from a vending machine, except in the following locations:

- a. An area within a factory, business, office, or other place not open to the general public;
- b. An area to which persons under twenty-one years of age are not generally permitted access;
- c. Any other place not identified in division (a)(3)a. or b. of this section, upon all of the following conditions:
 - (i) The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes, other tobacco product, and alternative nicotine product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.
 - (ii) The vending machine is inaccessible to the public when the place is closed.
 - (ii) A clearly visible notice is posted in the area where the vending machine is located that states the following in letters that are legibly printed and at least one-half inch high:

“It is illegal for any person under the age of 21 to purchase tobacco or alternative nicotine products.”

(4) The following are affirmative defenses to a charge under division (2)a. of this section:

- a. The person under twenty-one years of age was accompanied by a parent, spouse who is twenty-one years of age or older, or legal guardian of the person under twenty-one years of age.

b. The person who gave, sold, or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under twenty-one years of age under division (B)(1) of this section is a parent, spouse who is twenty-one years of age or older, or legal guardian of the person under twenty-one years of age.

(5) It is not a violation of division (2)a. or b. of this section for a person to give or otherwise distribute to a person under twenty-one years of age cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes while the person under twenty-one years of age is participating in a research protocol if all of the following apply:

a. The parent, guardian, or legal custodian of the person under twenty-one years of age has consented in writing to the person under twenty-one years of age participating in the research protocol.

b. An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol.

c. The person under twenty-one years of age is participating in the research protocol at the facility or location specified in the research protocol.

(6)a. Whoever violates division (a)(2)a. b. d, e., f. or (3) of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of division (a)(2)a. b. d, e., f. or (3) of this section, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

(2) Whoever violates division (a)(2)(c of this section is guilty of permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of division (a)(2)c. of this section, permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

(7) Any cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a person under twenty-one years of age in violation of this section and that are used, possessed, purchased, or received by a person under twenty-one years of age in violation of Ohio R.C. 2151.87 are subject to seizure and forfeiture as contraband under Ohio R.C. ch. 2981.

(b) Tobacco product transaction scan.

(1) As used in this division and division (c) of this section:

a. "Card holder" means any person who presents a driver's or commercial driver's license or an identification card to a seller, or an agent or employee of a seller, to purchase or receive cigarettes, ~~or other tobacco products, or alternative nicotine products~~ from a seller, agent, or employee.

b. "Identification card" means an identification card issued under Ohio R.C. 4507.50 to 4507.52.

c. "Seller" means a seller of cigarettes or other tobacco products and includes any person whose gift of or other distribution of cigarettes, ~~or other tobacco products, or alternative nicotine products~~ is subject to the prohibitions of division (a) of this section.

d. "Transaction scan" means the process by which a seller or an agent or employee of a seller checks, by means of a transaction scan device, the validity of a driver's or commercial driver's license or an identification card that is presented as a condition for purchasing or receiving cigarettes, ~~or other tobacco products, or alternative nicotine products.~~

e. "Transaction scan device" means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the

information encoded on the magnetic strip or bar code of a driver's or commercial driver's license or an identification card.

- (2) a. A seller or an agent or employee of a seller may perform a transaction scan by means of a transaction scan device to check the validity of a driver's or commercial driver's license or identification card presented by a card holder as a condition for selling, giving away, or otherwise distributing to the card holder cigarettes, ~~or~~ other tobacco products, or alternative nicotine products.
- b. If the information deciphered by the transaction scan performed under division (b)(2)a. of this section fails to match the information printed on the driver's or commercial driver's license or identification card presented by the card holder, or if the transaction scan indicates that the information so printed is false or fraudulent, neither the seller nor any agent or employee of the seller shall sell, give away, or otherwise distribute any cigarettes, ~~or~~ other tobacco products, or alternative nicotine products to the card holder.
- c. Division (b)(2)a. of this section does not preclude a seller or an agent or employee of a seller from using a transaction scan device to check the validity of a document other than a driver's or commercial driver's license or identification card, if the document includes a bar code or magnetic strip that may be scanned by the device, as a condition for selling, giving away, or otherwise distributing cigarettes, ~~or~~ other tobacco products, or alternative nicotine products to the person presenting the document.
- (3) Rules adopted by the registrar of motor vehicles under Ohio R.C. 4301.61(C) apply to the use of transaction scan devices for purposes of this division (b) and division (c) of this section.
- (4) a. No seller or agent or employee of a seller shall electronically or mechanically record or maintain any information derived from a transaction scan, except for the following:
1. The name and date of birth of the person listed on the driver's or commercial driver's license or identification card presented by the card holder;
 2. The expiration date and identification number of the driver's or commercial driver's license or identification card presented by the card holder.
- b. No seller or agent or employee of a seller shall use the information that is derived from a transaction scan or that is permitted to be recorded and maintained under division (b)(4)a. of this section, except for purposes of division (c) of this section.
- c. No seller or agent or employee of a seller shall use a transaction scan device for a purpose other than the purpose specified in division (c)(2)a. of this section.
- d. No seller or agent or employee of a seller shall sell or otherwise disseminate the information derived from a transaction scan to any third party, including but not limited to selling or otherwise disseminating that information for any marketing, advertising, or promotional activities, but a seller or agent or employee of a seller may release that information pursuant to a court order or as specifically authorized by division (c) of this section or another section of these codified ordinances or the Ohio Revised Code.
- (5) Nothing in this division (b) or division (c) of this section relieves a seller or an agent or employee of a seller of any responsibility to comply with any other applicable local, state or federal laws or rules governing the sale, giving away, or other distribution of cigarettes, ~~or~~ other tobacco products, or alternative nicotine products.
- (6) Whoever violates division (b)(2)b. or (b)(4) of this section is guilty of engaging in an illegal tobacco product alternative nicotine product transaction scan, and the court may impose upon the offender a civil penalty of up to \$1,000.00 for each violation. The clerk of the court shall pay each collected civil penalty to the county treasurer for deposit into the county treasury.

(c) *Affirmative defenses.*

- (1) A seller or an agent or employee of a seller may not be found guilty of a charge of a violation of division (a) of this section in which the age of the purchaser or other recipient of cigarettes, ~~or~~

other tobacco products, or alternative nicotine products is an element of the alleged violation, if the seller, agent, or employee raises and proves as an affirmative defense that all of the following occurred:

- a. A card holder attempting to purchase or cigarettes, ~~or other tobacco products,~~ or alternative nicotine products presented a driver's or commercial driver's license or an identification card.
 - b. A transaction scan of the driver's or commercial driver's license or identification card that the card holder presented indicated that the license or card was valid.
 - c. The cigarettes, ~~or other tobacco products,~~ or alternative nicotine products were sold, given away, or otherwise distributed to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.
- (2) In determining whether a seller or an agent or employee of a seller has proven the affirmative defense provided by division (c)(1) of this section, the trier of fact in the action for the alleged violation of division (a) of this section shall consider any written policy that the seller has adopted and implemented and that is intended to prevent violations of division (a) of this section. For purposes of division (c)(1)c. of this section, the trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a seller or an agent or employee of a seller to exercise reasonable diligence to determine, and that the use of a transaction scan device does not excuse a seller or an agent or employee of a seller from exercising reasonable diligence to determine, the following:
- a. Whether a person to whom the seller or agent or employee of a seller sells, gives away, or otherwise distributes cigarettes, ~~or other tobacco products,~~ or alternative nicotine products is 21 years of age or older;
 - b. Whether the description and picture appearing on the driver's or commercial driver's license or identification card presented by a card holder is that of the card holder.
- (3) In any criminal action in which the affirmative defense provided by division (c)(1) of this section is raised, the registrar of motor vehicles or a deputy registrar who issued an identification card under Ohio R.C. 4507.50 to 4507.52 shall be permitted to submit certified copies of the records of that issuance in lieu of the testimony of the personnel of or contractors with the bureau of motor vehicles in the action.

(d) *Shipment of tobacco products.*

- (1) As used in this division (d):
- a. "Authorized recipient of tobacco products" means a person who is:
 1. Licensed as a cigarette wholesale dealer under R.C. § 5743.15;
 2. Licensed as a retail dealer as long as the person purchases cigarettes with the appropriate tax stamp affixed;
 3. An export warehouse proprietor as defined in section 5702 of the Internal Revenue Code;
 4. An operator of a customs bonded warehouse under 19 U.S.C. § 1311 or 19 U.S.C. § 1555;
 5. An officer, employee, or agent of the federal government or of this state acting in the person's official capacity;
 6. A department, agency, instrumentality, or political subdivision of the federal government or of this state;
 7. A person having a consent for consumer shipment issued by the tax commissioner under R.C. § 5743.71.
 - b. "Motor carrier." Has the same meaning as in R.C. § 4923.01.
- (2) The purpose of this division (d) is to prevent the sale of cigarettes to minors and to ensure compliance with the master settlement agreement, as defined in Ohio R.C. 1346.01.

- (3) a. No person shall cause to be shipped any cigarettes to any person in this Municipality other than an authorized recipient of tobacco products.
- b. No motor carrier or other person shall knowingly transport cigarettes to any person in this municipality that the carrier or other person reasonably believes is not an authorized recipient of tobacco products. If cigarettes are transported to a home or residence, it shall be presumed that the motor carrier or other person knew that the person to whom the cigarettes were delivered was not an authorized recipient of tobacco products.
- (4) No person engaged in the business of selling cigarettes who ships or causes to be shipped cigarettes to any person in this municipality in any container or wrapping other than the original container or wrapping of the cigarettes shall fail to plainly and visibly mark the exterior of the container or wrapping in which the cigarettes are shipped with the words "cigarettes".
- (5) A court shall impose a fine of up to one thousand dollars (\$1,000.00) for each violation of division (d)(3)a., (d)(3)b. or (d)(4) of this section.

(ORC 2927.02, 2927.021, 2927.022, 2927.023)

642.01. Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Anhydrous ammonia. A compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the manner described below. Anhydrous ammonia is one part nitrogen to three parts hydrogen (NH₃). Anhydrous ammonia by weight is 14 parts nitrogen to three parts hydrogen, which is approximately 82 percent nitrogen to 18 percent hydrogen.

Assistance dog has the same meaning as in Ohio R.C. 955.011.

Cable television service. Any services provided by or through the facilities of any cable television system or other similar closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.

Coin machine. Any mechanical or electronic device designed to do both of the following:

- (1) Receive a coin or bill, or token made for that purpose;
- (2) In return for the insertion or deposit of a coin, bill, or token, automatically dispense property, provide a service, or grant a license.

Computer. An electronic device that performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses. "Computer" includes, but is not limited to, all input, output, processing, storage, computer program, or communication facilities that are connected, or related, in a computer system or network to an electronic device of that nature.

Computer contaminant. Means a computer program that is designed to modify, damage, destroy, disable, deny or degrade access to, allow unauthorized access to, functionally impair, record, or transmit information within a computer, computer system, or computer network without the express or implied consent of the owner or other person authorized to give consent and that is of a type or kind described in divisions (1) through (4) of this definition or of a type or kind similar to a type or kind described in divisions (1) through (4) of this definition:

- (1) A group of computer programs commonly known as "viruses" and "worms" that are self-replicating or self-propagating and that are designed to contaminate other computer programs, compromise computer security, consume computer resources, modify, destroy, record, or transmit data, or disrupt the normal operation of the computer, computer system, or computer network;

- (2) A group of computer programs commonly known as "Trojans" or "Trojan horses" that are not self-replicating or self-propagating and that are designed to compromise computer security, consume computer resources, modify, destroy, record, or transmit data, or disrupt the normal operation of the computer, computer system, or computer network;
- (3) A group of computer programs commonly known as "zombies" that are designed to use a computer without the knowledge and consent of the owner, or other person authorized to give consent, and that are designed to send large quantities of data to a targeted computer network for the purpose of degrading the targeted computer's or network's performance, or denying access through the network to the targeted computer or network, resulting in what is commonly known as "denial of service" or "distributed denial of service" attacks;
- (4) A group of computer programs commonly known as "trap doors", "back doors", or "root kits" that are designed to bypass standard authentication software and that are designed to allow access or use of a computer without the knowledge or consent of the owner, or other person authorized to give consent.

Computer hacking.

- (1) "Computer hacking" means any of the following:
 - a. Gaining access or attempting to gain access to all or part of a computer, computer system, or a computer network without express or implied authorization with the intent to defraud or with intent to commit a crime;
 - b. Misusing computer or network services including but not limited to mail transfer programs, file transfer programs, proxy servers, and web servers by performing functions not authorized by the owner of the computer, computer system, or computer network or other person authorized to give consent. As used in this division, "misuse of computer and network services" includes but is not limited to the unauthorized use of any of the following:
 - 1. Mail transfer programs to send mail to persons other than the authorized users of that computer or computer network;
 - 2. File transfer program services or proxy servers to access other computers, computer systems, or computer networks;
 - 3. Web servers to redirect users to other web pages or web servers.
 - c. 1. Subject to division (1)c.2. of this definition, using a group of computer programs commonly known as "port scanners" or "probes" to intentionally access any computer, computer system, or computer network without the permission of the owner of the computer, computer system, or computer network or other person authorized to give consent. The group of computer programs referred to in this division includes but is not limited to those computer programs that use a computer network to access a computer, computer system, or another computer network to determine any of the following: the presence or types of computers or computer systems on a network; the computer network's facilities and capabilities; the availability of computer or network services; the presence or versions of computer software including but not limited to operating systems, computer services, or computer contaminants; the presence of a known computer software deficiency that can be used to gain unauthorized access to a computer, computer system, or computer network; or any other information about a computer, computer system, or computer network not necessary for the normal and lawful operation of the computer initiating the access.
 - 2. The group of computer programs referred to in division (1)c.1. of this definition does not include standard computer software used for the normal operation, administration, management, and test of a computer, computer system, or computer network including but not limited to domain name services, mail transfer services, and other operating system services, computer programs commonly called "ping", "tcpdump", and "traceroute" and other network monitoring and management computer software, and

computer programs commonly known as "nslookup" and "whois" and other systems administration computer software.

- d. The intentional use of a computer, computer system, or a computer network in a manner that exceeds any right or permission granted by the owner of the computer, computer system, or computer network or other person authorized to give consent.

(2) "Computer hacking" does not include the introduction of a computer contaminant, as defined in this section, into a computer, computer system, computer program, or computer network.

Computer network. A set of related and remotely-connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.

Computer program. An ordered set of data representing coded instructions or statements that, when executed by a computer, causes the computer to process data.

Computer services. Includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use, or data that is contained within a computer system or computer network.

Computer software. Computer programs, procedures, and other documentation associated with the operation of a computer system.

Computer system. A computer and related devices, whether connected or unconnected, including, but not limited to, data input, output, and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.

Counterfeit telecommunications device. A telecommunications device that, alone or with another telecommunications device, has been altered, constructed, manufactured, or programmed to acquire, intercept, receive, or otherwise facilitate the use of a telecommunications service or information service without the authority or consent of the provider of the telecommunications service or information service. The phrase includes but is not limited to a clone telephone, clone microchip, tumbler telephone, or tumbler microchip; a wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use of telecommunications service or information service without immediate detection; or a device, equipment, hardware, or software designed for, or capable of, altering or changing the electronic serial number in a wireless telephone.

Create a substantial risk of serious physical harm to any person. Includes the creation of a substantial risk of serious physical harm to any emergency personnel.

Credit card. Includes, but is not limited to, a card, code, device, or other means of access to a customer's account for the purpose of obtaining money, property, labor, or services on credit, or for initiating an electronic fund transfer at a point-of-sale terminal, an automated teller machine, or a cash dispensing machine. It also includes a county procurement card issued under Ohio R.C. 301.29.

Dangerous drug. Has the same meaning as in Ohio R.C. 4729.01.

Data. A representation of information, knowledge, facts, concepts, or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system, or computer network.

Deception. To knowingly deceive another or cause another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.

Defraud. To knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.

Deprive. To do any of the following:

- (1) To withhold property of another permanently, or for a period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;
- (2) To dispose of property so as to make it unlikely that the owner will recover it;
- (3) To accept, use, or appropriate money, property, or services, with purpose not to give proper consideration in return for the money, property, or services, and without reasonable justification or excuse for not giving proper consideration.

Disabled adult. A person who is 18 years of age or older and has some impairment of body or mind that makes the person unable to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least 12 months without any present indication of recovery from the impairment, or who is 18 years of age or older and has been certified as permanently and totally disabled by an agency of this state or the United States that has the function of so classifying persons.

Drug abuse offense. Has the same meaning as in Ohio R.C. 2925.01.

Elderly person. A person who is 65 years of age or older.

Electronic fund transfer. Has the same meaning as in 92 Stat. 3728, 15 U.S.C. 1693a, as amended.

Emergency personnel. Means any of the following persons:

- (1) A peace officer, as defined in Ohio R.C. 2935.01;
- (2) A member of a fire department or other firefighting agency of a municipal corporation, township, township fire district, joint fire district, other political subdivision, or combination of political subdivisions;
- (3) A member of a private fire company, as defined in Ohio R.C. 9.60, or a volunteer firefighter;
- (4) A member of a joint ambulance district or joint emergency medical services district;
- (5) An emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance operator, or other member of an emergency medical service that is owned or operated by a political subdivision or a private entity;
- (6) The state fire marshal, the chief deputy state fire marshal, or an assistant state fire marshal;
- (7) A fire prevention officer of a political subdivision or an arson, fire, or similar investigator of a political subdivision.

Federally-licensed firearms dealer. Has the same meaning as in Ohio R.C. 5502.63.

Firearm and dangerous ordnance. Have the same meaning as in Ohio R.C. 2923.11.

Forge. To fabricate or create, in whole or in part and by any means, any spurious writing, or to make, execute, alter, complete, reproduce, or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.

Gain access. To approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network, or any cable service or cable system both as defined in Ohio R.C. 2913.04.

Information service.

- (1) Subject to division (2) of this definition, the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, including but not limited to electronic publishing.
- (2) "Information service" does not include any use of a capability of a type described in division (1) of this definition for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

Internet. Has the same meaning as in Ohio R.C. 341.42.

Motor vehicle. Has the same meaning as in Ohio R.C. 4501.01.

Occupied structure. Means any house, building, outbuilding, watercraft, aircraft, railroad car, truck, trailer, tent, or other structure, vehicle, or shelter, or any portion thereof, to which any of the following applies:

- (1) It is maintained as a permanent or temporary dwelling, even though it is temporarily unoccupied and whether or not any person is actually present;
- (2) At the time, it is occupied as the permanent or temporary habitation of any person, whether or not any person is actually present;
- (3) At the time, it is specially adapted for the overnight accommodation of any person, whether or not any person is actually present;
- (4) At the time, any person is present or likely to be present in it.

Owner. Unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

Police dog or horse has the same meaning as in Ohio R.C. 2921.321.

Political subdivision. Has the same meaning as in Ohio R.C. 2744.01.

Rented property. Personal property in which the right of possession and use of the property is for a short and possibly indeterminate term in return for consideration; the rentee generally controls the duration of possession of the property within any applicable minimum or maximum term; and the amount of consideration is generally determined by the duration of possession of the property.

Services. Includes labor, personal services, professional services, rental services, public utility services including wireless service as defined in Ohio R.C. ~~5507.04~~ 128.01(F)(1), common carrier services, and food, drink, transportation, entertainment, and cable television services and, for purposes of Ohio R.C. 2913.04 or any substantially equivalent municipal ordinance, includes cable services as defined in that section.

Slug. An object that, by virtue of its size, shape, composition, or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill, or token made for that purpose.

State. Has the same meaning as in Ohio R.C. 2744.01.

Telecommunication. The origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence or intelligence of any nature over any communications system by any method, including but not limited to a fiber optic, electronic, magnetic, optical, digital or analog method.

Telecommunications device. Any instrument, equipment, machine, or other device that facilitates telecommunication, including but not limited to a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.

Telecommunications service. The providing, allowing, facilitating, or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.

