ORDINANCE 2026-14

AN ORDINANCE AMENDING THE CODIFIED ORDINANCES OF THE VILLAGE OF MINERVA PARK, OHIO TO PROVIDE AMENDMENTS TO GENERAL OFFENSES MINERVA PARK VILLAGE CODE SECTIONS 606.06, 608.01, 608.04, 608.06, 608.12, 608.16, 624.01, 624.02, 624.03, 624.04, 624.06, 624.07, 624.08, 624.15, 630.01, 636.06, 636.14, 636.21, 642.01, 642.12, 666.01, 666.03, 666.24, 672.01, 672.02, 672.22, 678.14, 698.03; 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 Village Council of the Village of Minerva Park, Ohio is authorized by ORC § 715.01 to adopt ordinances relating to its property, affairs and local government; and

WHEREAS, the State of Ohio has adopted various new laws and amended existing laws and the Village desires to mirror its code to the Ohio Revised Code to the extent set forth in this document.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MINERVA PARK, COUNTY OF FRANKLIN, STATE OF OHIO:

Section 1. That the Code of Ordinances of the Village of Minerva Park, Ohio (meaning Village Municipal Code) is hereby amended by adding the provisions as provided in **Exhibit A**, which is adopted and incorporated by reference herein.

Section 2. The addition, amendment, or removal of Minerva Park Village Code Sections when passed in such form as to indicate the intention of the governing authority of the Village of Minerva Park, 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 Code of Ordinances of the Village of Minerva Park, Ohio) is authorized to exclude and omit any provisions of this ordinance that are inapplicable to the Village's Municipal Code.

Section 4. Provisions of **Exhibit A** that duplicate or track State statutes which do not become effective until after the effective date of this ordinance, shall not take effect until such statutes take effect.

Section 5. 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 Village of Minerva Park, 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 6. All ordinances and parts of ordinances in conflict herewith are expressly repealed.

Section 7. That it is found that all formal actions of Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 8. That this ordinance shall be in full force and effect from the earliest period allowed by law.

First Reading: September 10, 2026
Second Reading: September 24, 2026
Third Reading: October 8, 2026
Passed: October 8, 2026

_____
Tiffany Southard, Mayor

ATTEST

_____
Jeffrey Wilcheck, Fiscal Officer

APPROVED AS TO FORM

_____
Jesse Shamp, Solicitor

Exhibit A

606.06 Limitation on criminal prosecutions.

(a) (1) Except as provided in division (a)(2), (a)(3) ~~or~~ (a)(4), or (a)(5) 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 (6) years;

B. For a misdemeanor other than a minor misdemeanor, two (2) years;

C. For a minor misdemeanor, six (6) months.

(2) There is no period of limitation for the prosecution of a violation of 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 20 years after the offense is committed:

A. A violation of 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 R.C. § 2903.11 or 2903.12 if the victim is a peace officer, a violation of R.C. § 2903.13 that is a felony, or a violation of former 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 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 25 years after the offense is committed.

(5) A prosecution for a violation of R.C. § 2151.421(A)(1) or (A)(4) of the Revised Code, which is a misdemeanor of the fourth degree, or a misdemeanor of the first degree under circumstances specified in R.C. § 2151.99, is barred unless it is commenced within four years after the violation 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 (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 R.C. § 2913.49 shall be commenced within five (5) 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 (2) years thereafter.

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

Offense is directly related to the misconduct in office of a public servant. The phrase includes, but is not limited to, a violation of 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.

Public servant has the same meaning as in R.C. § 2921.01.

(d) (1) If a DNA record made in connection with the criminal investigation of the commission of a violation of 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 25 years after the offense is committed, prosecution of that person for a violation of the section may be commenced within five (5) 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 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 25 years after the offense is committed, prosecution of that person for a violation of the section may be commenced within the longer of 25 years after the offense is committed or five (5) years after the determination is complete.