Theft offense. Any of the following:

- (1) A violation of Ohio R.C. 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42, 2913.43, 2913.44, 2913.45, 2913.47, 2913.48, former Ohio R.C. 2913.47 or 2913.48, Ohio R.C. 2913.51, 2915.05, or 2921.41, or Ohio R.C. 4737.04(B)(2);

- (2) A violation of an existing or former municipal ordinance or law of this or any other state or of the United States substantially equivalent to any section listed in division (1) of this definition, or a violation of Ohio R.C. 2913.41, 2913.81 or 2915.06 as it existed prior to July 1, 1996;
- (3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit, or fraud;
- (4) A conspiracy to commit, attempt to commit, or complicity in committing any offense under division (1), (2), or (3) of this definition.

Utter. To issue, publish, transfer, use, put or send into circulation, deliver, or display.

Writing. Any computer software, document, letter, memorandum, note, paper, plate, data, film, or other thing having in or upon it any written, type-written, or printed matter, and any token, stamp, seal, credit card, badge, trademark, label, or other symbol of value, right, privilege, license, or identification.

(ORC 2909.01, 2913.01)

642.02. Theft.

- (a) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:
 - (1) Without the consent of the owner or person authorized to give consent;
 - (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
 - (3) By deception;
 - (4) By threat;
 - (5) By intimidation.
- (b) Whoever violates this section is guilty of theft. Except as otherwise provided in this division, a violation of this section is petty theft, a misdemeanor of the first degree. If any of the following criteria are met, then a violation of this section is a felony to be prosecuted under appropriate state law:
 - (1) If the value of the property or services is \$1,000.00 or more;
 - (2) If the property stolen is any of the property listed in Ohio R.C. 2913.71;
 - (3) If the victim of the offense is an elderly person or disabled adult, active duty service member, or spouse of an active duty service member;
 - (4) If the property stolen is a firearm or dangerous ordnance;
 - (5) If the property stolen is a motor vehicle;
 - (6) If the property stolen is any dangerous drug, or if the offender previously has been convicted of a felony drug abuse offense;
 - (7) If the property stolen is a police dog or horse or an assistance dog and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog; or
 - (8) If the property stolen is anhydrous ammonia.
- (c) In addition to the penalties described in division (b) of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:

- (1) Unless division (c)(2) of this section applies, suspend for not more than six months the offenders driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;
 - (2) If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to division (c)(1) of this section, or any other substantially equivalent state or local law, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in Ohio R.C. 4510.02(A)(7), provided that the suspension shall be at least six months;
 - (3) The court, in lieu of suspending the offender's driver's or commercial driver's license, probationary driver's license, temporary instruction permit, or nonresident operating privilege pursuant to division (c)(1) or (c)(2) of this section, instead may require the offender to perform community service for a number of hours determined by the court.
- (d) In addition to the penalties described in division (b) of this section, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to R.C. § 2929.18 or R.C. § 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of R. C. § 2913.72.
- (e) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under division (c) of this section may grant the offender limited driving privileges during the period of the suspension in accordance with Ohio R.C. Chapter 4510.

(ORC 2913.02)

642.05. Unauthorized use of property.

- (a) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent.
- (b) No person, in any manner and by any means, including but not limited to computer hacking, shall knowingly gain access to, attempt to gain access to, or cause access to be gained to any computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service without the consent of, or beyond the scope of the express or implied consent of, the owner of the computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service or other person authorized to give consent.
- (c) Except as permitted under Ohio R.C. 5503.101, no person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the law enforcement automated database system created pursuant to Ohio R.C. 5503.10 without the consent of, or beyond the scope of the express or implied consent of, the chair of the law enforcement automated data system steering committee.
- (d) No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the Ohio law enforcement gateway established and operated pursuant to Ohio R.C. 109.57(C)(1) without the consent of, or beyond the scope of the express or implied consent of, the superintendent of the bureau of criminal identification and investigation.
- (e) The affirmative defenses contained in Ohio R.C. 2913.03(C) are affirmative defenses to a charge under this section.
- (f) Whoever violates division (a) of this section is guilty of unauthorized use of property. Except as otherwise provided in this division, unauthorized use of property is a misdemeanor of the fourth degree.

Codifier: Added material is underlined, deleted material is struck through.

- (1) If unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, unauthorized use of property is whichever of the following is applicable:
- a. Except as otherwise provided below, unauthorized use of property is a misdemeanor of the first degree.
 - b. If the value of the property or services or the loss to the victim is \$1,000.00 or more, it is a felony to be prosecuted under appropriate state law.
- (2) If the victim of the offense is an elderly person or disabled adult, unauthorized use of property is a felony to be prosecuted under appropriate state law.
- (g) Whoever violates division (b) of this section is guilty of unauthorized use of computer, cable, or telecommunication property, a felony to be prosecuted under appropriate state law.
- (h) Whoever violates division (c) of this section is guilty of unauthorized use of the law enforcement automated database system, a felony to be prosecuted under appropriate state law.
- (i) Whoever violates division (d) of this section is guilty of unauthorized use of the Ohio law enforcement gateway, a felony to be prosecuted under appropriate state law.
- (j) As used in this section:
- (1) "Cable operator" means any person or group of persons that does either of the following:
 - a. Provides cable service over a cable system and directly through one or more affiliates owns a significant interest in that cable system;
 - b. Otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.
 - (2) "Cable service" means any of the following:
 - a. The one-way transmission to subscribers of video programming or of information that a cable operator makes available to all subscribers generally;
 - b. Subscriber interaction, if any, that is required for the selection or use of video programming or of information that a cable operator makes available to all subscribers generally, both as described in division (1)a. of this definition;
 - c. Any cable television service.
 - (3) "Cable system" means any facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community. "Cable system" does not include any of the following:
 - a. Any facility that serves only to retransmit the television signals of one or more television broadcast stations;
 - b. Any facility that serves subscribers without using any public right-of-way;
 - c. Any facility of a common carrier that, under 47 U.S.C. 522(7)(c), is excluded from the term "cable system" as defined in 47 U.S.C. 522(7);
 - d. Any open video system that complies with 47 U.S.C. 573;
 - e. Any facility of any electric utility used solely for operating its electric utility system.

(ORC 2913.04))

642.11. Criminal mischief.**(a) No person shall:**

(1) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with either of the following:

a. The property of another;

b. One's own residential real property with the purpose to decrease the value of or enjoyment of the residential real property, if both of the following apply:

i. The residential real property is subject to a mortgage.

ii. The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that real property. As used in this division, "pending" includes the time between judgment entry and confirmation of sale.

(2) With purpose to interfere with the use or enjoyment of property of another, employ a tear gas device, stink bomb, smoke generator, or other device releasing a substance that is harmful or offensive to persons exposed, or that tends to cause public alarm;

(3) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with a bench mark, triangulation station, boundary marker, or other survey station, monument, or marker;

(4) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;

(5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure, or personal property that is on that land;

(6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, knowingly do any of the following:

a. In any manner or by any means, including but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program;

b. Introduce a computer contaminant into a computer, computer system, computer network, computer software, or computer program.

(b) As used in this section, "safety device" means any fire extinguisher, fire hose, or fire axe, or any fire escape, emergency exit, or emergency escape equipment, or any life line, life-saving ring, life preserver, or life boat or raft, or any alarm, light, flare, signal, sign, or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal, or gate, or any first aid or survival equipment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property.

(c) Whoever violates this section is guilty of criminal mischief, and shall be punished as provided in division (c)(1) or (c)(2) of this section.

(1) Except as otherwise provided in this division, criminal mischief committed in violation of division (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this division, if the violation of division (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section creates a risk of physical harm to any person, criminal mischief committed

in violation of division (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section is a misdemeanor of the first degree. If the property involved in the violation of division (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft and if the violation creates any risk of physical harm to any person, or if the aircraft in question is an occupied aircraft, criminal mischief committed in violation of division (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section is a felony to be prosecuted under appropriate state law.

- (2) Except as otherwise provided in this division, criminal mischief committed in violation of division (a)(6) of this section is a misdemeanor of the first degree. If the value of the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (a)(6) of this section or the loss to the victim resulting from the violation is \$1,000.00 or more, or if the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (a)(6) is used or intended to be used in the operation of an aircraft and the violation creates any risk of physical harm to any person, or if the aircraft in question is an occupied aircraft, criminal mischief committed in violation of division (a)(6) of this section is a felony to be prosecuted under appropriate state law.

(ORC 2909.07)

642.12. Criminal trespass.

- (a) No person, without privilege to do so, shall do any of the following:
- (1) Knowingly enter or remain on the land or premises of another;
 - (2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes, or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;
 - (3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;
 - (4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either.
 - (5) Knowingly enter or remain on a critical infrastructure facility.
- (b) It is no defense to a charge under this section that the land or premises involved was owned, controlled, or in custody of a public agency.
- (c) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved, when the authorization was secured by deception.
- (d) (1) ~~Whoever violates division (a) of this section is guilty of criminal trespass, a misdemeanor of the fourth degree.~~ Criminal trespass in violation of division (a)(1), (2), (3), or (4) of this section is a misdemeanor of the fourth degree. Criminal trespass in violation of division (a)(5) of this section is a misdemeanor of the first degree.
- (2) Notwithstanding Ohio R.C. 2929.28, if the person, in committing the violation of this section, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court shall impose a fine of two times the usual amount imposed for the violation.
 - (3) If an offender previously has been convicted of or pleaded guilty to two or more violations of this section, Ohio R.C. 2911.21 or a substantially equivalent municipal ordinance, and the offender, in committing each violation, used a snowmobile, off-highway motorcycle, or all-purpose vehicle,

the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration of that snowmobile or off-highway motorcycle or the certificate of registration and license plate of that all-purpose vehicle for not less than 60 days. In such a case, Ohio R.C. 4519.47 applies.

(e) Notwithstanding any provision of the Ohio Revised Code, if the offender, in committing the violation of this section, used an all-purpose vehicle, the Clerk of the court shall pay the fine imposed pursuant to this section to the state recreational vehicle fund created by Ohio R.C. 4519.11.

(f) As used in this section:

(1) "All-purpose vehicle," "off-highway motorcycle," and "snowmobile" have the same meaning as in Ohio R.C. 4519.01.

(2) "Critical infrastructure facility" means:

a. One of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with signs that are reasonably likely to come to the attention of potential intruders and that indicate entry is forbidden without site authorization:

(i) A petroleum or alumina refinery;

(ii) An electric generating facility, substation, switching station, electrical control center, or electric transmission and distribution lines and associated equipment;

(iii) A chemical, polymer, or rubber manufacturing facility;

(iv) A water intake structure, water treatment facility, waste water facility, drainage facility, water management facility, or any similar water or sewage treatment system and its water and sewage piping;

(v) A natural gas company facility or interstate natural gas pipeline, including a pipeline interconnection, a natural gas compressor station and associated facilities, city gate or town border station, metering station, above-ground piping, regulator station, valve site, delivery station, fabricated assembly, or any other part of a natural gas storage facility involved in the gathering, storage, transmission, or distribution of gas;

(vi) A telecommunications central switching office or remote switching facility or an equivalent network facility that serves a similar purpose;

(vii) Wireline or wireless telecommunications infrastructure, including telecommunications towers and telephone poles and lines, including fiber optic lines;

(viii) A port, trucking terminal, or other freight transportation facility;

(ix) A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;

(x) A transmission facility used by a federally licensed radio or television station;

(xi) A steel-making facility that uses an electric arc furnace to make steel;

(xii) A facility identified and regulated by the United States department of homeland security's chemical facility anti-terrorism standards program under 6 C.F.R. part 27;

(xiii) A dam that is regulated by the state or federal government;

(xiv) A crude oil or refined products storage and distribution facility, including valve sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline, or piping and truck loading or off-loading facility;

(xv) A video service network and broadband infrastructure, including associated buildings and facilities, video service headends, towers, utility poles, and utility lines such as fiber optic lines. As used in this division, "video service network" has the same meaning as in Ohio R.C.1332.21.

- (xvi) Any above-ground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, or other storage facility;
- (xvii) Any above-ground portion of a well, well pad, or production operation;
- (xviii) A laydown area or construction site for pipe and other equipment intended for use on an interstate or intrastate natural gas or crude oil pipeline;
- (xix) Any mining operation, including any processing equipment, batching operation, or support facility for that mining operation.
- b. With respect to a video service network or broadband or wireless telecommunications infrastructure, the above-ground portion of a facility installed in a public right-of-way on a utility pole or in a conduit;
- c. Any railroad property;
- d. An electronic asset of any of the following:
- (i) An electric light company that is a public utility under Ohio R.C. 4905.02;
- (ii) An electric cooperative, as defined in Ohio R.C. 4928.01;
- (iii) A municipal electric utility, as defined in Ohio R.C. 4928.01;
- (iv) A natural gas company that is a public utility under Ohio R.C. 4905.02;
- (v) A telephone company that is a public utility under Ohio R.C. 4905.02;
- (vi) A video service provider, including a cable operator, as those terms are defined in Ohio R.C. 1332.21.
- (3) "Electronic asset" includes, but is not limited to, the hardware, software, and data of a programmable electronic device; all communications, operations, and customer data networks; and the contents of those data networks.
- ~~(2)~~(4) "Land" or "premises" includes any land, building, structure, or place belonging to, controlled by, or in custody of another, and any separate enclosure or room, or portion thereof.
- (5) Production operation," "well," and "well pad" have the same meanings as in Ohio R.C. 1509.01.
- (g) Criminal trespass on a place of public amusement.
- (1) As used in this division (g), "place of public amusement" means a stadium, theater, or other facility, whether licensed or not, at which a live performance, sporting event, or other activity takes place for entertainment of the public and to which access is made available to the public, regardless of whether admission is charged.
- (2) No person, without privilege to do so, shall knowingly enter or remain on any restricted portion of a place of public amusement and, as a result of that conduct, interrupt or cause the delay of the live performance, sporting event, or other activity taking place at the place of public amusement after a printed written notice has been given as provided in division (g)(4)a. of this section that the general public is restricted from access to that restricted portion of the place of public amusement. A restricted portion of a place of public amusement may include, but is not limited to, a playing field, an athletic surface, or a stage located at the place of public amusement.
- (3) An owner or lessee of a place of public amusement, an agent of the owner or lessee, or a performer or participant at a place of public amusement may use reasonable force to restrain and remove a person from a restricted portion of the place of public amusement if the person enters or remains on the restricted portion of the place of public amusement and, as a result of that conduct, interrupts or causes the delay of the live performance, sporting event, or other activity taking place at the place of public amusement. This division does not provide immunity from criminal liability for any use of force beyond reasonable force by an owner or lessee of a place of public amusement, an agent of either the owner or lessee, or a performer or participant at a place of public amusement.

- (4) a. Notice has been given that the general public is restricted from access to a portion of a place of public amusement if a printed written notice of the restricted access has been conspicuously posted or exhibited at the entrance to that portion of the place of public amusement. If a printed written notice is posted or exhibited as described in this division regarding a portion of a place of public amusement, in addition to that posting or exhibition, notice that the general public is restricted from access to that portion of the place of public amusement also may be given, but is not required to be given, by either of the following means:
1. By notifying the person personally, either orally or in writing, that access to that portion of the place of public amusement is restricted;
 2. By broadcasting over the public address system of the place of public amusement an oral warning that access to that portion of the place of public amusement is restricted.
- b. If notice that the general public is restricted from access to a portion of a place of public amusement is provided by the posting or exhibition of a printed written notice as described in division (g)(4)a. of this section, the municipality, in a criminal prosecution for a violation of division (g)(2) of this section, is not required to prove that the defendant received actual notice that the general public is restricted from access to a portion of a place of public amusement.
- (5) a. Whoever violates division (g)(2) of this section is guilty of criminal trespass on a place of public amusement, a misdemeanor of the first degree.
- b. In addition to any jail term, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to division (g)(5)a. of this section, a court may require an offender who violates this section to perform not less than 30 and not more than 120 hours of supervised community service work.

(ORC 2911.21, 2911.23)

642.14. Passing bad checks.

(a) As used in this section:

- (1) "Check" includes any form of debit from a demand deposit account, including but not limited to any of the following:
 - a. A check, bill of exchange, draft, order of withdrawal, or similar negotiable or non-negotiable instrument;
 - b. An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check, or any form of automated clearing house transaction.
 - (2) "Issue a check" means causing any form of debit from a demand deposit account.
- (b) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored or knowing that a person has ordered or will order stop payment on the check or other negotiable instrument.
- (c) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored if either of the following occurs:
- (1) The drawer has no account with the drawee at the time of issue or the stated date, whichever is later.
 - (2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within 30 days after issue or the stated date, whichever is later, and the liability of the drawer, indorser, or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.

~~(d) For purposes of this section, a person who issues or transfers a check, bill of exchange, or other draft is presumed to have the purpose to defraud if the drawer fails to comply with Ohio R.C. 1349.16 by doing any of the following when opening a checking account intended for personal, family, or household purposes at a financial institution:~~

- ~~(1) Falsely stating that he or she has not been issued a valid driver's or commercial driver's license or identification card issued under Ohio R.C. 4507.50;~~
- ~~(2) Furnishing the license or card, or another identification document that contains false information;~~
- ~~(3) Making a false statement with respect to the drawer's current address or any additional relevant information reasonably required by the financial institution.~~

~~(e)~~(d) In determining the value of the payment for purposes of division (f) of this section, the court may aggregate all checks and other negotiable instruments that the offender issued or transferred or caused to be issued or transferred in violation of division (b) of this section within a period of 180 consecutive days.

(f) Whoever violates this section is guilty of passing bad checks. Except as otherwise provided in this division, passing bad checks is a misdemeanor of the first degree. If the check or checks or other negotiable instrument or instruments are issued or transferred to a single vendor or single other person for the payment of \$1,000.00 or more, or if the check or checks or other negotiable instrument or instruments are issued or transferred to multiple vendors or persons for the payment of \$1,500.00 or more, passing bad checks is a felony to be prosecuted under appropriate state law.

(ORC 2913.11)

642.145. Forging or selling forged identification cards.

(a) No person shall knowingly do either of the following:

- (1) Forge an identification card.
- (2) Sell or otherwise distribute a card that purports to be an identification card, knowing it was forged.

(b) As used in this section, "identification card" means a card that includes personal information or characteristics of an individual, a purpose of which is to establish the identity of the bearer described on the card, whether the words "identity," "identification," "identification card," or other similar words appear on the card.

(c) Whoever violates this section is guilty of forging identification cards or selling or distributing forged identification cards. Except as otherwise provided in this division, forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (a) of this section or a substantially equivalent state law or municipal ordinance, forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree and, in addition, the court shall impose upon the offender a fine not less than \$250.00.

(d) If the victim of a violation of of this section is an elderly person, then addition to any other penalty imposed for the offense, whoever violates this section shall be required to pay full restitution to the victim and to pay a fine of up to fifty thousand dollars. The clerk of court shall forward all fines collected under division (C)(2)(b) of this section to the county department of job and family services to be used for the reporting and investigation of elder abuse, neglect, and exploitation or for the provision or arrangement of protective services under Ohio R.C. 5101.61 to 5101.71.

(ORC 2913.31(B), (C)(2))

642.18. Tampering with records.

- (a) No person, knowing that he or she has no privilege to do so, and with purpose to defraud or knowing that he or she is facilitating a fraud, shall do any of the following:
- (1) Falsify, destroy, remove, conceal, alter, deface, or mutilate any writing, computer software, data, or record;
 - (2) Utter any writing or record, knowing it to have been tampered with as provided in division (a)(1) of this section.
- (b) Whoever violates this section is guilty of tampering with records.
- (1) Except as provided in division (b)(3) of this section, if the offense does not involve data or computer software, tampering with records is whichever of the following is applicable:
 - a. If division (b)(1)b. of this section does not apply, it is a misdemeanor of the first degree.
 - b. If the writing or record is a will unrevoked at the time of the offense, it is a felony to be prosecuted under appropriate state law.
 - (2) Except as provided in division (b)(3) of this section, if the offense involves a violation of division (a) of this section involving data or computer software, tampering with records is whichever of the following is applicable:
 - a. Except as otherwise provided in ~~division (b)(2)b.~~ of this section, it is a misdemeanor of the first degree;
 - b. If the writing or record is a will unrevoked at the time of the offense, it is a felony to be prosecuted under appropriate state law.
 - ~~b.c.~~ If the value of the data or computer software involved in the offense or the loss to the victim is \$1,000.00 or more or if the offense is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services and the value of the property or services or the loss to the victim is \$7,500.00 or more, it is a felony to be prosecuted under appropriate state law.
 - (3) If the writing, data, computer software, or record is kept by or belongs to a local, state, or federal governmental entity, it is a felony to be prosecuted under appropriate state law.

(ORC 2913.42)

642.19. Securing writings by deception.

- (a) No person, by deception, shall cause another to execute any writing that disposes of or encumbers property, or by which a pecuniary obligation is incurred.
- (b) Whoever violates this section is guilty of securing writings by deception. Except as otherwise provided in this division, securing writings by deception is a misdemeanor of the first degree. If the value of the property or the obligation involved is \$1,000.00 or more, securing writings by deception is a felony to be prosecuted under appropriate to state law.
- (c) If the victim of the offense is an elderly person, or disabled adult, active duty service member, or spouse of an active duty service member, securing writings by deception is a felony to be prosecuted under appropriate state law.

(ORC 2913.43)

642.24. Determining property value in theft offense.

- (a) If more than one item of property or services is involved in a theft offense or in a violation of Ohio R.C. 1716.14(A)(1) involving a victim who is an elderly person or disabled adult, or any substantially equivalent municipal ordinance, the value of the property or services involved for the purpose of determining the value as required by Ohio R.C. 2913.61(A) is the aggregate value of all property or services involved in the offense.
- (b) (1) When a series of offenses under Ohio R.C. 2913.02, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Ohio R.C. 1716.14(A), Ohio R.C. 2913.02, 2913.03, or 2913.04, Ohio R.C. 2913.21(B)(1) or (B)(2), or Ohio R.C. 2913.31 or 2913.43 involving a victim who is an elderly person or disabled adult, or any substantially equivalent municipal ordinance to any of these offenses, is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses shall be tried as a single offense. When a series of offenses under section 2913.02 of the Revised Code, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Ohio R.C. 2913.02 or 2913.43 involving a victim who is an active duty service member or spouse of an active duty service member is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses shall be tried as a single offense. The value of the property or services involved in the series of offenses for the purpose of determining the value as required by Ohio R.C. 2913.61(A) is the aggregate value of all property and services involved in all offenses in the series.
- (2) If an offender commits a series of offenses under Ohio R.C. 2913.02 that involves a common course of conduct to defraud multiple victims, all of the offenses may be tried as a single offense. If an offender is being tried for the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Ohio R.C. 1716.14(A)(1), Ohio R.C. 2913.02, 2913.03, or 2913.04, Ohio R.C. 2913.21(B)(1) or (B)(2), or Ohio R.C. 2913.31 or 2913.43, whether committed against one victim or more than one victim, involving a victim who is an elderly person or disabled adult, or any substantially equivalent municipal ordinance to any of these offenses, pursuant to a scheme or course of conduct, all of those offenses may be tried as a single offense. If the offenses are tried as a single offense, the value of the property or services involved for the purpose of determining the value as required by Ohio R.C. 2913.61(A) is the aggregate value of all property and services involved in all of the offenses in the course of conduct.
- (3) When a series of two or more offenses under Ohio R.C. 2913.40, 2913.48, or 2921.41 is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses may be tried as a single offense. If the offenses are tried as a single offense, the value of the property or services involved for the purpose of determining the value as required by Ohio R.C. 2913.61(A) is the aggregate value of all property and services involved in all of the offenses in the series of two or more offenses.
- (4) In prosecuting a single offense under division (b)(1), (b)(2) or (b)(3) of this section, it is not necessary to separately allege and prove each offense in the series. Rather, it is sufficient to allege and prove that the offender, within a given span of time, committed one or more theft offenses or violations of Ohio R.C. 2913.40, 2913.48, or 2921.41 in the offender's same employment, capacity, or relationship to another as described in division (b)(1) or (b)(3) of this section, or committed one or more theft offenses that involve a common course of conduct to defraud multiple victims or a scheme or course of conduct as described in division (b)(2) of this section. While it is not necessary to separately allege and prove each offense in the series in order to prosecute a single offense under division (b)(1), (b)(2), or (b)(3) of this section, it remains necessary in prosecuting them as a single offense to prove the aggregate value of the property or services in order to meet the requisite statutory offense level sought by the prosecution.
- (c) The following criteria shall be used in determining the value of property or services involved in a theft offense:

- (1) The value of an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record, or other thing that has intrinsic worth to its owner and that either is irreplaceable or is replaceable only on the expenditure of substantial time, effort, or money, is the amount which would compensate the owner for its loss.
 - (2) The value of personal effects and household goods, and of materials, supplies, equipment, and fixtures used in the profession, business, trade, occupation, or avocation of its owner, which property is not covered under division (c)(1) of this section, and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing such property with new property of like kind and quality.
 - (3) The value of any real or personal property that is not covered under division (c)(1) or (2) of this section, and the value of services, is the fair market value of the property or services. As used in this section, "fair market value" is the money consideration which a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.
- (d) Without limitation on the evidence which may be used to establish the value of property or services involved in a theft offense:
- (1) When the property involved is personal property held for sale at wholesale or retail, the price at which the property was held for sale is prima facie evidence of its value.
 - (2) When the property involved is a security or commodity traded on an exchange, the closing price or, if there is no closing price, the asked price, given in the latest marked quotation prior to the offense, is prima facie evidence of the value of the security or commodity.
 - (3) When the property involved is livestock, poultry, or raw agricultural products for which a local market price is available, the latest local market price prior to the offense is prima facie evidence of the value of the livestock, poultry, or products.
 - (4) When the property involved is a negotiable instrument, the face value is prima facie evidence of the value of the instrument.
 - (5) When the property involved is a warehouse receipt, bill of lading, pawn ticket, claim check, or other instrument entitling the holder or bearer to receive property, the face value or, if there is no face value, the value of the property covered by the instrument less any payment necessary to receive the property, is prima facie evidence of the value of the instrument.
 - (6) When the property involved is a ticket of admission, ticket for transportation, coupon, token, or other instrument entitling the holder or bearer to receive property or services, the face value or, if there is no face value, the value of the property or services which may be received by the instrument is prima facie evidence of the value of the instrument.
 - (7) When the services involved are gas, electricity, water, telephone, transportation, shipping, or other services for which the rate is established by law, the duly established rate is prima facie evidence of the value of the services.
 - (8) When the services involved are services for which the rate is not established by law, and the offender has been notified prior to the offense of the rate for the services, either in writing, or orally, or by posting in a manner reasonably calculated to come to the attention of potential offenders, the rate contained in the notice is prima facie evidence of the value of the services.

(ORC 2913.61(B)—(E))

642.33. Medicaid fraud.

(a) As used in this section:

- (1) ~~"Medical assistance program" means the program established by the Ohio Department of Job and Family Services to provide medical assistance under Ohio R.C. 5111.01 and the Medicaid program of Title XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.~~
- (2)(1) ~~"Provider" means any person who has signed a provider agreement with the Ohio Department of Job and Family Services Medicaid to provide goods or services pursuant to the medical assistance medicaid program or any person who has signed an agreement with a party to such a provider agreement under which the person agrees to provide goods or services that are reimbursable under the medical assistance medicaid program.~~
- (3) (2) ~~"Provider agreement" means an oral or written agreement between the Ohio Department of Job and Family Services Medicaid and a person medicaid provider in which the person provider agrees to provide goods or medicaid services under the medical assistance program to medicaid recipients.~~
- (4) (3) ~~"Recipient" means any individual who receives goods or services from a provider under the medical assistance medicaid program.~~
- (5) (4) ~~"Records" means any medical, professional, financial or business records relating to the treatment or care of any recipient, to goods or services provided to any recipient, or to rates paid for goods or services provided to any recipient, and any records that are required by the rules of the Ohio Director of Job and Family Services medicaid director to be kept for the medical assistance medicaid program.~~
- (6) (5) ~~"Statement or representation" means any oral, written, electronic, electronic impulse or magnetic communication that is used to identify an item of goods or a service for which reimbursement may be made under the medical assistance program or that states income and expense and is or may be used to determine a rate of reimbursement under the medical assistance program.~~
- (b) No person shall knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from the ~~medical assistance medicaid~~ program.
- (c) No person, with purpose to commit fraud or knowing that the person is facilitating a fraud, shall do either of the following:
- (1) Contrary to the terms of the person's provider agreement, charge, solicit, accept or receive for goods or services that the person provides under the medical assistance program any property, money or other consideration in addition to the amount of reimbursement under the ~~medical assistance medicaid~~ program and the person's provider agreement for the goods or services and any cost-sharing expenses authorized by Ohio R.C. ~~5111.0442~~ 5162.20 or rules adopted pursuant to Ohio R.C. 5111.01, 5111.011, or 5111.02 ~~medicaid director regarding the medicaid program.~~
 - (2) Solicit, offer or receive any remuneration, other than any cost-sharing expenses authorized by Ohio R.C. ~~5111.0112-5162.20~~ or rules adopted under Ohio R.C. 5111.01, 5111.011, or 5111.02 ~~or rules adopted by the medicaid director regarding the medicaid program,~~ in cash or in kind, including, but not limited to, a kickback or rebate, in connection with the furnishing of goods or services for which whole or partial reimbursement is or may be made under the ~~medical assistance medicaid~~ program.
- (d) No person, having submitted a claim for or provided goods or services under the ~~medical assistance medicaid~~ program, shall do either of the following for a period of at least six years after a reimbursement pursuant to that claim, or a reimbursement for those goods or services, is received under the ~~medical assistance medicaid~~ program:
- (1) Knowingly alter, falsify, destroy, conceal or remove any records that are necessary to fully disclose the nature of all goods or services for which the claim was submitted, or for which reimbursement was received, by the person; or
 - (2) Knowingly alter, falsify, destroy, conceal or remove any records that are necessary to disclose fully all income and expenditures upon which rates of reimbursements were based for the person.

- (e) Whoever violates this section is guilty of medicaid fraud. Except as otherwise provided in this division, medicaid fraud is a misdemeanor of the first degree. If the value of the property, services or funds obtained in violation of this section is \$1,000.00 or more, Medicaid fraud is a felony to be prosecuted under appropriate state law.
- (f) Upon application of the governmental agency, office or other entity that conducted the investigation and prosecution in a case under this section, the court shall order any person who is convicted of a violation of this section for receiving any reimbursement for furnishing goods or services under the medical assistance program to which the person is not entitled to pay to the applicant its cost of investigating and prosecuting the case. The costs of investigation and prosecution that a defendant is ordered to pay pursuant to this division shall be in addition to any other penalties for the receipt of that reimbursement that are provided in this section, Ohio R.C. ~~2913.40 or 5111.03~~ 5164.35, or any other provision of law.
- (g) The provisions of this section are not intended to be exclusive remedies and do not preclude the use of any other criminal or civil remedy for any act that is in violation of this section.
- (h) Medicaid eligibility fraud.
- (1) No person shall knowingly do any of the following in an application for Medicaid benefits or in a document that requires a disclosure of assets for the purpose of determining eligibility to receive Medicaid benefits:
- a. Make or cause to be made a false or misleading statement;
 - b. Conceal an interest in property;
 - c. 1. Except as provided in division (h)(1)c.2. of this section, fail to disclose a transfer of property that occurred during the period beginning 36 months before submission of the application or document and ending on the date the application or document was submitted;
 2. Fail to disclose a transfer of property that occurred during the period beginning 60 months before submission of the application or document and ending on the date the application or document was submitted and that was made to an irrevocable trust a portion of which is not distributable to the applicant for Medicaid benefits or the recipient of Medicaid benefits or to a revocable trust.
- (2) a. Whoever violates this division (h) is guilty of Medicaid eligibility fraud. Except as otherwise provided in this division, a violation of this division (h) is a misdemeanor of the first degree. If the value of the Medicaid ~~benefits-services~~ paid as a result of the violation is \$1,000.00 or more, a violation of this division (h) is a felony to be prosecuted under appropriate state law.
- b. In addition to imposing a sentence under division (h)(2)a. of this section, the court shall order that a person who is guilty of Medicaid eligibility fraud make restitution in the full amount of any Medicaid ~~benefits~~ services paid on behalf of an applicant for or recipient of medicaid ~~benefits~~ for which the applicant or recipient was not eligible, plus interest at the rate applicable to judgments on unreimbursed amounts from the date on which the benefits were paid to the date on which restitution is made.
- c. The remedies and penalties provided in this division (h) are not exclusive and do not preclude the use of any other criminal or civil remedy for any act that is in violation of this division (h).
- (3) ~~This division (h) does not apply to a person who fully disclosed in an application for Medicaid benefits or in a document that requires a disclosure of assets for the purpose of determining eligibility to receive Medicaid benefits all of the interests in property of the applicant for or recipient of Medicaid benefits, all transfers of property by the applicant for or recipient of Medicaid benefits, and the circumstances of all those transfers.~~ This division (h) does not apply to a person who fully disclosed in an application for medicaid or in a document that requires a disclosure of assets for the purpose of determining eligibility for medicaid all of the interests in property of the applicant for or recipient of medicaid, all transfers of property by the applicant for or recipient of medicaid, and the circumstances of all those transfers.

- (4) Any amounts of Medicaid ~~benefits services~~ recovered as restitution under this division (h) and any interest on those amounts shall be credited to the general revenue fund, and any applicable federal share shall be returned to the appropriate agency or department of the United States.
- (5) For the purpose of this division (h), the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- a. "Medicaid ~~benefits services~~" means benefits under the medical assistance program established under Ohio R.C. ~~Chapter 5144~~ 5164.01.
- b. "Property" means any real or personal property or other asset in which a person has any legal title or interest.

(ORC 2913.40, 2913.401)

648.08. Making false alarms.

(a) No person shall do any of the following:

- (1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm.
- (2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property.
- (3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that the offense did not occur.
- (4) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to impede the operation of a critical infrastructure facility.

(b) This section does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of making false alarms. Except as otherwise provided in this division, making false alarms is a misdemeanor of the first degree. If a violation of this section results in economic harm of \$1,000.00 or more, making false alarms is a felony to be prosecuted under appropriate state law. If a violation of this section pertains to a purported, threatened, or actual use of a weapon of mass destruction, making false alarms is a felony to be prosecuted under appropriate state law.

(d) (1) It is not a defense to a charge under this section that pertains to a purported or threatened use of a weapon of mass destruction that the offender did not possess or have the ability to use a weapon of mass destruction or that what was represented to be a weapon of mass destruction was not a weapon of mass destruction.

(2) Any act that is a violation of this section and any other section of the Ohio Revised Code or these Codified Ordinances may be prosecuted under this section, the other section, or both sections.

(e) As used in this section, "economic harm" and "weapon of mass destruction" have the same meaning as in Ohio R.C. 2917.31. As used in this section "critical infrastructure facility" has the same meaning as in Ohio R.C. 2911.21.

(ORC 2917.32)

660.03. Littering.

- (a) No person, regardless of intent, shall deposit litter or cause litter to be deposited on any public property, on private property not owned by him or her, or in or on waters of the state, unless one of the following applies:
- (1) The person is directed to do so by a public official as part of a litter collection drive.
 - (2) Except as provided in division (b) of this section, the person deposits the litter in a litter receptacle in a manner that prevents its being carried away by the elements.
 - (3) The person is issued a permit or license covering the litter pursuant to Ohio R.C. Chapter 3734 or 6111.
- (b) No person, without privilege to do so, shall knowingly deposit litter, or cause it to be deposited, in a litter receptacle located on any public property or on any private property not owned by him or her, unless one of the following applies:
- (1) The litter was generated or located on the property on which the litter receptacle is located.
 - (2) The person is directed to do so by a public official as part of a litter collection drive.
 - (3) The person is directed to do so by a person whom he or she reasonably believes to have the privilege to use the litter receptacle.
 - (4) The litter consists of any of the following:
 - a. The contents of a litter bag or container of a type and size customarily carried and used in a motor vehicle.
 - b. The contents of an ash tray of a type customarily installed or carried and used in a motor vehicle.
 - c. Beverage containers and food sacks, wrappings, and containers of a type and in an amount that reasonably may be expected to be generated during routine commuting or business or recreational travel by a motor vehicle.
 - d. Beverage containers, food sacks, wrappings, containers, and other materials of a type and in an amount that reasonably may be expected to be generated during a routine day by a person and deposited in a litter receptacle by a casual passerby.
- (c) (1) As used in division (b)(1) of this section, "public property" includes any private property open to the public for the conduct of business, the provision of a service, or upon the payment of a fee but does not include any private property to which the public otherwise does not have a right of access.
- (2) As used in division (b)(4) of this section, "casual passerby" means a person who does not have depositing litter in a litter receptacle as his or her primary reason for traveling to or by the property on which the litter receptacle is located.
- (d) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:
- Auxiliary container means a bag, can, cup, food or beverage service item, container, keg, bottle, or other packaging to which all of the following apply:
- (1) It is designed to be either single use or reusable.
 - (2) It is made of cloth, paper, plastic, foamed or expanded plastic, cardboard, corrugated material, aluminum, metal, glass, postconsumer recycled material, or similar materials or substances, including coated, laminated, or multilayered substrates.
 - (3) It is designed for consuming, transporting, or protecting merchandise, food, or beverages from or at a food service operation, retail food establishment, grocery, or any other type of retail, manufacturing, or distribution establishment.

Deposit means to throw, drop, discard, or place.

Litter means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, auxiliary containers or anything else of an unsightly or unsanitary nature.

Litter receptacle means a dumpster, trash can, trash bin, garbage can, or similar container in which litter is deposited for removal.

- (e) This section may be enforced by any sheriff, deputy sheriff, police officer of the municipality, police constable or officer of a township, or township or joint police district, wildlife officer designated under Ohio R.C. 1531.13, park natural resources officer appointed under Ohio R.C. 1502.23, forest officer, preserve officer, forest-fire investigator appointed under Ohio R.C.1503.09, conservancy district police officer, inspector of nuisances of a county, or any other law enforcement officer within the law enforcement officer's jurisdiction.
- (f) Whoever violates any provision of this section shall be guilty of a misdemeanor of the third degree. The sentencing court may, in addition to or in lieu of the penalty provided in this division, require a person who violates this section to remove litter from any public or private property or in or on waters of the state.