(3) As used in this division, "DNA record" has the same meaning as in 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 the 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 municipality or conceals 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 this part 6 or R.C. Tit. XXIX 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 child with a developmental disability or physical impairment 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.

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

(l) The amendments to divisions (a) and (d) of this section apply to a violation of R.C. § 2907.02 or 2907.03 committed on and after ~~July 16, 2015~~ April 4, 2023, and apply to a violation of either of those sections committed prior to ~~July 16, 2015~~ April 4, 2023, if prosecution for that violation was not barred under this section as it existed on ~~July 16, 2015~~ April 4, 2023.

State law reference—R.C. § 2901.13

CHAPTER 608. PUBLIC SERVICE, ADMINISTRATION AND ENFORCEMENT*

608.01 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.

***Cross references**—Declaratory judgment in sex related offenses, see section 666.16; Injunction and abatement of nuisance in sex related offenses, see section 666.17; Justifiable use of force to suppress riot, see section 648.03; License or permit to possess dangerous ordnance, see section 678.05; Making false alarms, see section 648.08; Misconduct at an emergency, see section 648.06; Penalties and sentencing, see chapter 698; Rabies quarantine, see section 618.11; Registration of dogs, see section 618.08; Rules of evidence in sex related offenses, see section 666.09

State law references—Arrest without warrant for misdemeanor, see R.C. § 2935.03; Criteria for probation; conditions of probation, see R.C. § 2951.02; Degree of offense; charge and verdict; prior conviction, see R.C. § 2945.75; Discharge for delay in trial, see R.C. § 2945.73; Extension of time for

hearing or trial, see R.C. § 2945.72; Procedure on affidavit or complaint; withdrawal of unexecuted warrants, see R.C. § 2935.10; Registration of sex offenders in cities and counties, see R.C. §§ 2950.01 et seq.; Right of trial by jury, see R.C. § 2945.17; Satisfaction of fine; credit for time served, see R.C. § 2947.14; Time within which hearing or trial must be held, see R.C. § 2945.71; Treatment of drug dependent persons in lieu of conviction, see R.C. § 2951.041

(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 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 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 R.C. § 5743.71 in connection with the person's purchase of cigarettes or tobacco products in a delivery sale.

(16) The statement is made to the department of children and youth in connection with the Ohio adoption grant program for the purpose of qualifying for or obtaining an adoption grant under R.C. § 5101.19 to 5101.194.

(b) No person, in connection with the purchase of a firearm as defined in 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), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), (a)(10), (a)(11), (a)(13), ~~or~~ (a)(15), or (a)(16) of this section is guilty of falsification. Except as otherwise provided in this division, falsification is 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 $1,000.00 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 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) (1) No person who has knowingly failed to maintain proof of financial responsibility in accordance with R.C. § 4509.101 shall produce any document or present to a peace officer an electronic wireless communications device that is displaying any text or images with the purpose to mislead a peace officer upon the request of a peace officer for proof of financial responsibility made in accordance with R.C. § 4509.101(D)(2).

(2) Whoever violates this division (g) is guilty of falsification, a misdemeanor of the first degree.

State law references—Civil liability for violations of this section, see R.C. § 2921.13(G); R.C. §§ 4509.102, 2921.13

608.04 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 giving aid to a sick or injured person shall negligently fail to report to law enforcement authorities any gunshot or stab wound treated or observed by the person, or any serious physical harm to persons that the person knows or has reasonable cause to believe resulted from an offense of violence.

(c) No person who discovers the 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 such time would not be unexpected, or to a law enforcement officer, an ambulance service, an 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.

(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 bureau, if there is such a bureau 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 bureau, if there is such a bureau 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 (e)(3) of this section shall fail to file, within three (3) 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.

(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 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 under division (e) of this section.