(ORC 3767.32, 3767.99(C))

660.07. Storage of junk vehicles.

- (a) (1) For purposes of this section, "junk motor vehicle" means any motor vehicle which is three years old or older; extensively damaged, such damage including but not limited to any of the following: missing wheels, tires, motor, or transmission; apparently inoperable; and having a fair market value of \$1,500.00 or less, that is left uncovered in the open on private property for more than 72 hours with the permission of the person having the right to possession of the property, except if the person is operating a junk yard or scrap metal processing facility licensed under the authority of Ohio R.C. 4737.05 through 4737.12, or otherwise regulated under authority of a political subdivision; or if the property on which the motor vehicle is left is not subject to licensure or regulation by any governmental authority, unless the person having the right to the possession of the property can establish that the motor vehicle is part of a bona fide commercial operation; or if the motor vehicle is a collector's vehicle.
- (2) The municipality shall not prevent a person from storing or keeping, or restrict him or her in the method of storing or keeping, any collector's vehicle on private property with the permission of the person having the right to the possession of the property, except that the municipality may require a person having such permission to conceal, by means of buildings, fences, vegetation, terrain, or other suitable obstruction, any unlicensed collector's vehicle stored in the open.
- (3) The police chief, the council, or the zoning authority may send notice, by certified mail with return receipt requested, to the person having the right to the possession of the property on which a junk motor vehicle is left, that within ten days of receipt of the notice, the junk motor vehicle either shall be covered by being housed in a garage or other suitable structure, or shall be removed from the property.
- (4) No person shall willfully leave a junk motor vehicle uncovered in the open for more than ten days after receipt of a notice as provided in this section. The fact that a junk motor vehicle is so left is prima facie evidence of willful failure to comply with the notice, and each subsequent period of 30 days that a junk motor vehicle continues to be so left constitutes a separate offense.
- (b) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor ~~of a first offense. If the offender previously has been convicted of or pleaded guilty to one violation of this section, whoever violates this section is guilty of a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, whoever violates this section is guilty of a misdemeanor of the third degree.~~

(ORC 4513.65)

660.14. Smoking in places of public assembly.

(a) As used in this section, "place of public assembly" means:

- (1) Enclosed theaters, except the lobby; opera houses; auditoriums; classrooms; elevators; rooms in which persons are confined as a matter of health care, including but not limited to a hospital room and a room in a residential care facility serving as the residence of a person living in such residential care facility.
- (2) All buildings and other enclosed structures owned by the state, its agencies, or political subdivisions, including but not limited to hospitals and state institutions ~~for the mentally disabled and the mentally ill~~ mentally ill and persons with intellectual disabilities; university and college buildings, except rooms within those buildings used primarily as the residences of students or other persons affiliated with the university or college; office buildings; libraries; museums; and vehicles used in public transportation. That portion of a building or other enclosed structure that is owned by the state, a state agency, or a political subdivision, and that is used primarily as a food service establishment, is not a place of public assembly.
- (3) Each portion of a building or enclosed structure that is not included in division (a)(1) or (a)(2) of this section is a place of public assembly if it has a seating capacity of 50 or more persons and is available to the public. restaurants, food service establishments, dining rooms, cafes, cafeterias, or other rooms used primarily for the service of food, as well as bowling alleys and places licensed by the Ohio Division of Liquor Control to sell intoxicating beverages for consumption on the premises, are not places of public assembly.

(b) For the purpose of separating persons who smoke from persons who do not smoke for the comfort and health of persons not smoking, in every place of public assembly there shall be an area where smoking is not permitted, which shall be designated a no smoking area, provided that not more than one-half of the rooms in any health care facility in which persons are confined as a matter of health care may be designated as smoking areas in their entirety. The designation shall be made before the place of public assembly is made available to the public. In places included in division (a)(1) of this section, the local fire authority having jurisdiction shall designate the no smoking area. In places included in division (a)(2) of this section that are owned by the state or its agencies, the Ohio Director of Administrative Services shall designate the area, and if the place is owned by a political subdivision, its legislative authority shall designate an officer who shall designate the area. In places included in division (a)(3) of this section, the person having control of the operations of the place of public assembly shall designate the no smoking area. In places included in division (a)(2) of this section which are also included in division (a)(1) of this section, the officer who has authority to designate the area in places in division (a)(2) of this section shall designate the no smoking area. A no smoking area may include the entire place of public assembly. Designations shall be made by the placement of signs that are clearly visible and that state "no smoking." No person shall remove signs from areas designated as no smoking areas.

(c) This section does not affect or modify the prohibition contained in Ohio R.C. 3313.751(B).

(d) No person shall smoke in any area designated as a no smoking area in accordance with division (b) of this section.

(e) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 3791.031)

666.03. Sexual imposition.

- (a) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more other persons to have sexual contact when any of the following applies:
- (1) The offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard.
 - (2) The offender knows that the other person's, or one of the other person's ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired.
 - (3) The offender knows that the other person, or one of the other persons, submits because of being unaware of the sexual contact.
 - (4) The other person, or one of the other persons, is 13 years of age or older but less than 16 years of age, whether or not the offender knows the age of the person, and the offender is at least 18 years of age and four or more years older than the other person.
 - (5) The offender is a mental health professional, the other person or one of the other persons is a mental health client or patient of the offender, and the offender induces the other person who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.
- (b) No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.
- (c) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender has been convicted previously of or plead guilty to a violation of this section, Ohio R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, former Ohio R.C. 2907.12, or a substantially equivalent state law or municipal ordinance, a violation of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of this section or section 2907.02, 2907.03, 2907.04, or 2907.05, or former section 2907.12 of the Revised Code, or of any combination of those sections, a violation of this section is a misdemeanor of the first degree and, notwithstanding the range of jail terms prescribed in section 2929.24 of the Revised Code, the court may impose on the offender a definite jail term of not more than one year.

(ORC 2907.06)

666.08. Soliciting.

- (a) No person shall knowingly solicit another to engage with the other person in sexual activity for hire in exchange for the person receiving anything of value from the other person.
- (b) (4) Whoever violates division (a) of this section is guilty of soliciting, a misdemeanor of the third degree.
- ~~(2) If a person is convicted of or pleads guilty to a violation of division (a) of this section or an attempt to commit a violation of division (a) of this section and if the person, in committing or attempting to commit the violation, was in, was on, or used a motor vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impose upon the offender a class six suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(6). In lieu of imposing upon the offender the class six suspension, the court instead may require the offender to perform community service for a number of hours determined by the court.~~

(c) As used in this section, "sexual activity for hire" means an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person.

(ORC 2907.24)

672.01. Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Automatic firearm. Any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. ~~"Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than 31 cartridges without reloading, other than a firearm chambering only .22 caliber short, long, or long rifle cartridges.~~

Ballistic knife. A knife with a detachable blade that is propelled by a spring-operated mechanism.

Concealed handgun license or license to carry a concealed handgun.

- (1) Means, subject to division (2) of this definition, a license or temporary emergency license to carry a concealed handgun issued under R.C. § 2923.125 or R.C. § 2923.1213 or a license to carry a concealed handgun issued by another state with which the attorney general has entered into a reciprocity agreement under R.C. § 109.69.
- (2) A reference in any provision of this Code to a concealed handgun license issued under R.C. § 2923.125 or a license to carry a concealed handgun issued under R.C. § 2923.125 means only a license of the type that is specified in that section. A reference in any provision of this Code to a concealed handgun license issued under R.C. § 2923.1213, a license to carry a concealed handgun issued under R.C. § 2923.1213, or a license to carry a concealed handgun on a temporary emergency basis means only a license of the type that is specified in R.C. § 2923.1213. A reference in any provision of this Code to a concealed handgun license issued by another state or a license to carry a concealed handgun issued by another state means only a license issued by another state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69.

Dangerous ~~ordnance~~ ordnance.

- (1) Any of the following, except as provided in division (2) of this definition:
 - a. Any automatic or sawed-off firearm, zip-gun, or ballistic knife.
 - b. Any explosive device or incendiary device.
 - c. Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid, and other high explosives; amatol, tritonal, tetrytol, pentolite, pectretol, cyclotol, and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder, and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating, or demolitions.
 - d. Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo, or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon.
 - e. Any firearm muffler or silencer.
 - f. Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.

(2) "~~Dangerous ordinance~~ ordnance" does not include any of the following:

- a. Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder.
- b. Any pistol, rifle, or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon, unless the firearm is an automatic or sawed-off firearm.
- c. Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic, or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder.
- d. Black powder, priming quills, and percussion caps possessed and lawfully used to fire a cannon of a type defined in division (2)c. of this definition during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers, and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition.
- e. Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio, or museum piece.
- f. Any device that is expressly excepted from the definition of a destructive device pursuant to the Gun Control Act of 1968, 18 U.S.C. 921(a)(4), as amended, and regulations issued under that Act.
- g. Any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol, tobacco, firearms, and explosives under the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the bureau not to be regulated under the "National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a).

Deadly weapon. Any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.

Explosive. Any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosives" does not include "fireworks," as defined in Ohio R.C. 3743.01, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored, or used in any activity described in Ohio R.C. 3743.80, provided the activity is conducted in accordance with all applicable laws, rules, and regulations, including, but not limited to, the provisions of Ohio R.C. 3743.80 and the rules of the fire marshal adopted pursuant to Ohio R.C. 3737.82.

Explosive device. Any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.

Firearm.

- (1) Any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.
- (2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon

circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.

Handgun. Means any of the following:

- (1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;
- (2) Any combination of parts from which a firearm of a type described in division (1) of this definition can be assembled.

Incendiary device. Any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agent and a means to ignite it.

Sawed-off firearm. A shotgun with a barrel less than 18 inches long, or a rifle with a barrel less than 16 inches long, or a shotgun or rifle less than 26 inches long overall. "Sawed-off firearm" does not include any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol, tobacco, firearms, and explosives under the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the bureau not to be regulated under the "National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a).

Semi-automatic firearm. Any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

Valid concealed handgun license or valid license to carry a concealed handgun. A concealed handgun license that is currently valid, that is not under a suspension under R.C. § 2923.128(A)(1), under R.C. § 2923.1213, or under a suspension provision of the state other than this state in which the license was issued, and that has not been revoked under R.C. § 2923.128(B)(1), under R.C. § 2923.1213, or under a revocation provision of the state other than this state in which the license was issued.

Zip-gun. Any of the following:

- (1) Any firearm of crude and extemporized manufacture.
- (2) Any device, including without limitation a starter's pistol, not designed as a firearm, but that is specially adapted for use as a firearm.
- (3) Any industrial tool, signaling device, or safety device, not designed as a firearm, but that as designed is capable of use as such, when possessed, carried, or used as a firearm.

(ORC 2923.11)

672.02. Carrying concealed weapons.

- (a) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:
 - (1) A deadly weapon other than a handgun;
 - (2) A handgun other than a dangerous ordnance;
 - (3) A dangerous ordnance.
- (b) No person who has been issued a concealed handgun license shall do any of the following:
 - (1) If the person is stopped for a law enforcement purpose, and is carrying a concealed handgun, fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license and that the person then is carrying a concealed handgun; If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then is carrying a concealed handgun, provided that it is not a violation of this division if the person fails to disclose

that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop:

- (2) If the person is stopped for a law enforcement purpose and if the person is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;
 - (3) If the person is stopped for a law enforcement purpose, if the person is carrying a concealed handgun, and if the person is approached by any law enforcement officer while stopped, knowingly remove or attempt to remove the loaded handgun from the holster, pocket, or other place in which the person is carrying it, knowingly grasp or hold the loaded handgun, or knowingly have contact with the loaded handgun by touching it with the person's hands or fingers at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person removes, attempts to remove, grasps, holds, or has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer;
 - (4) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.
- (c) (1) This section does not apply to any of the following:
- a. An officer, agent, or employee of this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns and is acting within the scope of the officer's, agent's, or employee's duties;
 - b. Any person who is employed in this state, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in this division (c)(1)b. does not apply to the person;
 - c. A person's transportation or storage of a firearm, other than a firearm described in Ohio R.C. 2923.11(G) to (M), in a motor vehicle for any lawful purpose if the firearm is not on the actor's person;
 - d. A person's storage or possession of a firearm, other than a firearm described in Ohio R.C. 2923.11(G) to (M), in the actor's own home for any lawful purpose.
- (2) Division (a)(2) of this section does not apply to any person ~~who, at the time of the alleged carrying or possession of a handgun, is carrying a valid concealed handgun license, unless the person knowingly is in a place described in Ohio R.C. 2923.126(B)~~ who has been issued a concealed handgun license that is valid at the time of the alleged carrying or possession of a handgun or who, at the time of the alleged carrying or possession of a handgun, is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), unless the person knowingly is in a place described in Ohio R.C. 2923.126(B).
- (d) It is an affirmative defense to a charge under division (a)(1) of this section of carrying or having control of a weapon other than a handgun and other than a dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following applies:
- (1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place

as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.

- (2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.
 - (3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.
- (e) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.
- (f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this division or division (f)(2) of this section, carrying concealed weapons in violation of division (a) of this section is a misdemeanor of the first degree. Except as otherwise provided in this division or division (f)(2) of this section, if the offender previously has been convicted of a violation of this section or any substantially equivalent state law or municipal ordinance or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of division (a) of this section is a felony to be prosecuted under appropriate state law. Except as otherwise provided in division (f)(2) of this section, if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of division (a) of this section is a felony to be prosecuted under appropriate state law.
- (2) ~~If a person being arrested for a violation of division (a)(2) of this section promptly produces a valid concealed handgun license, and if at the time of the violation the person was not knowingly in a place described in Ohio R.C. 2923.126(B), the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce any concealed handgun license and if the person is not in a place described in that section, the officer may arrest the person for a violation of that division, and the offender shall be punished as follows: A person shall not be arrested for a violation of division (a)(2) of this section solely because the person does not promptly produce a valid concealed handgun license. If a person is arrested for a violation of division (a)(2) of this section and is convicted of or pleads guilty to the violation, the offender shall be punished as follows:~~
- a. The offender shall be guilty of a minor misdemeanor if both of the following apply:
 1. Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.
 2. At the time of the arrest, the offender was not knowingly in a place described in Ohio R.C. 2923.126(B).
 - b. The offender shall be guilty of a misdemeanor and shall be fined \$500.00 if all of the following apply:
 1. The offender previously had been issued a concealed handgun license, and that license expired within the two years immediately preceding the arrest.
 2. Within 45 days after the arrest, the offender presents a concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in Ohio R.C. 2945.71.
 3. At the time of the commission of the offense, the offender was not knowingly in a place described in Ohio R.C. 2923.126(B).

- c. If neither division (f)(2)a. nor (f)(2)b. of this section applies, the offender shall be punished under division (f)(1) of this section.
- (3) Except as otherwise provided in this division, carrying concealed weapons in violation of division (b)(1) of this section is a misdemeanor of the first second degree, ~~and, in addition to any other penalty or sanction imposed for a violation of division (b)(1) of this section, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2). If, at the time of the stop of the offender for a law enforcement purpose that was the basis of the violation, any law enforcement officer involved with the stop had actual knowledge that the offender has been issued a concealed handgun license, carrying concealed weapons in violation of division (b)(1) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to Ohio R.C. 2923.128(A)(2).~~
- (4) Carrying concealed weapons in violation of division (b)(2) or (b)(4) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of division (b)(2) or (b)(4) of this section or any substantially equivalent state law or municipal ordinance, a felony to be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a misdemeanor violation of division (b)(2) or (b)(4) of this section, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).
- (5) Carrying concealed weapons in violation of division (b)(3) of this section is a felony to be prosecuted under appropriate state law.
- ~~(g) If a law enforcement officer stops a person to question the person regarding a possible violation of this section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division, Ohio R.C. 2923.163(B) applies.~~
- (6) If a person being arrested for a violation of division (aA)(2) of this section is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), and if at the time of the violation the person was not knowingly in a place described in Ohio R.C. 2923.126(B), the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1) and if the person is not in a place described in Ohio R.C. 2923.126(B) the officer shall issue a citation and the offender shall be assessed a civil penalty of not more than five hundred dollars. The citation shall be automatically dismissed and the civil penalty shall not be assessed if both of the following apply:
- a. Within ten days after the issuance of the citation, the offender presents a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), which were both valid at the time of the issuance of the citation to the law enforcement agency that employs the citing officer.
 - b. At the time of the citation, the offender was not knowingly in a place described in Ohio R.C. 2923.126(B).
- (7) If a person being arrested for a violation of division (a)(2) of this section is knowingly in a place described in Ohio R.C. 2923.126(B)(5) and is not authorized to carry a handgun or have a handgun concealed on the person's person or concealed ready at hand under that division, the penalty shall be as follows:

- a. Except as otherwise provided in this division, if the person produces a valid concealed handgun license within ten days after the arrest and has not previously been convicted or pleaded guilty to a violation of division (a)(2) of this section, the person is guilty of a minor misdemeanor;
 - b. Except as otherwise provided in this division, if the person has previously been convicted of or pleaded guilty to a violation of division (a)(2) of this section, the person is guilty of a misdemeanor of the fourth degree;
 - c. Except as otherwise provided in this division, if the person has previously been convicted of or pleaded guilty to two violations of division (a)(2) of this section, the person is guilty of a misdemeanor of the third degree;
 - d. Except as otherwise provided in this division, if the person has previously been convicted of or pleaded guilty to three or more violations of division (a)(2) of this section, or convicted of or pleaded guilty to any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is a dangerous ordnance, the person is guilty of a misdemeanor of the second degree.
- (G) If a law enforcement officer stops a person to question the person regarding a possible violation of this section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division, Ohio R.C. 2923.163(B) applies.
- (h) For purposes of this section, "deadly weapon" or "weapon" does not include any knife, razor, or cutting instrument if the instrument was not used as a weapon.

(ORC 2923.12)

672.04. Improperly handling firearms in a motor vehicle.

- (a) No person shall knowingly discharge a firearm while in or on a motor vehicle.
- (b) No person shall knowingly transport or have a loaded firearm in a motor vehicle in such a manner that the firearm is accessible to the operator or any passenger without leaving the vehicle.
- (c) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:
 - (1) In a closed package, box, or case.
 - (2) In a compartment that can be reached only by leaving the vehicle.
 - (3) In plain sight and secured in a rack or holder made for the purpose.
 - (4) If the firearm is at least 24 inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least 18 inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.
- (d) No person shall knowingly transport or have a loaded handgun in a motor vehicle if, at the time of that transportation or possession, any of the following applies:
 - (1) The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 - (2) The person's whole blood, blood serum or plasma, breath, or urine contains a concentration of alcohol, a listed controlled substance, or a listed metabolite of a controlled substance prohibited for persons operating a vehicle, as specified in Ohio R.C. 4511.19(A), regardless of whether the

person at the time of the transportation or possession as described in this division is the operator of or a passenger in the motor vehicle.

(e) No person who has been issued a concealed handgun license or who is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in R.C. § 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:

- (1) ~~Fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a concealed handgun license and that the person then possesses or has a loaded handgun in the motor vehicle~~ Before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop;
- (2) ~~Fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a concealed handgun license and that the person then possesses or has a loaded handgun in the commercial motor vehicle~~ Before or at the time an employee of the motor carrier enforcement unit asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the commercial motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an employee of the unit during the stop and the person already has notified another employee of the unit of that fact during the same stop;
- (3) Knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;
- (4) Knowingly have contact with the loaded handgun by touching it with the person's hands or fingers in the motor vehicle at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer;
- (5) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including but not limited to a specific order to the person to keep the person's hands in plain sight.

(f) (1) Divisions (a), (b), (c), and (e) of this section do not apply to any of the following:

- a. An officer, agent, or employee of this or any other State or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's, or employee's duties;
- b. Any person who is employed in this state, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in this division (f)(1)b. does not apply to the person.

(2) Division (a) of this section does not apply to a person if all of the following circumstances apply:

- a. The person discharges a firearm from a motor vehicle at a coyote or groundhog, the discharge is not during the deer gun hunting season as set by the chief of the division of wildlife of the department of natural resources, and the discharge at the coyote or groundhog, but for the operation of this section, is lawful.

- b. The motor vehicle from which the person discharges the firearm is on real property that is located in an unincorporated area of a township and that is either zoned for agriculture or is used for agriculture.
 - c. The person owns the real property described in division (f)(2)b. of this section, is the spouse or a child of another person who owns that real property, is a tenant of another person who owns that real property, or is the spouse or a child of a tenant of another person who owns that real property.
 - d. The person does not discharge the firearm in any of the following manners:
 - 1. While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;
 - 2. In the direction of a street, highway or other public or private property used by the public for vehicular traffic or parking;
 - 3. At or into an occupied structure that is a permanent or temporary habitation;
 - 4. In the commission of any violation of law, including but not limited to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.
- (3) Division (a) of this section does not apply to a person if all of the following apply:
- a. The person possesses a valid all-purpose vehicle permit issued under Ohio R.C. 1533.103 by the chief of the division of wildlife.
 - b. The person discharges a firearm at a wild quadruped or game bird as defined in Ohio R.C. 1531.01 during the open hunting season for the applicable wild quadruped or game bird.
 - c. The person discharges a firearm from a stationary all-purpose vehicle as defined in Ohio R.C. 1531.01 from private or publicly owned lands or from a motor vehicle that is parked on a road that is owned or administered by the division of wildlife.
 - d. The person does not discharge the firearm in any of the following manners:
 - 1. While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;
 - 2. In the direction of a street, a highway, or other public or private property that is used by the public for vehicular traffic or parking;
 - 3. At or into an occupied structure that is a permanent or temporary habitation;
 - 4. In the commission of any violation of law, including, but not limited to, a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.
- (4) Divisions (b) and (c) of this section do not apply to a person if all of the following circumstances apply:
- a. At the time of the alleged violation of either of those divisions, the person is the operator of or a passenger in a motor vehicle.
 - b. The motor vehicle is on real property that is located in an unincorporated area of a township and that is either zoned for agriculture or is used for agriculture.
 - c. The person owns the real property described in division (f)(3)b. of this section, is the spouse or a child of another person who owns that real property, is a tenant of another person who owns that real property, or is the spouse or a child of a tenant of another person who owns that real property.
 - d. The person, prior to arriving at the real property described in division (f)(3)b. of this section, did not transport or possess a firearm in the motor vehicle in a manner prohibited by division (b)

or (c) of this section while the motor vehicle was being operated on a street, highway or other public or private property used by the public for vehicular traffic or parking.