(f) (1) No person who knows that a licensed medical professional has committed an offense under Chapter 2907. of the Revised Code, a violation of a municipal ordinance that is substantially equivalent to such offense, or a substantially equivalent criminal offense in another jurisdiction, against a patient of the licensed medical professional shall fail to report such knowledge to law enforcement authorities within thirty days of obtaining the knowledge.

(2) Except for a self-report or participation in the offense or violation being reported, any person who makes a report within the thirty-day period provided in division (f)(1) of this section or any person who participates in a judicial proceeding that results from such report is immune from civil or criminal liability that otherwise might be incurred or imposed as a result of making that report or participating in that proceeding so long as the person is acting in good faith without fraud or malice.

(3) The physician-patient relationship or physician assistant-patient relationship is not a ground for excluding evidence regarding the person's knowledge of a licensed medical professional's commission of an offense or violation reported under division (f)(1) of this section, against that licensed medical professional in any judicial proceeding resulting from a report made under that division.

(4) As used in division (f) of this section, “licensed medical professional” has the same meaning as in R.C. § 2907.01.

(g)(1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, 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 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 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 under division (~~f~~g)(1) of this section, and the information may be admitted as evidence in accordance with the rules of evidence.

(~~g~~h) 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; 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 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 community addiction services provider whose alcohol and drug addiction services are certified pursuant to R.C. § 5119.36.

(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 R.C. § 2907.02 or 2907.05, or to victims of felonious sexual penetration in violation of former 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 those services.

(~~h~~i) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.

(~~i~~j) Whoever violates division (a), ~~or~~ (b), or (f)(1) of this section is guilty of failure to report a crime. Violation of division (a)(1) or (f)(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~~k) 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~~l) (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~~m) As used in this section, "nurse" includes an advanced practice registered nurse, registered nurse, and licensed practical nurse.

State law reference—R.C. § 2921.22

608.06 Obstructing official business.

(a) As used in this section:

(1) “Emergency service responder” has the same meaning as in R.C. § 2903.22.

(2) “Warning” means a verbal command made by an emergency service responder through which the emergency service responder does both of the following:

(A) Commands a person to maintain the person's distance, to stay away, to back away, to not interfere, or another similar instruction;

(B) Communicates the verbal command in a manner such that a reasonable person would believe that the person must comply with the verbal command under the circumstances.

(b) No person, without privilege to do so and with purpose to prevent, obstruct or delay the performance by a public official of any authorized act within the public official's official capacity, shall do any act that hampers or impedes a public official in the performance of the public official's lawful duties.

(c) No person, without privilege to do so, and after receiving a warning, shall knowingly approach or remain within fifteen feet of an emergency service responder engaged in the lawful performance of the responder's legal duty and do either of the following:

(1) Impede or interfere with the emergency service responder's ability to perform the responder's legal duty;

(2) Threaten the emergency service responder with physical harm.

(~~b~~d)(1) Whoever violates this section is guilty of obstructing official business. Except as otherwise provided in ~~this subsection (b), obstructing official business is a misdemeanor of the second degree~~ divisions (d)(2), (3), and (4) of this section. If a violation of this section creates a risk of physical harm to any person, obstructing official business is a ~~felony~~ misdemeanor and shall be prosecuted under appropriate State law.

(2) If the victim is an emergency service responder engaged in the lawful performance of the responder's legal duty, and the responder issued a warning to the person before the person engaged in or continued to engage in the conduct described in division (b) of this section, obstructing official business is a misdemeanor of the first degree.

(3) If a violation of this section creates a risk of physical harm to a person other than an emergency service responder, obstructing official business is a felony of the fifth degree.

(4) If a violation of this section creates a risk of physical harm to an emergency service responder, obstructing official business is a felony of the fourth degree.

State law reference—R.C. § 2921.31

608.12 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 (1) 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 R.C. Ch. 3314; or treasurer of a science, technology, engineering, and mathematics school established under R.C. Ch. 3326~~; or fiscal officer of a college-preparatory boarding school established under R.C. Ch. 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 (4) 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.