- (5) Divisions (b) and (c) of this section do not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:
- a. ~~The person transporting or possessing the handgun is carrying a valid concealed handgun license~~ has been issued a concealed handgun license that is valid at the time in question or the person is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125 (G)(1).
 - b. The person transporting or possessing the handgun is not knowingly in a place described in Ohio R.C. 2923.126(B).
- (6) Divisions (b) and (c) of this section do not apply to a person if all of the following apply:
- a. The person possesses a valid all-purpose vehicle permit issued under Ohio R.C. 1533.103 by the chief of the division of wildlife.
 - b. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 or a motor vehicle during the open hunting season for a wild quadruped or game bird.
 - c. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 on private or publicly owned lands or on or in a motor vehicle that is parked on a road that is owned or administered by the division of wildlife.
- (g) (1) The affirmative defenses authorized in Ohio R.C. 2923.12(D)(1) and (D)(2) are affirmative defenses to a charge under division (b) or (c) of this section that involves a firearm other than a handgun.
- (2) It is an affirmative defense to a charge under division (b) or (c) of this section of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that this affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by division (b) or (c) of this section while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.
- (h) (1) No person who is charged with a violation of division (b), (c), or (d) of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.
- (2) a. If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (e) of this section as it existed prior to September 30, 2011 and ~~if the conduct that was the basis of the violation no longer would be a violation of division (e) of this section on or after September 30, 2011, or if a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (E)(1) or (2) of this section as it existed prior to the effective date of this amendment,~~ the person may file an application under R.C. § 2953.37 requesting the expungement of the record of conviction.
- b. If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (b) or (c) of this section as the division existed prior to September 30, 2011 and if the conduct that was the basis of the violation no longer would be a violation of division (b) or (c) of this section on or after September 30, 2011 due to the application of division (f)(5) of this section as it exists on and after September 30, 2011, the person may file an application under R.C. § 2953.37 requesting the expungement of the record of conviction.
- (i) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of division (a) of this section is a felony to be prosecuted under appropriate state law. Violation of division (c) of this section is a misdemeanor of the fourth degree. A violation of division (d) of this section is a felony to be prosecuted under appropriate state law and, if the loaded handgun is concealed on the person's person, it is also a felony to be prosecuted under appropriate state law. Except as otherwise

~~provided in this division, a violation of division (e)(1) or (e)(2) of this section is a misdemeanor of the first second degree, and, in addition to any other penalty or sanction imposed for the violation, the offender's concealed handgun license shall be suspended pursuant to R.C. § 2923.128(A)(2). If at the time of the stop of the offender for a traffic stop, for another law enforcement purpose, or for a purpose defined in R.C. § 5503.34 that was the basis of the violation any law enforcement officer involved with the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the offender's status as a licensee, a violation of division (e)(1) or (e)(2) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to R.C. § 2923.128(A)(2). A violation of division (e)(4) of this section is a felony to be prosecuted under appropriate state law. A violation of division (e)(3) or (e)(5) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of division (e)(3) or (e)(5) of this section or any substantially equivalent state law or municipal ordinance, a felony to be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a misdemeanor violation of division (e)(3) or (e)(5) of this section, the offender's concealed handgun license shall be suspended pursuant to R.C. § 2923.128(A)(2). A violation of division (b) of this section is a felony to be prosecuted under appropriate state law.~~

(j) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division, Ohio R.C. 2923.163(B) applies.

(k) As used in this section:

- (1) "Agriculture" has the same meaning as in Ohio R.C. 519.01.
- (2) "Commercial motor vehicle" has the same meaning as in Ohio R.C. 4506.25(A).
- (3) "Motor carrier enforcement unit" means the motor carrier enforcement unit in the department of public safety, division of state highway patrol, that is created by Ohio R.C. 5503.34.
- (4) "Motor vehicle," "street" and "highway" have the same meaning as in Ohio R.C. 4511.01.
- (5) "Occupied structure" has the same meaning as in Ohio R.C. 2909.01.
- (6) "Tenant" has the same meaning as in Ohio R.C. 1531.01.
- (7) "Unloaded."

a. With respect to a firearm other than a firearm described in division d. of this definition, means that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm, and one of the following applies:

1. There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.
2. Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.

b. For the purposes of division a.2. of this definition, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:

1. A package, box, or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or

the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;

2. A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.
 - c. For the purposes of divisions a. and b. of this definition, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.
 - d. "Unloaded" means, with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.
- (1) Divisions a. and b. of the definition of "unloaded" in division (k) of this section do not affect the authority of a person who ~~is carrying~~ has been issued a valid concealed handgun license that is valid at the time in question to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in those divisions, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter. A person who ~~is carrying~~ has been issued a valid concealed handgun license that is valid at the time in question may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter.

(ORC 2923.16)

672.07. Unlawful transactions in weapons.

(a) No person shall do any of the following:

- (1) Recklessly sell, lend, give or furnish any firearm to any person prohibited by Ohio R.C. 2923.13 or 2923.15, or a substantially similar municipal ordinance, from acquiring or using any firearm, or recklessly sell, lend, give or furnish any dangerous ordnance to any person prohibited by Ohio R.C. 2923.13, 2923.15 or 2923.17, or a substantially similar municipal ordinance, from acquiring or using any dangerous ordnance;
- (2) Possess any firearm or dangerous ordnance with purpose to dispose of it in violation of division (a)(1) of this section;
- (3) ~~Manufacture, possess for sale, sell, or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife, or similar weapon; Except as otherwise provided in division (b) of this section, knowingly solicit, persuade, encourage, or entice a federally licensed firearms dealer or private seller to transfer a firearm or ammunition to any person in a manner prohibited by state or federal law;~~
- (4) ~~When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing the transferee to be authorized to acquire dangerous ordnance pursuant to Ohio R.C. 2923.17, or negligently fail to take a complete record of the transaction and forthwith forward a copy of the record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place; Except as otherwise provided in division (b) of this section, with an intent to deceive, knowingly provide materially false information to a federally licensed firearms dealer or private seller~~
- (5) ~~Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession and under his or her control. Except as otherwise provided in division (B) of this section, knowingly procure, solicit, persuade, encourage, or entice a person to act in violation of division (A)(3) or (4) of this section;~~

(6) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing the transferee to be authorized to acquire dangerous ordnance pursuant to Ohio R.C. 2923.1, or negligently fail to take a complete record of the transaction and forthwith forward a copy of that record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;

(7) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.

(b) Divisions (A)(3), (4), and (5) of this section do not apply to any of the following:

(1) A law enforcement officer who is acting within the scope of the officer's duties;

(2) A person who is acting in accordance with directions given by a law enforcement officer described in division (B)(1) of this section.

(b) Whoever violates this section is guilty of unlawful transactions in weapons. A violation of division (a)(1) or (2) of this section is a felony to be prosecuted under appropriate state law. A violation of division (a)(3), ~~or (4), or (5)~~ of this section is a ~~misdemeanor of the second degree~~ felony of the third degree and shall be prosecuted under appropriate state law. ~~A violation of division (a)(5) of this section is a misdemeanor of the fourth degree.~~ A violation of division (a)(6) of this section is a misdemeanor of the second degree. A violation of division (a)(7) of this section is a misdemeanor of the fourth degree.

(c) As used in this section:

(1) "Ammunition" has the same meaning as in section 2305.401 of the Revised Code.

(2) "Federally licensed firearms dealer" has the same meaning as in section 5502.63 of the Revised Code.

(3) "Materially false information" means information regarding the transfer of a firearm or ammunition that portrays an illegal transaction as legal or a legal transaction as illegal.

(4) "Private seller" means a person who sells, offers for sale, or transfers a firearm or ammunition and who is not a federally licensed firearms dealer.

(ORC 2923.20)

672.10. Fireworks.

(a) *Definitions.* As used in this section, unless otherwise provided:

1.3G fireworks. Display fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation "Division 1.3" in Title 49 of the Code of Federal Regulations.

1.4G fireworks. Consumer fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation "Division 1.4" in Title 49 of the Code of Federal Regulations.

Beer and intoxicating liquor. Have the same meaning as in Ohio R.C. 4301.01.

Booby trap. A small tube that has a string protruding from both ends that has a friction-sensitive composition and that is ignited by pulling the ends of the string.

Cigarette load. A small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.

Controlled substance. Has the same meaning as in Ohio R.C. 3719.01.

Discharge site. An area immediately surrounding the mortars used to fire aerial shells.

~~*Explosive.* Any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1,~~

~~division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosives" does not include "fireworks" as defined below, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored, or used in any activity described in Ohio R.C. 3743.80, provided the activity is conducted in accordance with all applicable laws, rules, and regulations, including, but not limited to, the provisions of Ohio R.C. 3743.80 and the rules of the fire marshal adopted pursuant to Ohio R.C. 3737.82.~~

Fireworks. Any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, except ordinary matches and except as provided in Ohio R.C. 3743.80.

Fireworks incident. Any action or omission that occurs at a fireworks exhibition that results in injury or death, or a substantial risk of injury or death, to any person, and that involves either of the following:

- a. The handling or other use, or the results of the handling or other use, of fireworks or associated equipment or other materials;
- b. The failure of any person to comply with any applicable requirement imposed by this section or Ohio R.C. Chapter 3743, or any applicable rule adopted under this section or Ohio R.C. Chapter 3743.

Fireworks incident site. A discharge site or other location at a fireworks exhibition where a fireworks incident occurs, a location where an injury or death associated with a fireworks incident occurs, or a location where evidence of a fireworks incident or an injury or death associated with a fireworks incident is found.

Fireworks plant. All buildings and other structures in which the manufacturing of fireworks, or the storage or sale of manufactured fireworks by a manufacturer, takes place.

Fountain device. A specific type of 1.4G firework that meets all of the following criteria:

- (1) It is nonaerial and nonreport producing.
- (2) It is recognized and manufactured in accordance with sections 3.1.1 and 3.5 of APA standard 87-1 (2001 edition).
- (3) It is a ground-based or hand-held sparkler with one or more tubes containing a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition, with or without additional effects that may include a colored flame, audible crackling effect, audible whistle effect, or smoke.
- (4) It contains not more than seventy-five grams of the nonexplosive pyrotechnic mixture in any individual tube and not more than five hundred grams or less for multiple tubes.

Highway. Any public street, road, alley, way, lane or other public thoroughfare.

Licensed building. A building on the licensed premises of a licensed manufacturer or wholesaler of fireworks that is approved for occupancy by the building official having jurisdiction.

Licensed exhibitor of fireworks or licensed exhibitor. A person licensed pursuant to Ohio R.C. 3743.50 through 3743.55.

Licensed fountain device retailer or licensed retailer. A person licensed pursuant to Ohio R.C. 3743.26.

Licensed manufacturer of fireworks or licensed manufacturer. A person licensed pursuant to Ohio R.C. 3743.02 through 3743.08.

Licensed premises. The real estate upon which a licensed manufacturer or wholesaler of fireworks conducts business.

Licensed wholesaler of fireworks or licensed wholesaler. A person licensed pursuant to Ohio R.C. 3743.15 through 3743.21.

List of licensed exhibitors. The list required by Ohio R.C. 3743.51(C).

List of licensed manufacturers. The list required by Ohio R.C. 3743.03(C).

List of licensed wholesalers. The list required by Ohio R.C. 3743.16(C).

Manufacturing of fireworks. The making of fireworks from raw materials, none of which in and of themselves constitute fireworks, or the processing of fireworks.

Navigable waters. Any body of water susceptible of being used in its ordinary condition as a highway of commerce over which trade and travel is or may be conducted in the customary modes, but does not include a body of water that is not capable of navigation by barges, tugboats, and other large vessels.

Novelties and trick noisemakers.

- a. Devices that produce a small report intended to surprise the user, including but not limited to booby traps, cigarette loads, party poppers, and snappers;
- b. Snakes or glow worms;
- c. Smoke devices;
- d. Trick matches.

Party popper. A small plastic or paper item that contains not more than 16 milligrams of friction-sensitive explosive composition that is ignited by pulling a string protruding from the item, and from which paper streamers are expelled when the item is ignited.

Processing of fireworks. The making of fireworks from materials all or part of which in and of themselves constitute fireworks, but does not include the mere packaging or repackaging of fireworks.

Railroad. Any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs, and sidings installed and primarily used in serving a mine, quarry or plant.

Retail sale or sell at retail. A sale of fireworks to a purchaser who intends to use the fireworks and not to resell them.

Smoke device. A tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

Snake or glow worm. A device that consists of a pressed pellet of pyrotechnic composition that produces a large snake-like ash upon burning, which ash expands in length as the pellet burns.

Snapper. A small paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand and that, when dropped, implodes.

Storage location. A single parcel or contiguous parcels of real estate approved by the fire marshal pursuant to Ohio R.C. 3743.04(I) or Ohio R.C. 3743.17~~(G)~~(F) that are separate from a licensed premises containing a retail showroom, and which parcel or parcels a licensed manufacturer or wholesaler of fireworks may use only for the distribution, possession, and storage of fireworks in accordance with this chapter.

Trick match. A kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.

Wholesale sale or sell at wholesale. A sale of fireworks to a purchaser who intends to resell the fireworks so purchased.

Wire sparkler. A sparkler consisting of a wire or stick coated with a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains no more than 100 grams of this mixture.

(b) *Manufacturing.*

- (1) No licensed manufacturer of fireworks shall knowingly fail to comply with the rules adopted by the state fire marshal pursuant to Ohio R.C. 3743.05 or the requirements of Ohio R.C. 3743.06.

- (2) No licensed manufacturer of fireworks shall fail to maintain complete inventory, wholesale sale and retail records as required by Ohio R.C. 3743.07, or to permit an inspection of these records or the premises of a fireworks plant or the wholesaler pursuant to Ohio R.C. 3743.08.
- (3) No licensed manufacturer of fireworks shall fail to comply with an order of the state fire marshal issued pursuant to Ohio R.C. 3743.08(B)(1) within the specified period of time.
- (4) No licensed manufacturer of fireworks shall fail to comply with an order of the state fire marshal issued pursuant to Ohio R.C. 3743.08(B)(2) until the nonconformities are eliminated, corrected or otherwise remedied or the 72 hour period specified in ~~these divisions~~ that division has expired, whichever occurs first.
- (5) No person shall smoke or shall carry a pipe, cigarette, or cigar, or a match, lighter, other flame-producing item, or open flame on, or shall carry a concealed source of ignition into, the premises of a fireworks plant, except as smoking is authorized in specified lunchrooms or restrooms by a manufacturer pursuant to Ohio R.C. 3743.06(C).
- (6) No person shall have possession or control of, or be under the influence of, any intoxicating liquor, beer, or controlled substance while on the premises of a fireworks plant.
- (7) No licensed manufacturer of fireworks shall negligently fail to furnish a safety pamphlet to a purchaser of 1.4G fireworks as required by Ohio R.C. 3743.47(A).
- (8) No licensed manufacturer of fireworks shall negligently fail to have safety glasses available for sale as required by Ohio R.C. 3743.47(B).

(c) *Wholesaling.*

- (1) No licensed wholesaler of fireworks shall knowingly fail to comply with the rules adopted by the state fire marshal pursuant to Ohio R.C. 3743.18 or the requirements of Ohio R.C. 3743.19.
- (2) No licensed wholesaler of fireworks shall fail to maintain complete inventory, wholesale sale and retail records as required by Ohio R.C. 3743.20, or to permit an inspection of these records or the premises of a fireworks plant or the wholesaler pursuant to Ohio R.C. 3743.21.
- (3) No licensed wholesaler of fireworks shall fail to comply with an order of the state fire marshal issued pursuant to Ohio R.C. 3743.21(B)(1) within the specified period of time.
- (4) No licensed wholesaler of fireworks shall fail to comply with an order of the state fire marshal issued pursuant to Ohio R.C. 3743.21(B)(2) until the nonconformities are eliminated, corrected or otherwise remedied or the 72 hour period specified in ~~these divisions~~ that division has expired, whichever occurs first.
- (5) No person shall smoke or shall carry a pipe, cigarette, or cigar, or a match, lighter, other flame-producing item, or open flame on, or shall carry a concealed source of ignition into, the premises of a wholesaler of fireworks, except as smoking is authorized in specified lunchrooms or restrooms by a wholesaler pursuant to Ohio R.C. 3743.19(D).
- (6) No person shall have possession or control of, or be under the influence of, any intoxicating liquor, beer, or controlled substance while on the premises of a wholesaler of fireworks.
- (7) No licensed wholesaler of fireworks shall negligently fail to furnish a safety pamphlet to a purchaser of 1.4G fireworks as required by Ohio R.C. 3743.47(A).
- (8) No licensed wholesaler of fireworks shall negligently fail to have safety glasses available for sale as required by Ohio R.C. 3743.47(B).

(d) *Purchasing and transporting.*

- ~~(1) No person who resides in another state and purchases fireworks in this state shall obtain possession of the fireworks in this state unless the person complies with Ohio R.C. 3743.44, provided that knowingly making a false statement on the fireworks purchasers form is not a violation of this section but is a violation of Ohio R.C. 2921.13 (Falsification) or a substantially similar municipal ordinance.~~

- ~~(2) No person who resides in another state and who purchases fireworks in this state shall obtain possession of fireworks in this state other than from a licensed manufacturer or wholesaler, or fail, when transporting the fireworks, to transport them directly out of this state within 72 hours after the time of their purchase. No such person shall give or sell to any other person in this state fireworks that the person has acquired in this state.~~
- ~~(3) No person who resides in this state and purchases fireworks in this state shall obtain possession of the fireworks in this state unless the person complies with Ohio R.C. 3743.45, provided that knowingly making a false statement on the fireworks purchasers form is not a violation of this section but is a violation of Ohio R.C. 2921.13 (Falsification) or a substantially similar municipal ordinance.~~
- ~~(4) No person who resides in this state and who purchases fireworks in this state under Ohio R.C. 3743.45 shall obtain possession of the fireworks in this state other than from a licensed manufacturer or licensed wholesaler, or fail, when transporting the fireworks, to transport them directly out of this state within 48 hours after the time of their purchase. No such person shall give or sell to any other person in this state fireworks that the person has acquired in this state.~~
- (1) No person who purchases fireworks in this state shall obtain possession of the fireworks in this state unless the person complies with Ohio R.C. 3743.44 to 3743.46.
- (2) Except for the purchase of 1.4G fireworks made under Ohio R.C. 3743.4, no person who resides in another state and who purchases fireworks in this state shall obtain possession of fireworks in this state other than from a licensed manufacturer or wholesaler, or fail, when transporting 1.3G fireworks, to transport them directly out of this state within seventy-two hours after the time of their purchase.
- (3) No person who purchases fireworks in this state under Ohio R.C. 3743.45 shall give or sell to any other person in this state fireworks that the person has acquired in this state.