(h) As used in this section, "public servant" includes the following:

(1) An officer or employee of a contractor as defined in R.C. § 9.08;

(2) A fiscal officer employed by the operator of a community school established under R.C. Ch. 3314~~ or by the operator of a college-preparatory boarding school established under R.C. Ch. 3328~~.

State law reference—R.C. § 2921.44

608.16 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 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 R.C. Tit. 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 R.C. § 1531.20;

5. Controlled substances sold by a peace officer in the performance of the officer's official duties under R.C. § 3719.141;

6. Property recovered by a township law enforcement agency under R.C. §§ 505.105 to 505.109;

7. Property held and disposed of under an ordinance of the municipality or under 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. An itemized list of the specific 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 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 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 R.C. § 149.43.

(3) The police department, with custody of property to be disposed of under this section or 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~~ using at least one 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.~~ following methods:

A. In the print or digital edition of a newspaper of general circulation in the county;

B. On the official public notice web site established under R.C. § 125.182;

the web site and social media account of the county.

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

Citizens' reward program has the same meaning as in R.C. § 9.92.

Law enforcement agency includes correctional institutions.

Township law enforcement agency means an organized police department of a township, a township police district, a joint 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 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 R.C. Chs. 4301 and 4303 or otherwise forfeited to the state for an offense under R.C. § 4301.45 or 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 R.C. Ch. 119 to provide for the distribution to state or local law enforcement agencies upon their request. If any tax imposed under R.C. Tit. 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 R.C. Ch. 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 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 (10) percent of any moneys acquired from the sale of property disposed of under this section shall be applied to one (1) or more community addiction services providers, as defined in R.C. § 5119.01. A juvenile court shall not specify a services provider, except as provided in this division, unless the services provider is in the same county as the court or in a contiguous county. If no services provider is located in any of those counties, the juvenile court may specify a services provider anywhere in Ohio. The remaining 90 percent of the proceeds or cash shall be applied as provided in division (b)(3) of this section.

(5) A. If the board of county commissioners recognizes a citizens' reward program under 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 (1) 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.

(6) Any property forfeited under R.C. Ch. 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) 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 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 R.C. § 5101.87.

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

State law references—Forfeiture of property generally, see R.C. Ch. 2981; R.C. §§ 2981.11, 2981.12, 2981.13(A)

CHAPTER 612. ALCOHOLIC BEVERAGES*

CHAPTER 618. ANIMALS*

CHAPTER 624. DRUGS*

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 has the same meaning as in R.C. § 3719.01.

Adulterate means to cause a drug to be adulterated as described in R.C. § 3715.63.

Alcohol and drug addiction services has the same meaning as in R.C. § 5119.01.

Bulk amount of a controlled substance, means any of the following:

(a) 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 (b), (e), or (f) of this definition, whichever of the following is applicable:

(1) An amount equal to or exceeding ten (10) 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;

(2) An amount equal to or exceeding ten (10) grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;

(3) An amount equal to or exceeding 30 grams or ten (10) 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;

(4) An amount equal to or exceeding 20 grams or five (5) 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;

(5) An amount equal to or exceeding five (5) grams or ten (10) unit doses of a compound, mixture, preparation or substance that is or contains any amount of phencyclidine;

(6) 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;

(7) An amount equal to or exceeding three (3) 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;

(b) 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;

(c) An amount equal to or exceeding 20 grams or five (5) 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;

(d) 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;

(e) 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;

(f) 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 R.C. § 2925.11 and the sentencing provisions set forth in R.C. § 2925.11(C)(10)(b) and (C)(11) 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) of this definition for the other Schedule III, Schedule IV, or Schedule V controlled substance that is combined with the fentanyl-related compound.

Certified grievance committee means a duly constituted and organized committee of the Ohio State Bar Association or of one (1) 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 means any of the following:

(a) A cocaine salt, isomer or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine.

(b) 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.