(e) *Prohibited activities by exhibitors.*

- (1) An exhibitor of fireworks licensed under Ohio R.C. 3743.50 through 3743.55 who wishes to conduct a public fireworks exhibition shall apply for approval to conduct the exhibition to the fire chief or fire prevention officer and to the police chief or other similar chief law enforcement officer, or the designee of the police chief or other similar chief law enforcement officer, having jurisdiction over the premises.
- (2) The approval required by division (e)(1) of this section shall be evidenced by the fire chief or fire prevention officer and by the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, signing a permit for the exhibition. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the state fire marshal or, if available, from the fire chief, a fire prevention officer, the police chief or other similar chief law enforcement officer, or a designee of the police chief or other similar chief law enforcement officer.
- (3) Before a permit is signed and issued to a licensed exhibitor of fireworks, the fire chief or fire prevention officer, in consultation with the police chief or other similar chief law enforcement officer, or the designee of the police chief or other similar chief law enforcement officer, shall inspect the premises on which the exhibition will take place and shall determine that, in fact, the applicant for the permit is a licensed exhibitor of fireworks. Each applicant shall show his or her license as an exhibitor of fireworks to the fire chief or fire prevention officer.
- (4) The fire chief or fire prevention officer and the police chief or other similar chief law enforcement officer, or the designee of the police chief or other similar chief law enforcement officer, shall give approval to conduct a public fireworks exhibition only if satisfied, based on the inspection, that the premises on which the exhibition will be conducted allow the exhibitor to comply with the rules adopted by the state fire marshal pursuant to Ohio R.C. 3743.53(B) and (E) and that the applicant is, in fact, a licensed exhibitor of fireworks. The fire chief or fire prevention officer, in consultation with the police chief or other similar chief law enforcement officer or with the designee of the police chief or other similar chief law enforcement officer, may inspect the premises immediately

prior to the exhibition to determine if the exhibitor has complied with the rules, and may revoke a permit for noncompliance with the rules.

- (5) If the council has prescribed a fee for the issuance of a permit for a public fireworks exhibition, the fire chief or fire prevention officer and police chief or other similar chief law enforcement officer, or their designee, shall not issue a permit until the exhibitor pays the requisite fee.
- (6) Each exhibitor shall provide an indemnity bond in the amount of at least \$1,000,000.00 with surety satisfactory to the fire chief or fire prevention officer and to the police chief or other similar chief law enforcement officer, or the designee of the police chief or other similar chief law enforcement officer, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death, or loss to person or property emanating from the fireworks exhibitor, or proof of insurance coverage of at least \$1,000,000.00 for liability arising from injury, death, or loss of persons or property emanating from the fireworks exhibition. The council may require the exhibitor to provide an indemnity bond or proof of insurance coverage in amounts greater than those required by this division. The fire chief or fire prevention officer and police chief or other similar chief law enforcement officer, or their designee, shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this division or by the council.
- (7) Each permit for a fireworks exhibition issued by the fire chief or fire prevention officer and by the police chief or other similar chief law enforcement officer, or the designee of the police chief or other similar chief law enforcement officer, shall contain a distinct number, designate the municipality, and identify the certified fire safety inspector, fire chief, or fire prevention officer who will be present before, during and after the exhibition, where appropriate. A copy of each permit issued shall be forwarded by the fire chief or fire prevention officer and by the police chief or other similar chief law enforcement officer, or designee of the police chief or other similar chief law enforcement officer, issuing it to the state fire marshal. A permit is not transferable or assignable.
- (8) The fire chief or fire prevention officer and police chief or other similar chief law enforcement officer, or designee of the police chief or other similar chief law enforcement officer, shall keep a record of issued permits for fireworks exhibitions. In this list, the fire chief, fire prevention officer, police chief or other similar chief law enforcement officer, or designee of the police chief or other similar chief law enforcement officer, shall list the name of the exhibitor, his or her license number, the premises on which the exhibition will be conducted, the date and time of the exhibition, and the number and political subdivision designation of the permit issued to the exhibitor for the exhibition.
- (9) The council shall require that a certified fire safety inspector, fire chief or fire prevention officer be present before, during and after the exhibition, and shall require the certified fire safety inspector, fire chief or fire prevention officer to inspect the premises where the exhibition is to take place and determine whether the exhibition is in compliance with this section and Ohio R.C. Chapter 3743.
- (10) No licensed exhibitor of fireworks shall fail to comply with the applicable requirements of the rules adopted by the state fire marshal pursuant to Ohio R.C. 3743.53(B) and (E) or to comply with Ohio R.C. 3743.53(C) and (D).
- (11) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to Ohio R.C. 3743.54 or a substantially similar municipal ordinance, or if a permit so secured is revoked by a fire chief or fire prevention officer, in consultation with a police chief or other similar chief law enforcement officer, or with a designee of a police chief or other similar chief law enforcement officer, pursuant to those sections.
- (12) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with Ohio R.C. 3743.54 and 3743.55, or a substantially similar municipal ordinance.
- (13) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have possession or control of, or be under the influence of, any intoxicating liquor, beer, or controlled substance while on the premises on which the exhibition is being conducted.

- (14) No licensed exhibitor of fireworks shall permit an employee to assist the licensed exhibitor in conducting fireworks exhibitions unless the employee is registered with the state fire marshal under Ohio R.C. 3743.56.

(f) *Possession, sale, discharge and advertising; falsification.*

- (1) No person shall possess fireworks in this municipality or shall possess for sale or sell fireworks in this municipality, except a licensed manufacturer of fireworks as authorized by Ohio R.C. 3743.02 through 3743.08, a licensed wholesaler of fireworks as authorized by Ohio R.C. 3743.15 through 3743.21, a shipping permit holder as authorized by Ohio R.C. 3743.40, a licensed fountain device retailer as authorized by Ohio R.C. 3743.27, an out-of-state resident as authorized by Ohio R.C. 3743.44, ~~a resident of this state person as authorized by Ohio R.C. 3743.44 and 3743.45~~, or a licensed exhibitor of fireworks as authorized by Ohio R.C. 3743.50 through 3743.55, or as authorized by any municipal ordinance that is substantially equivalent to any of these statutes, and except as provided in Ohio R.C. 3743.80 or a substantially equivalent municipal ordinance.
- (2) ~~Except as provided in Ohio R.C. 3743.80 or a substantially equivalent municipal ordinance, and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 through 3743.55 or a substantially equivalent municipal ordinance, Except as provided in Ohio R.C. 3743.45 and 3743.80 and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 to 3743.55~~, no person shall discharge, ignite, or explode any fireworks in this municipality.
- (3) No person shall use in a theater or public hall what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.
- (4) No person shall sell fireworks of any kind to a person under 18 years of age. No person under 18 years of age shall enter a fireworks sales showroom unless that person is accompanied by a parent, legal guardian, or other responsible adult. No person under 18 years of age shall touch or possess fireworks on a licensed premises without the consent of the licensee. A licensee may eject any person from a licensed premises that is in any way disruptive to the safe operation of the premises.
- (5) No person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder shall possess 1.3G fireworks in this municipality.

(g) *Transporting and shipping.*

- (1) No person shall transport fireworks in this municipality except in accordance with the rules adopted by the state fire marshal pursuant to Ohio R.C. 3743.58.
- (2) As used in this division, "fireworks" includes only 1.3G and 1.4G fireworks. No person shall ship fireworks into this municipality by mail, parcel post, or common carrier unless the person possesses a valid shipping permit issued under Ohio R.C. 3743.40, and the fireworks are shipped directly to the holder of a license issued under Ohio R.C. 3743.03, 3743.16 or 3743.51.
- (3) No person shall ship fireworks within this municipality by mail, parcel post, or common carrier unless the fireworks are shipped directly to the holder of a license issued under Ohio R.C. 3743.01, 3743.16 or 3743.51.

(h) *Exceptions.* This section does not prohibit or apply to the following:

- (1) The manufacture, sale, possession, transportation, storage, or use in emergency situations of pyrotechnic signaling devices and distress signals for marine, aviation, or highway use;
- (2) The manufacture, sale, possession, transportation, storage or use of fusees, torpedoes, or other signals necessary for the safe operation of railroads;
- (3) The manufacture, sale, possession, transportation, storage or use of blank cartridges in connection with theaters or shows, or in connection with athletics as signals for ceremonial purposes;

- (4) The manufacture for, the transportation, storage, possession or use by, or the sale to the armed forces of the United States and the militia of this state, as recognized by the adjutant general of Ohio, of pyrotechnic devices;
- (5) The manufacture, sale, possession, transportation, storage or use of toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing 0.25 grains or less of explosive material are used, provided that they are constructed so that a hand cannot come into contact with a cap when it is in place for explosion, or apply to the manufacture, sale, possession, transportation, storage or use of those caps;
- (6) The manufacture, sale, possession, transportation, storage or use of novelties and trick noisemakers, auto burglar alarms, or model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models;
- (7) The manufacture, sale, possession, transportation, storage or use of wire sparklers.
- (8) The conduct of radio-controlled special effect exhibitions that use an explosive black powder charge of not more than one-quarter pound per charge, and that are not connected in any manner to propellant charges; provided, that the exhibition complies with all of the following:
- a. No explosive aerial display is conducted in the exhibition;
 - b. The exhibition is separated from spectators by not less than 200 feet;
 - c. The person conducting the exhibition complies with regulations of the bureau of alcohol, tobacco and firearms of the United States Department of the treasury and the United States Department of Transportation with respect to the storage and transport of the explosive black powder used in the exhibition.
- (i) *Forfeiture and disposal.* Fireworks manufactured, sold, possessed, transported, or used in violation of this section shall be forfeited by the offender. The fire marshal's office or certified fire safety inspector's office shall dispose of seized fireworks pursuant to the procedures specified in Ohio R.C. 2981.11 to 2981.13 for the disposal of forfeited property by law enforcement agencies, and the fire marshal or that office is not liable for claims for the loss of or damages to the seized fireworks.
- (j) *Penalty.*
- (1) Except as otherwise provided in division (j)(2) or (j)(3) of this section, whoever violates any provisions of this section is guilty of a misdemeanor of the first degree.
 - (2) If the offender previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 3743.60(I) or Ohio R.C. 3743.61(I), or a substantially equivalent municipal ordinance, a violation of division (b)(5) of this section or division (c)(5) of this section is a felony to be prosecuted under appropriate state law.
 - (3) Whoever violates division (e)(10) of this section is guilty of a misdemeanor of the first degree. In addition to any other penalties that may be imposed on a licensed exhibitor of fireworks under this division and unless the third sentence of this division applies, the person's license as an exhibitor of fireworks or as an assistant exhibitor of fireworks shall be suspended, and the person is ineligible to apply for either type of license, for a period of five years. If the violation of division (e)(10) of this section results in serious physical harm to persons or serious physical harm to property, the person's license as an exhibitor of fireworks or as an assistant exhibitor of fireworks shall be revoked, and that person is ineligible to apply for a license as or to be licensed as an exhibitor of fireworks or as an assistant exhibitor of fireworks in this state.

(ORC 3743.01, 3743.54, 3743.60(E)—(L), 3743.61(E)—(L), 3743.63, 3743.64, 3743.65(A)—(E), 3743.66, 3743.68(B), 3743.80, 3743.99(C), (D))

672.17. Possession of an object indistinguishable from a firearm in a school safety zone.

(a) No person shall knowingly possess an object in a school safety zone if both of the following apply:

- (1) The object is indistinguishable from a firearm, whether or not the object is capable of being fired.
- (2) The person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.

(b) (1) This section does not apply to any of the following:

~~a. An officer, agent, or employee of this or any other state or the United States, or a law enforcement officer, who is authorized to carry deadly weapons or dangerous ordnance and is acting within the scope of the officer's, agent's, or employee's duties, a security officer employed by a board of education or governing body of a school during the time that the security officer is on duty pursuant to that contract of employment, or any other person who has written authorization from the board of education or governing body of a school to convey deadly weapons or dangerous ordnance into a school safety zone or to possess a deadly weapon or dangerous ordnance in a school safety zone and who conveys or possesses the deadly weapon or dangerous ordnance in accordance with that authorization;~~

a. An officer, agent, or employee of this or any other state or the United States who is authorized to carry deadly weapons or dangerous ordnance and is acting within the scope of the officer's, agent's, or employee's duties;

b. A law enforcement officer who is authorized to carry deadly weapons or dangerous ordnance;

c. A security officer employed by a board of education or governing body of a school during the time that the security officer is on duty pursuant to that contract of employment;

d. Any person not described in divisions (b)(1) a to c of this section who has written authorization from the board of education or governing body of a school to convey deadly weapons or dangerous ordnance into a school safety zone or to possess a deadly weapon or dangerous ordnance in a school safety zone and who conveys or possesses the deadly weapon or dangerous ordnance in accordance with that authorization, provided both of the following apply:

i. Either the person has successfully completed the curriculum, instruction, and training established under Ohio R.C. 5502.703, or the person has received a certificate of having satisfactorily completed an approved basic peace officer training program or is a law enforcement officer;

ii. The board or governing body has notified the public, by whatever means the affected school regularly communicates with the public, that the board or governing body has authorized one or more persons to go armed within a school operated by the board or governing authority.

A district board or school governing body that authorizes a person under division (b)(1)d of this section shall require that person to submit to an annual criminal records check conducted in the same manner as Ohio R.C. 3319.39 or 3319.391.

b. Any person who is employed in this state, who is authorized to carry deadly weapons or dangerous ordnance, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in this division (b)(1)b. does not apply to the person.

- (2) This section does not apply to premises upon which home schooling is conducted. This section also does not apply to a school administrator, teacher or employee who possesses an object that is indistinguishable from a firearm for legitimate school purposes during the course of employment, a student who uses an object that is indistinguishable from a firearm under the

direction of a school administrator, teacher or employee, or any other person who, with the express prior approval of a school administrator, possesses an object that is indistinguishable from a firearm for a legitimate purpose, including the use of the object in a ceremonial activity, a play, re-enactment or other dramatic presentation, or a ROTC activity or another similar use of the object.

- (3) This section does not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if, at the time of that conveyance, attempted conveyance, or possession of the handgun, all of the following apply:
- a. The person does not enter into a school building or onto school premises and is not at a school activity.
 - b. The person is carrying a ~~valid~~-concealed handgun license that is valid at the time of the conveyance, attempted conveyance, or possession or the person is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1).
 - c. The person is in the school safety zone in accordance with 18 U.S.C. § 922(q)(2)(B).
 - d. The person is not knowingly in a place described in Ohio R.C. 2923.126(B)(1) or (B)(3) to ~~(4)~~
(8).
- (4) This section does not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if at the time of that conveyance, attempted conveyance, or possession of the handgun all of the following apply:
- ~~a. The person is carrying a valid concealed handgun license.~~
 - ~~b. The person is the driver or passenger in a motor vehicle and is in the school safety zone while immediately in the process of picking up or dropping off a child.~~
 - ~~c. The person is not in violation of Ohio R.C. 2923.16.~~
 - a. The person has been issued a concealed handgun license that is valid at the time of the conveyance, attempted conveyance, or possession or the person is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1).
 - b. The person leaves the handgun in a motor vehicle.
 - c. The handgun does not leave the motor vehicle.
 - d. If the person exits the motor vehicle, the person locks the motor vehicle.
- (c) Whoever violates this section is guilty of illegal possession of an object indistinguishable from a firearm in a school safety zone. Except as otherwise provided in this division, illegal possession of an object indistinguishable from a firearm in a school safety zone is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, illegal possession of an object indistinguishable from a firearm in a school safety zone is a felony to be prosecuted under appropriate state law.
- (d) (1) In addition to any other penalty imposed upon a person who is convicted of or pleads guilty to a violation of this section, and subject to division (d)(2) of this section, if the offender has not attained 19 years of age, regardless of whether the offender is attending or is enrolled in a school operated by a board of education or for which the state board of education prescribes minimum standards under Ohio R.C. 3301.07, the court shall impose upon the offender a class four suspension of the offender's probationary driver's license, restricted license, driver's license, commercial driver's license, temporary instruction permit, or probationary commercial driver's license that then is in effect from the range specified in Ohio R.C. 4510.02(A)(4) and shall deny the offender the issuance of any permit or license of that type during the period of the suspension. If the offender

is not a resident of this state, the court shall impose a class four suspension of the nonresident operating privilege of the offender from the range specified in Ohio R.C. 4510.02(A)(4).

- (2) If the offender shows good cause why the court should not suspend one of the types of licenses, permits or privileges specified in division (d)(1) of this section or deny the issuance of one of the temporary instruction permits specified in division (d)(1) of this section, the court in its discretion may choose not to impose the suspension, revocation or denial required in division (d)(1) of this section, but the court, in its discretion, instead may require the offender to perform community service for a number of hours determined by the court.
- (e) As used in this section, "object that is indistinguishable from a firearm" means an object made, constructed or altered so that, to a reasonable person without specialized training in firearms, the object appears to be a firearm.

(ORC 2923.122(C)—(G))

672.18. Concealed handgun licenses: possession of a revoked or suspended license; additional restrictions; posting of signs prohibiting possession.

(a) *Possession of a revoked or suspended concealed handgun license.*

- (1) No person, except in the performance of official duties, shall possess a concealed handgun license that was issued and that has been revoked or suspended.
- (2) Whoever violates this division (a) is guilty of possessing a revoked or suspended concealed handgun license, a misdemeanor of the third degree.

(b) *Additional restrictions.* Pursuant to Ohio R.C. 2923.126:

- (1) ~~a.~~ A concealed handgun license that is issued under R.C. § 2923.125 shall expire five years after the date of issuance. A licensee who has been issued a license under that section shall be granted a grace period of 30 days after the licensee's license expires during which the licensee's license remains valid. Except as provided in divisions (b)(2) and (b)(3) of this section, a licensee who has been issued a concealed handgun license under Ohio R.C. 2923.125 or 2923.1213 may carry a concealed handgun anywhere in this state if ~~the licensee also carries a license is valid license~~ when the licensee is in actual possession of a concealed handgun. The licensee shall give notice of any change in the licensee's residence address to the sheriff who issued the license within 45 days after that change.

~~b. If a licensee is the driver or an occupant of a motor vehicle that is stopped as the result of a traffic stop or a stop for another law enforcement purpose and if the licensee is transporting or has a loaded handgun in the motor vehicle at that time, the licensee shall promptly inform any law enforcement officer who approaches the vehicle while stopped that the licensee has been issued a concealed handgun license and that the licensee currently possesses or has a loaded handgun; the licensee shall not knowingly disregard or fail to comply with lawful orders of a law enforcement officer given while the motor vehicle is stopped, knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the licensee's hands in plain sight after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves, unless directed otherwise by a law enforcement officer; and the licensee shall not knowingly have contact with the loaded handgun by touching it with the licensee's hands or fingers, in any manner in violation of Ohio R.C. 2923.16(E), after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves. Additionally, if a licensee is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in Ohio R.C. 5503.04 and if the licensee is transporting or has a loaded handgun in the commercial motor vehicle at that time, the licensee shall promptly inform the employee of the unit who approaches the vehicle while stopped that the licensee~~

~~has been issued a concealed handgun license and that the licensee currently possesses or has a loaded handgun.~~

~~c. If a licensee is stopped for a law enforcement purpose and if the licensee is carrying a concealed handgun at the time the officer approaches, the licensee shall promptly inform any law enforcement officer who approaches the licensee while stopped that the licensee has been issued a concealed handgun license and that the licensee currently is carrying a concealed handgun; the licensee shall not knowingly disregard or fail to comply with lawful orders of a law enforcement officer given while the licensee is stopped or knowingly fail to keep the licensee's hands in plain sight after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves, unless directed otherwise by a law enforcement officer; and the licensee shall not knowingly remove, attempt to remove, grasp, or hold the loaded handgun or knowingly have contact with the loaded handgun by touching it with the licensee's hands or fingers, in any manner in violation of Ohio R.C. 2923.12(B), after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves.~~

(2) A valid concealed handgun license does not authorize the licensee to carry a concealed handgun in any manner prohibited under Ohio R.C. 2923.12(B) or in any manner prohibited under Ohio R.C. 2923.16. A valid license does not authorize the licensee to carry a concealed handgun into any of the following places:

- a. A police station, sheriff's office, or state highway patrol station, premises controlled by the bureau of criminal identification and investigation, a state correctional institution, jail, workhouse, or other detention facility, ~~an airport passenger terminal, or an institution that is maintained, operated, managed, and governed pursuant to Ohio R.C. 5119.02(A) or Ohio R.C. 5123.03(A)(1)~~ any area of an airport passenger terminal that is beyond a passenger or property screening checkpoint or to which access is restricted through security measures by the airport authority or a public agency; or an institution that is maintained, operated, managed, and governed pursuant to Ohio R.C. 5119.14(A) or Ohio R.C. 5123.03(A)(1);
- b. A school safety zone if the licensee's carrying the concealed handgun is in violation of Ohio R.C. 2923.122;
- c. A courthouse or another building or structure in which a courtroom is located, in violation of Ohio R.C. 2923.123;
- d. Any premises or open air arena for which a D permit has been issued under Ohio R.C. Chapter 4303 if the licensee's carrying the concealed handgun is in violation of Ohio R.C. 2923.121;
- e. Any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle the handgun is in a locked motor vehicle or unless the licensee is carrying the concealed handgun pursuant to a written policy, rule, or other authorization that is adopted by the institution's board of trustees or other governing body and that authorizes specific individuals or classes of individuals to carry a concealed handgun on the premises;
- f. Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;
- g. ~~A child day care center, a type A family day care home, or a type B family day care home, except that this division does not prohibit a licensee who resides in a type A family day care home, a type B family day care home, or a type C family day care home from carrying a concealed handgun at any time in any part of the home that is not dedicated or used for day care purposes, or from carrying a concealed handgun in a part of the home that is dedicated or used for day care purposes at any time during which no children, other than children of that licensee, are in the home;~~

~~h. An aircraft that is in, or intended for operation in, foreign air transportation, interstate air transportation, intrastate air transportation, or the transportation of mail by aircraft;~~

~~i.g. Any building that is a government facility of this state or a political subdivision of this state and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located that is subject to division (b)(2)c. of this section;~~

~~j.h. A place in which federal law prohibits the carrying of handguns.~~

(3) a. Nothing in this division (b) shall negate or restrict a rule, policy, or practice of a private employer that is not a private college, university, or other institution of higher education concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer. Nothing in this division (b) shall require a private employer of that nature to adopt a rule, policy, or practice concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer.

b. 1. A private employer shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises or property of the private employer, including motor vehicles owned by the private employer, unless the private employer acted with malicious purpose. A private employer is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the private employer's decision to permit a licensee to bring, or prohibit a licensee from bringing, a handgun onto the premises or property of the private employer. ~~As used in this division, "private employer" includes a private college, university, or other institution of higher education.~~

2. A political subdivision shall be immune from liability in a civil action, to the extent and in the manner provided in Ohio R.C. Chapter 2744, for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto any premises or property owned, leased, or otherwise under the control of the political subdivision. As used in this division, "political subdivision" has the same meaning as in Ohio R.C. 2744.01.

3. An institution of higher education shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises of the institution, including motor vehicles owned by the institution, unless the institution acted with malicious purpose. An institution of higher education is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the institution's decision to permit a licensee or class of licensees to bring a handgun onto the premises of the institution.

4. A nonprofit corporation shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises of the nonprofit corporation, including any motor vehicle owned by the nonprofit corporation, or to any event organized by the nonprofit corporation, unless the nonprofit corporation acted with malicious purpose. A nonprofit corporation is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the nonprofit corporation's decision to permit a licensee to bring a handgun onto the premises of the nonprofit corporation or to any event organized by the nonprofit corporation.

c. 1. Except as provided in division (b)(3)C.2. of this section and section 2923.1214 of the Revised Code, the owner or person in control of private land or premises, and a private person or entity leasing land or premises owned by the state, the United States, or a political subdivision of the state or the United States, may post a sign in a conspicuous location on that land or on those premises prohibiting persons from carrying firearms or

concealed firearms on or onto that land or those premises. Except as otherwise provided in this division, a person who knowingly violates a posted prohibition of that nature is guilty of criminal trespass in violation of Ohio R.C. 2911.21(A)(4) and is guilty of a misdemeanor of the fourth degree. If a person knowingly violates a posted prohibition of that nature and the posted land or premises primarily was a parking lot or other parking facility, the person is not guilty of criminal trespass in violation of Ohio R.C. 2911.21(A)(4) and instead is subject only to a civil cause of action for trespass based on the violation.

If a person knowingly violates a posted prohibition of the nature described in this division and the posted land or premises is a child day-care center, type A family day-care home, or type B family day-care home, unless the person is a licensee who resides in a type A family day-care home or type B family day-care home, the person is guilty of aggravated trespass in violation of Ohio R.C. 2911.211. Except as otherwise provided in this division, the offender is guilty of a misdemeanor of the first degree. If the person previously has been convicted of a violation of this division or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, the offender is guilty of a felony to be prosecuted under appropriate state law.

2. A landlord may not prohibit or restrict a tenant who is a licensee and who on or after September 9, 2008 enters into a rental agreement with the landlord for the use of residential premises, and the tenant's guest while the tenant is present, from lawfully carrying or possessing a handgun on those residential premises.
3. As used in division (b)(3)c. of this section:
 - a) "Residential premises" has the same meaning as in Ohio R.C. 5321.01, except "residential premises" does not include a dwelling unit that is owned or operated by a college or university.
 - b) "Landlord", "tenant", and "rental agreement" have the same meanings as in Ohio R.C. 5321.01.
- (4) A person who holds a concealed handgun license issued by another state that is recognized by the attorney general pursuant to a reciprocity agreement entered into pursuant to Ohio R.C. 109.69 or a person who holds a valid concealed handgun license under the circumstances described in Ohio R.C. 109.69(B) has the same right to carry a concealed handgun in this State as a person who was issued a concealed handgun license under Ohio R.C. 2923.125 and is subject to the same restrictions that apply to a person who carries a license issued under that section.
- (5) (1) A peace officer has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under Ohio R.C. 2923.125, provided that the officer when carrying a concealed handgun under authority of this division is carrying validating identification. For purposes of reciprocity with other states, a peace officer shall be considered to be a licensee in this state.
 - (2) An active duty member of the armed forces of the United States who is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of section 2923.125 of the Revised Code has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under section 2923.125 of the Revised Code and is subject to the same restrictions as specified in this section.
 - (3) A tactical medical professional who is qualified to carry firearms while on duty under section 109.771 of the Revised Code has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under section 2923.125 of the Revised Code.

- (6) a. A qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to division (b)(6)b. of this section and a valid firearms requalification certification issued pursuant to division (b)(6)c. of this section has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under Ohio R.C. 2923.125 and is subject to the same restrictions that apply to a person who carries a license issued under that section. For purposes of reciprocity with other states, a qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to division (b)(6)b. of this section and a valid firearms requalification certification issued pursuant to division (b)(6)c. of this section shall be considered to be a licensee in this state.
- b. 1. Each public agency of this state or of a political subdivision of this state that is served by one or more peace officers shall issue a retired peace officer identification card to any person who retired from service as a peace officer with that agency, if the issuance is in accordance with the agency's policies and procedures and if the person, with respect to the person's service with that agency, satisfies all of the following:
- a) The person retired in good standing from service as a peace officer with the public agency, and the retirement was not for reasons of mental instability.
 - b) Before retiring from service as a peace officer with that agency, the person was authorized to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and the person had statutory powers of arrest.
 - c) At the time of the person's retirement as a peace officer with that agency, the person was trained and qualified to carry firearms in the performance of the peace officer's duties.
 - d) Before retiring from service as a peace officer with that agency, the person was regularly employed as a peace officer for an aggregate of 15 years or more, or, in the alternative, the person retired from service as a peace officer with that agency, after completing any applicable probationary period of that service, due to a service-connected disability, as determined by the agency.
2. A retired peace officer identification card issued to a person under division (b)(6)b.1. of this section shall identify the person by name, contain a photograph of the person, identify the public agency of this state or of the political subdivision of this state from which the person retired as a peace officer and that is issuing the identification card, and specify that the person retired in good standing from service as a peace officer with the issuing public agency and satisfies the criteria set forth in divisions (b)(6)b.1.a) to (b)(6)b.1.d) of this section. In addition to the required content specified in this division, a retired peace officer identification card issued to a person under division (b)(6)b.1. of this section may include the firearms requalification certification described in division (b)(6)c. of this section, and if the identification card includes that certification, the identification card shall serve as the firearms requalification certification for the retired peace officer. If the issuing public agency issues credentials to active law enforcement officers who serve the agency, the agency may comply with division (b)(6)b.1. of this section by issuing the same credentials to persons who retired from service as a peace officer with the agency and who satisfy the criteria set forth in divisions (b)(6)B.1.a) to (b)(6)b.1.d) of this section, provided that the credentials so issued to retired peace officers are stamped with the word "RETIRED".
3. A public agency of this state or of a political subdivision of this state may charge persons who retired from service as a peace officer with the agency a reasonable fee for issuing to the person a retired peace officer identification card pursuant to division (b)(6)b.1. of this section.
- c. 1. If a person retired from service as a peace officer with a public agency of this state or of a political subdivision of this state and the person satisfies the criteria set forth in divisions

(b)(6)b.1.a) to (b)(6)b.1.d) of this section, the public agency may provide the retired peace officer with the opportunity to attend a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801. The retired peace officer may be required to pay the cost of the course.

2. If a retired peace officer who satisfies the criteria set forth in divisions (b)(6)b.1.a) to (b)(6)b.1.d) of this section attends a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801, the retired peace officer's successful completion of the firearms requalification program requalifies the retired peace officer for purposes of division (b)(6) of this section for five years from the date on which the program was successfully completed, and the requalification is valid during that five-year period. If a retired peace officer who satisfies the criteria set forth in divisions (b)(6)b.1.a) to (b)(6)b.1.d) of this section satisfactorily completes such a firearms requalification program, the retired peace officer shall be issued a firearms requalification certification that identifies the retired peace officer by name, identifies the entity that taught the program, specifies that the retired peace officer successfully completed the program, specifies the date on which the course was successfully completed, and specifies that the requalification is valid for five years from that date of successful completion. The firearms requalification certification for a retired peace officer may be included in the retired peace officer identification card issued to the retired peace officer under division (b)(6)b. of this section.
3. A retired peace officer who attends a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801 may be required to pay the cost of the program.

(7) As used in this section:

- a. "Government facility of this state or a political subdivision of this state" means any of the following:
 1. A building or part of a building that is owned or leased by the government of this state or a political subdivision of this state and where employees of the government of this state or the political subdivision regularly are present for the purpose of performing their official duties as employees of the state or political subdivision;
 2. The office of a deputy registrar serving pursuant to Ohio R.C. Chapter 4503 that is used to perform deputy registrar functions.
- b. "Qualified retired peace officer" means a person who satisfies all of the following:
 1. The person satisfies the criteria set forth in divisions (b)(6)b.1.a) to (b)(6)b.1.d) of this section.
 2. The person is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
 3. The person is not prohibited by federal law from receiving firearms.
- c. "Retired peace officer identification card" means an identification card that is issued pursuant to division (b)(6)b. of this section to a person who is a retired peace officer.
- d. "Governing body" has the same meaning as in section 154.01 of the Revised Code.
- e. "Tactical medical professional" has the same meaning as in section 109.71 of the Revised Code.
- f. "Validating identification" means photographic identification issued by the agency for which an individual serves as a peace officer that identifies the individual as a peace officer of the agency.

g. “Nonprofit corporation” means any private organization that is exempt from federal income taxation pursuant to subsection 501(a) and described in subsection 501(c) of the Internal Revenue Code.

(c) *Posting of signs prohibiting possession.* Pursuant to Ohio R.C. 2923.1212:

- (1) Each person, board, or entity that owns or controls any place or premises identified in division (B) of section 2923.126 of the Revised Code as a place into which a valid license does not authorize the licensee to carry a concealed handgun, or a designee of such a person, board, or entity, shall post in one or more conspicuous locations in the premises a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto these premises."

(ORC 2923.1211(B), (C), 2923.126, 2923.1212)

698.01. Definitions.

As used in this chapter:

Dangerous offender means a person who has committed an offense, whose history, character and condition reveal a substantial risk that he or she will be a danger to others, and whose conduct has been characterized by a pattern of repetitive, compulsive or aggressive behavior with heedless indifference to the consequences.

Repeat offender means a person who has a history of persistent criminal activity and whose character and condition reveal a substantial risk that he or she will commit another offense. It is prima facie evidence that a person is a repeat offender if any of the following applies:

- (1) Having been convicted of one or more offenses of violence, as defined in Ohio R.C. 2901.01, and having been imprisoned pursuant to sentence for one or more of those offenses, the person commits a subsequent offense of violence;
- (2) Having been convicted of one or more sexually oriented offenses, as defined in Ohio R.C. 2950.01, and having been imprisoned pursuant to sentence for one or more of those offenses, the person commits a subsequent sexually oriented offense or child-victim oriented offense;
- (3) Having been convicted of one or more theft offenses, as defined in Ohio R.C. 2913.01, and having been imprisoned pursuant to sentence for one or more of those offenses, the person commits a subsequent theft offense;
- (4) Having been convicted of one or more felony drug abuse offenses, as defined in Ohio R.C. 2925.01, and having been imprisoned pursuant to sentence for one or more of those offenses, the person commits a subsequent felony drug abuse offense;
- (5) Having been convicted of two or more felonies, and having been imprisoned pursuant to sentence for any such offense, the person commits a subsequent offense;
- (6) Having been convicted of three or more offenses of any type or degree other than traffic offenses, alcoholic intoxication offenses, or minor misdemeanors, and having been imprisoned pursuant to sentence for any such offense, the person commits a subsequent offense.

(ORC 2935.36(E))

698.02. Penalties for misdemeanor.

(a) *Considerations in misdemeanor sentencing.*

- (1) A court that sentences an offender for a misdemeanor or minor misdemeanor violation of any provision of the Ohio Revised Code, or of any municipal ordinance that is substantially equivalent to a misdemeanor or minor misdemeanor violation of a provision of the Ohio Revised Code, shall be guided by the overriding purposes of misdemeanor sentencing. The overriding purposes of misdemeanor sentencing are to protect the public from future crime by the offender and others and to punish the offender. To achieve those purposes, the sentencing court shall consider the impact of the offense upon the victim and the need for changing the offender's behavior, rehabilitating the offender, and making restitution to the victim of the offense, the public, or the victim and the public.
- (2) A sentence imposed for a misdemeanor or minor misdemeanor violation of an Ohio Revised Code provision or for a violation of a municipal ordinance that is subject to division (a)(1) of this section shall be reasonably calculated to achieve the two overriding purposes of misdemeanor sentencing set forth in division (a)(1) of this section, commensurate with and not demeaning to the seriousness of the offender's conduct and its impact upon the victim, and consistent with sentences imposed for similar offenses committed by similar offenders.
- (3) A court that imposes a sentence upon an offender for a misdemeanor or minor misdemeanor violation of an Ohio Revised Code provision or for a violation of a municipal ordinance that is subject to division (a)(1) of this section shall not base the sentence upon the race, ethnic background, gender, or religion of the offender.
- (4) Divisions (a)(1) and (a)(2) of this section shall not apply to any offense that is disposed of by a traffic violations bureau of any court pursuant to traffic rule 13 and shall not apply to any violation of any provision of the Ohio Revised Code that is a minor misdemeanor and that is disposed of without a court appearance. Divisions (a)(1) to (a)(3) of this section do not affect any penalties established by the municipality for a violation of its ordinances that are not substantially equivalent to a misdemeanor or minor misdemeanor violation of a provision of the Ohio Revised Code.

(b) *Misdemeanor jail terms.*

- (1) Except as provided in § 666.99 or 698.03 of this Code or Ohio R.C. 2929.22 or 2929.23 or division (b)(5) or (b)(6) of this section and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this chapter, the court shall impose a definite jail term that shall be one of the following:
 - a. For a misdemeanor of the first degree, not more than 180 days;
 - b. For a misdemeanor of the second degree, not more than 90 days;
 - c. For a misdemeanor of the third degree, not more than 60 days;
 - d. For a misdemeanor of the fourth degree, not more than 30 days.
- (2) a. A court that sentences an offender to a jail term under division (b) of this section may permit the offender to serve the sentence in intermittent confinement or may authorize a limited release of the offender as provided in division (d)(2) of this section. The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.
 - b. 1. If a prosecutor, as defined in Ohio R.C. 2935.01, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.
 2. If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.

- (3) If a court sentences an offender to a jail term under division (b) of this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to Ohio R.C. 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.
- (4) If a person sentenced to a jail term pursuant to division (b) of this section, the court may impose as part of the sentence pursuant to Ohio R.C. 2929.28 a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to Ohio R.C. 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and Ohio R.C. 2929.37, both of the following apply:
- a. The court shall specify both of the following as part of the sentence:
 1. If the person is presented with an itemized bill pursuant to Ohio R.C. 2929.37 for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.
 2. If the person does not dispute the bill described in division (b)(4)a.1. of this section and does not pay the bill by the times specified in Ohio R.C. 2929.37, the clerk of the court may issue a certificate of judgment against the person as described in that section.
 - b. The sentence automatically includes any certificate of judgment issued as described in division (b)(4)a.2. of this section.
- (5) If an offender who is convicted of or pleads guilty to a violation of Ohio R.C. 4511.19(B), or any substantially equivalent municipal ordinance, also is convicted of or also pleads guilty to a specification of the type described in Ohio R.C. 2941.1414 and if the court imposes a jail term on the offender for the underlying offense, the court shall impose upon the offender an additional definite jail term of not more than six months. The additional jail term shall not be reduced pursuant to any provision of the Ohio Revised Code. The offender shall serve the additional jail term consecutively to and prior to the jail term imposed for the underlying offense and consecutively to any other mandatory term imposed in relation to the offense.
- (6) a. If an offender is convicted of or pleads guilty to a misdemeanor violation of Ohio R.C. 2907.23, 2907.24, 2907.241, or 2907.25, or any substantially equivalent municipal ordinance, and to a specification of the type described in Ohio R.C. 2941.1421 and if the court imposes a jail term on the offender for the misdemeanor violation, the court may impose upon the offender an additional definite jail term as follows:
1. Subject to division (b)(6)a.2. of this section, an additional definite jail term of not more than 60 days;
 2. If the offender previously has been convicted of or pleaded guilty to one or more misdemeanor or felony violations of Ohio R.C. 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25, or any substantially equivalent municipal ordinance, and also was convicted of or pleaded guilty to a specification of the type described in Ohio R.C. 2941.1421 regarding one or more of those violations, an additional definite jail term of not more than 120 days.
- b. In lieu of imposing an additional definite jail term under division (b)(6)a. of this section, the court may directly impose on the offender a sanction that requires the offender to wear a real-time processing, continual tracking electronic monitoring device during the period of time specified by the court. The period of time specified by the court shall equal the duration of an additional jail term that the court could have imposed upon the offender under division (b)(6)a. of this section. A sanction imposed under this division shall commence on the date specified by the court, provided that the sanction shall not commence until after the offender has served the jail term imposed for the misdemeanor violation of Ohio R.C. 2907.23, 2907.24, 2907.241, or 2907.25, or any substantially equivalent municipal ordinance, and any residential sanction imposed for the violation under division (d) of this section or Ohio R.C.

2929.26. A sanction imposed under this division shall be considered to be a community control sanction for purposes of division (c) or this section or Ohio R.C. 2929.25, and all provisions of this Code and the Ohio Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

- (7) If an offender is convicted of or pleads guilty to a misdemeanor violation of R.C. § 2903.13 and also is convicted of or pleads guilty to a specification of the type described in R.C. § 2941.1423 that charges that the victim of the violation was a woman whom the offender knew was pregnant at the time of the violation, the court shall impose on the offender a mandatory jail term that is a definite term of at least 30 days.
- (8) If a court sentences an offender to a jail term under this division (b), the sentencing court retains jurisdiction over the offender and the jail term. Upon motion of either party or upon the court's own motion, the court, in the court's sole discretion and as the circumstances warrant, may substitute one or more community control sanctions under division (d) or (e) of this section for any jail days that are not mandatory jail days.

(c) Misdemeanor community control sanctions.

- (1) a. Except as provided in section 666.99 and 698.03 of this Code or Ohio R.C. 2929.22 and 2929.23 or when a jail term is required by law, in sentencing an offender for a misdemeanor, other than a minor misdemeanor, the sentencing court may do either of the following:
1. Directly impose a sentence that consists of one or more community control sanctions authorized by divisions (d), (e), or (f) of this section. The court may impose any other conditions of release under a community control sanction that the court considers appropriate. If the court imposes a jail term upon the offender, the court may impose any community control sanction or combination of community control sanctions in addition to the jail term.
 2. Impose a jail term under division (b) of this section from the range of jail terms authorized under that division for the offense, suspend all or a portion of the jail term imposed, and place the offender under a community control sanction or combination of community control sanctions authorized under divisions (d), (e), or (f) of this section.
- b. The duration of all community control sanctions imposed upon an offender and in effect for an offender at any time shall not exceed five years.
- c. At sentencing, if a court directly imposes a community control sanction or combination of community control sanctions pursuant to division (c)(1)a.1. of this section, the court shall state the duration of the community control sanctions imposed and shall notify the offender that if any of the conditions of the community control sanctions are violated the court may do any of the following:
1. Impose a longer time under the same community control sanction if the total time under all of the offender's community control sanctions does not exceed the five-year limit specified in division (c)(1)b. of this section;
 2. Impose a more restrictive community control sanction under division (d), (e), or (f) of this section, but the court is not required to impose any particular sanction or sanctions;
 3. Impose a definite jail term from the range of jail terms authorized for the offense under division (b) of this section.
- (2) If a court sentences an offender to any community control sanction or combination of community control sanctions pursuant to division (c)(1)a.1. of this section, the sentencing court retains jurisdiction over the offender and the period of community control for the duration of the period of community control. Upon the motion of either party or on the court's own motion, the court, in the court's sole discretion and as the circumstances warrant, may modify the community control sanctions or conditions of release previously imposed, substitute a community control sanction

or condition of release for another community control sanction or condition of release previously imposed, or impose an additional community control sanction or condition of release.

- (3) a. If a court sentences an offender to any community control sanction or combination of community control sanctions authorized under division (d), (e), or (f) of this section, the court shall place the offender under the general control and supervision of the court or of a department of probation in the jurisdiction that serves the court for purposes of reporting to the court a violation of any of the conditions of the sanctions imposed. If the offender resides in another jurisdiction and a department of probation has been established to serve the municipal court or county court in that jurisdiction, the sentencing court may request the municipal court or the county court to receive the offender into the general control and supervision of that department of probation for purposes of reporting to the sentencing court a violation of any of the conditions of the sanctions imposed. The sentencing court retains jurisdiction over any offender whom it sentences for the duration of the sanction or sanctions imposed.
- b. The sentencing court shall require as a condition of any community control sanction that the offender abide by the law and not leave the state without the permission of the court or the offender's probation officer. In the interests of doing justice, rehabilitating the offender, and ensuring the offender's good behavior, the court may impose additional requirements on the offender. The offender's compliance with the additional requirements also shall be a condition of the community control sanction imposed upon the offender.
- (4) a. If the court imposing sentence upon an offender sentences the offender to any community control sanction or combination of community control sanctions authorized under division (d), (e), or (f) of this section, and the offender violates any of the conditions of the sanctions, the public or private person or entity that supervises or administers the program or activity that comprises the sanction shall report the violation directly to the sentencing court or to the department of probation or probation officer with general control and supervision over the offender. If the public or private person or entity reports the violation to the department of probation or probation officer, the department or officer shall report the violation to the sentencing court.
- b. If an offender violates any condition of a community control sanction, the sentencing court may impose upon the violator one or more of the following penalties:
1. A longer time under the same community control sanction if the total time under all of the community control sanctions imposed on the violator does not exceed the five-year limit specified in division (c)(1)b. of this section;
 2. A more restrictive community control sanction;
 3. A combination of community control sanctions, including a jail term.
- c. If the court imposes a jail term upon a violator pursuant to division (c)(4)b. of this section, the total time spent in jail for the misdemeanor offense and the violation of a condition of the community control sanction shall not exceed the maximum jail term available for the offense for which the sanction that was violated was imposed. The court may reduce the longer period of time that the violator is required to spend under the longer sanction or the more restrictive sanction imposed under division (c)(4)b. of this section by all or part of the time the violator successfully spent under the sanction that was initially imposed.
- (5) Except as otherwise provided in this division, if an offender, for a significant period of time, fulfills the conditions of a community control sanction imposed pursuant to division (d), (e), or (f) of this section in an exemplary manner, the court may reduce the period of time under the community control sanction or impose a less restrictive community control sanction. Fulfilling the conditions of a community control sanction does not relieve the offender of a duty to make restitution under division (f) of this section.

(d) *Community residential sanction.*

- (1) Except when a mandatory jail term is required by law, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, may impose upon the offender any community residential sanction or combination of community residential sanctions under this division (d). Community residential sanctions include, but are not limited to, the following:
 - a. A term of up to 180 days in a halfway house or a term in a halfway house not to exceed the longest jail term available for the offense, whichever is shorter, if the political subdivision that would have responsibility for paying the costs of confining the offender in a jail has entered into a contract with the halfway house for use of the facility for misdemeanor offenders;
 - b. If the offender is an eligible offender, as defined in R.C. § 307.932, a term of up to 60 days in a community alternative sentencing center or district community alternative sentencing center established and operated in accordance with that section, in the circumstances specified in that section, with one of the conditions of the sanction being that the offender complete in the center the entire term imposed.
 - (2) A sentence to a community residential sanction under division (d)(1)c. of this section shall be in accordance with R.C. § 307.932. In all other cases, the court that sentences an offender to a community residential sanction under this division (d) may do either or both of the following:
 - a. Permit the offender to serve the offender's sentence in intermittent confinement, overnight, on weekends or at any other time or times that will allow the offender to continue at the offender's occupation or care for the offender's family;
 - b. Authorize the offender to be released so that the offender may seek or maintain employment, receive education or training, receive treatment, perform community service, or otherwise fulfill an obligation imposed by law or by the court. A release pursuant to this division shall be only for the duration of time that is needed to fulfill the purpose of the release and for travel that reasonably is necessary to fulfill the purposes of release.
 - (3) The court may order that a reasonable portion of the income earned by the offender upon a release pursuant to division (d)(2) of this section be applied to any financial sanction imposed under division (f) of this section.
 - (4) No court shall sentence any person to a prison term for a misdemeanor or to a jail term for a minor misdemeanor.
 - (5) If a court sentences a person who has been convicted of or pleaded guilty to a misdemeanor to a community residential sanction as described in division (d)(1) of this section, at the time of reception and at other times the person in charge of the operation of the halfway house, community alternative sentencing center, district community alternative sentencing center, or other place at which the offender will serve the residential sanction determines to be appropriate, the person in charge of the operation of the halfway house, community alternative sentencing center, district community alternative sentencing center, or other place may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the halfway house, community alternative sentencing center, district community alternative sentencing center, or other place at which the offender will serve the residential sanction may cause a convicted offender in the halfway house, community alternative sentencing center, district community alternative sentencing center, or other place who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.
 - (6) The Municipality may enter into a contract with a halfway house for use of the halfway house to house misdemeanor offenders under a sanction imposed under division (d)(1)a. of this section.
- (e) *Nonresidential sanction where jail term is not mandatory.*
- (1) Except when a mandatory jail term is required by law, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, may impose upon the offender any

nonresidential sanction or combination of nonresidential sanctions authorized under this division. Nonresidential sanctions include, but are not limited to, the following:

- a. A term of day reporting;
 - b. A term of house arrest with electronic monitoring or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest without electronic monitoring or continuous alcohol monitoring;
 - c. A term of community service of up to 500 hours for misdemeanor of the first degree or 200 hours for a misdemeanor of the second, third, or fourth degree;
 - d. A term in a drug treatment program with a level of security for the offender as determined necessary by the court;
 - e. A term of intensive probation supervision;
 - f. A term of basic probation supervision;
 - g. A term of monitored time;
 - h. A term of drug and alcohol use monitoring, including random drug testing;
 - i. A curfew term;
 - j. A requirement that the offender obtain employment;
 - k. A requirement that the offender obtain education or training;
 - l. Provided the court obtains the prior approval of the victim, a requirement that the offender participate in victim-offender mediation;
 - m. If authorized by law, suspension of the offender's privilege to operate a motor vehicle, immobilization or forfeiture of the offender's motor vehicle, a requirement that the offender obtain a valid motor vehicle operator's license, or any other related sanction;
 - n. A requirement that the offender obtain counseling if the offense is a violation of Ohio R.C. 2919.25 or a substantially equivalent municipal ordinance or a violation of Ohio R.C. 2903.13 or a substantially equivalent municipal ordinance involving a person who was a family or household member at the time of the violation, if the offender committed the offense in the vicinity of one or more children who are not victims of the offense, and if the offender or the victim of the offense is a parent, guardian, custodian, or person in loco parentis of one or more of those children. This division does not limit the court in requiring that the offender obtain counseling for any offense or in any circumstance not specified in this division.
- (2) If the court imposes a term of community service pursuant to division (e)(1)c. of this section, the offender may request that the court modify the sentence to authorize the offender to make a reasonable contribution, as determined by the court, to the general fund of the county, municipality, or other local entity that provides funding to the court. The court may grant the request if the offender demonstrates a change in circumstances from the date the court imposes the sentence or that the modification would otherwise be in the interests of justice. If the court grants the request, the offender shall make a reasonable contribution to the court, and the clerk of the court shall deposit that contribution into the general fund of the county, municipality, or other local entity that provides funding to the court. If more than one entity provides funding to the court, the clerk shall deposit a percentage of the reasonable contribution equal to the percentage of funding the entity provides to the court in that entity's general fund.
- (3) In addition to the sanctions authorized under division (e)(1) of this section, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, upon an offender who is not required to serve a mandatory jail term may impose any other sanction that is intended to discourage the offender or other persons from committing a similar offense if the sanction is reasonably related to the overriding purposes and principles of misdemeanor sentencing.

- (4) The court imposing a sentence for a minor misdemeanor may impose a term of community service in lieu of all or part of a fine. The term of community service imposed for a minor misdemeanor shall not exceed 30 hours. After imposing a term of community service, the court may modify the sentence to authorize a reasonable contribution, as determined by the court, to the appropriate general fund as provided in division (e)(2) of this section.

(f) *Financial sanctions.*

- (1) In addition to imposing court costs pursuant to Ohio R.C. 2947.23, the court imposing a sentence upon an offender for a misdemeanor, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this division (f). If the court in its discretion imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

a. *Restitution.*

1. Unless the misdemeanor offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under traffic rule 13, restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based upon the victim's economic loss. The court may not impose restitution as a sanction pursuant to this division if the offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under traffic rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.
2. If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim, or survivor disputes the amount of restitution. If the court holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought from the offender.
3. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under R.C. § 3937.18.
4. If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than five percent of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.
5. The victim or survivor of the victim may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

- b. *Fines.* A fine of the type described in divisions (f)(1)b.1. and 2. of this section payable to the appropriate entity as required by law:

1. A fine in the following amount:
 - a) For a misdemeanor of the first degree, not more than \$1,000.00;
 - b) For a misdemeanor of the second degree, not more than \$750.00;
 - c) For a misdemeanor of the third degree, not more than \$500.00;

- d) For a misdemeanor of the fourth degree, not more than \$250.00;
- e) For a minor misdemeanor, not more than \$150.00.

2. A state fine or cost as defined in Ohio R.C. 2949.111.

c. Reimbursement.

1. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:
 - a) All or part of the costs of implementing any community control sanction, including a supervision fee under Ohio R.C. 2951.021;
 - b) All or part of the costs of confinement in a jail or other residential facility, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined;
 - c) All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under Ohio R.C. 4510.13.
2. The amount of reimbursement under division (f)(1)c.1. of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that division. If the court does not order reimbursement under that division, confinement costs may be assessed pursuant to a repayment policy adopted under Ohio R.C. 2929.37. In addition, the offender may be required to pay the fees specified in Ohio R.C. 2929.38 in accordance with that section.
 - (2) a. If the court determines a hearing is necessary, the court may hold a hearing to determine whether the offender is able to pay the financial sanction imposed pursuant to this division (f) or court costs or is likely in the future to be able to pay the sanction or costs.
 - b. If the court determines that the offender is indigent and unable to pay the financial sanction or court costs, the court shall consider imposing and may impose a term of community service under division (e)(1) of this section in lieu of imposing a financial sanction or court costs. If the court does not determine that the offender is indigent, the court may impose a term of community service under division (e)(1) of this section in lieu of or in addition to imposing a financial sanction under this division (f) and in addition to imposing court costs. The court may order community service for a minor misdemeanor pursuant to division (e)(4) of this section in lieu of or in addition to imposing a financial sanction under this section and in addition to imposing court costs. If a person fails to pay a financial sanction or court costs, the court may order community service in lieu of the financial sanction or court costs.
- (3) a. The offender shall pay reimbursements imposed upon the offender pursuant to division (f)(1)c. of this section to pay the costs incurred by a county pursuant to any sanction imposed under division (d), (e), or (f) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (d) of this section to the county treasurer. The county treasurer shall deposit the reimbursements in the county's general fund. The county shall use the amounts deposited in the fund to pay the costs incurred by the county pursuant to any sanction imposed under division (d), (e), or (f) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (d) of this section.
- b. The offender shall pay reimbursements imposed upon the offender pursuant to division (f)(1)c. of this section to pay the costs incurred by a municipal corporation pursuant to any sanction imposed under division (d), (e), or (f) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (d) of this section to the treasurer of the municipal corporation. The treasurer shall deposit the reimbursements in the municipal corporation's general fund. The municipal corporation shall use the amounts deposited in the fund to pay the costs incurred by the municipal corporation pursuant to any sanction

imposed under division (d), (e), or (f) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (d) of this section.

- c. The offender shall pay reimbursements imposed pursuant to division (f)(1)c. of this section for the costs incurred by a private provider pursuant to a sanction imposed under division (d), (e), or (f) of this section to the provider.

(4) In addition to any other fine that is or may be imposed under this section, the court imposing sentence upon an offender for misdemeanor domestic violence or menacing by stalking may impose a fine of not less than seventy nor more than five hundred dollars, which shall be transmitted to the treasurer of state to be credited to the address confidentiality program fund created by Ohio R.C. 111.48.

- ~~(4)~~ (5)a. Except as otherwise provided in this division ~~(f)(4)(5)~~, a financial sanction imposed under division (f)(1) of this section is a judgment in favor of the state or the political subdivision that operates the court that imposed the financial sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (f)(1)c.1.a) of this section upon an offender is a judgment in favor of the entity administering the community control sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (f)(1)c.1.b) of this section upon an offender confined in a jail or other residential facility is a judgment in favor of the entity operating the jail or other residential facility, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of restitution imposed pursuant to division (f)(1)a. of this section is an order in favor of the victim of the offender's criminal act that can be collected through a certificate of judgment as described in division ~~(f)(4)(5)~~b.1. of this section, through execution as described in division ~~(f)(4)(5)~~b.2. of this section or through an order as described in division ~~(f)(4)(5)~~b.3. of this section and the offender shall be considered for purposes of the collection as a judgment debtor.

- b. Once a financial sanction is imposed as a judgment or order under this division, the victim, private provider, state, or political subdivision may do any of the following:

1. Obtain from the clerk of the court in which the judgment was entered a certificate of judgment that shall be in the same manner and form as a certificate of judgment issued in a civil action;
2. Obtain execution of the judgment or order through any available procedure, including any of the procedures identified in Ohio R.C. 2929.18(D)(1) and (D)(2) or a substantially equivalent municipal ordinance.
3. Obtain an order for the assignment of wages of the judgment debtor under Ohio R.C. 1321.33 or a substantially equivalent municipal ordinance.

~~(5)(6)~~ The civil remedies authorized under division ~~(f)(4)(5)~~ of this section for the collection of the financial sanction supplement, but do not preclude, enforcement of the criminal sentence.

~~(6)~~ (7) Each court imposing a financial sanction upon an offender under this division (f) may designate the clerk of the court or another person to collect the financial sanction. The clerk, or another person authorized by law or the court to collect the financial sanction may do the following:

- a. Enter into contracts with one or more public agencies or private vendors for the collection of amounts due under the sanction. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this division (f), a court shall comply with Ohio R.C. 307.86 to 307.92.
- b. Permit payment of all or any portion of the sanction in installments, by financial transaction device if the court is a county court or a municipal court operated by a county, or by any other reasonable method, in any time, and on any terms that the court considers just, except that the maximum time permitted for payment shall not exceed five years. If the court is a county court or a municipal court operated by a county, the acceptance of payments by any

financial transaction device shall be governed by the policy adopted by the board of county commissioners of the county pursuant to Ohio R.C. 301.28. If the court is a municipal court not operated by a county, the clerk may pay any fee associated with processing an electronic transfer out of public money or may charge the fee to the offender.

c. To defray administrative costs, charge a reasonable fee to an offender who elects a payment plan rather than a lump sum payment of any financial sanction.

(7) No financial sanction imposed under this division (f) shall preclude a victim from bringing a civil action against the offender.

(ORC 2929.21, 2929.24—2929.28)

Section 6. Section 606.29 is hereby repealed.

606.29. Misuse of 9-1-1 system.

~~(a) As used in this section, "9-1-1 system" means a system through which individuals can request emergency service using the telephone number 9-1-1.~~

~~(b) No person shall knowingly use the telephone number of a 9-1-1 system established under Ohio R.C. Chapter 5507 to report an emergency if the person knows that no emergency exists.~~

~~(c) No person shall knowingly use a 9-1-1 system for a purpose other than obtaining emergency service.~~

~~(d) No person shall disclose or use any information concerning telephone numbers, addresses, or names obtained from the database that serves the public safety answering point of a 9-1-1 system established under Ohio R.C. Chapter 5507, except for any of the following purposes or under any of the following circumstances:~~

~~(1) For the purpose of the 9-1-1 system;~~

~~(2) For the purpose of responding to an emergency call to an emergency service provider;~~

~~(3) In the circumstance of the inadvertent disclosure of such information due solely to technology of the wireless telephone network portion of the 9-1-1 system not allowing access to the database to be restricted to 9-1-1 specific answering lines at a public safety answering point;~~

~~(4) In the circumstance of access to a database being given by a telephone company that is a wireless service provider to a public utility or municipal utility in handling customer calls in times of public emergency or service outages. The charge, terms, and conditions for the disclosure or use of such information for the purpose of such access to a database shall be subject to the jurisdiction of the department of public safety;~~

~~(5) In the circumstance of access to a database given by a telephone company that is a wireline service provider to a state and local government in warning of a public emergency, as determined by the department of public safety. The charge, terms and conditions for the disclosure or use of that information for the purpose of access to a database is subject to the jurisdiction of the department of public safety.~~

~~(e) (1) Whoever violates division (b) of this section is guilty of a misdemeanor of the fourth degree.~~

~~(2) Whoever violates division (c) or (d) of this section is guilty of a misdemeanor of the fourth degree on a first offense and a felony to be prosecuted under appropriate state law on each subsequent offense.~~

(ORC 5507.01(A), 5507.32(E)—(G), 5507.99)

Section 7. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule, or regulation adopted or issued in pursuance thereof shall be punished by a fine of \$100.00.

Section 8. If any section, subsection, sentence, clause, phrase or portion of the Ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances. The governing authority of the City of Monroe, Ohio hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable

Section 9. All ordinances and parts of ordinances in conflict herewith are expressly repealed.

Section 10. This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

Passed: _____

ATTEST:

APPROVED:

Clerk of Council

Mayor