(c) A salt, compound, derivative or preparation of a substance identified in division (a) or (b) 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 means 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 means 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.

Committed in the vicinity of a substance addiction services provider or a recovering addict means an offense is "committed in the vicinity of a substance addiction services provider or a recovering addict" if either of the following apply:

(a) The offender commits the offense on the premises of a substance addiction services provider's facility, including a facility licensed prior to June 29, 2019, under R.C. § 5119.391 to provide methadone treatment or an opioid treatment program licensed on or after that date under R.C. § 5119.37, or within 500 feet of the premises of a substance addiction services provider's facility and the offender knows or should know that the offense is being committed within the vicinity of the substance addiction services provider's facility.

(b) The offender sells, offers to sell, delivers, or distributes the controlled substance or controlled substance analog to a person who is receiving treatment at the time of the commission of the offense, or received treatment within 30 days prior to the commission of the offense, from a substance addiction services provider and the offender knows that the person is receiving or received that treatment.

Controlled substance has the same meaning as in R.C. § 3719.01.

Controlled substance analog has the same meaning as in R.C. § 3719.01.

Counterfeit controlled substance means any of the following:

(a) 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.

(b) 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.

(c) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance.

(d) 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 has the same meaning as in R.C. § 4729.01.

Deception has the same meaning as in R.C. § 2913.01.

Disciplinary counsel means 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 has the same meaning as in R.C. § 3719.01.

Distribute has the same meaning as in R.C. § 3719.01.

Drug has the same meaning as in R.C. § 4729.01.

Drug abuse offense means any of the following:

(a) A violation of R.C. § 2913.02(A) that constitutes theft of drugs, or any violation of 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.

(b) 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 (a) of this definition.

(c) 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.

(d) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit, any offense under division (a), (b) or (c) of this definition.

Drug dependent person has the same meaning as in R.C. § 3719.011.

Drug of abuse has the same meaning as in R.C. § 3719.011.

Felony drug abuse offense means 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:

(a) Fentanyl;

(b) Alpha-methylfentanyl(N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(c) Alpha-methylthiofentanyl(N-[1-methyl-2-(2-thienyl)ethyl-4- piperidinyl]-N-phenylpropanamide);

(d) Beta-hydroxyfentanyl(N-[1-(2-hydroxy-2-phenethyl-4-piperidinyl]-N-phenylpropanamide);

(e) Beta-hydroxy-3-methylfentanyl(other name:N-[1-(2-hydroxy-2- phenethyl)-3- meth-yl-4-piperidinyl]-N- phenylpropanamide);

(f) 3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N- phenylpropanamide);

(g) 3-methylthiofentanyl(N-[3-methyl-1-[2-(thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide);

(h) Para-fluorofentanyl(N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4- piperidinyl]propanamide;

(i) Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide;

(j) Alfentanil;

(k) Carfentanil;

(l) Remifentanil;

(m) Sufentanil;

(n) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide); and

(o) 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:

(1) A chemical scaffold consisting of both of the following:

A. A five-, six-, or seven-member ring structure containing a nitrogen, whether or not further substituted;

B. 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.

(2) A polar functional group attached to the chemical scaffold, including, but not limited to, a hydroxyl, ketone, amide, or ester;

(3) An alkyl or aryl substitution off the ring nitrogen of the chemical scaffold; and

(4) 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:

(a) 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:

(1) Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline or other preparation containing a volatile organic solvent.

(2) Any aerosol propellant.

(3) Any fluorocarbon refrigerant.

(4) Any anesthetic gas.

(b) Gamma Butyrolactone;

(c) 1,4 Butanediol.

Hashish means:

(a) 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 percent.

(b) The term does not include a hemp byproduct in the possession of a licensed hemp processor under R.C. Ch. 928, provided that the hemp byproduct is being produced, stored, and disposed of in accordance with rules adopted under R.C. § 928.03.

Hypodermic has the same meaning as in R.C. § 3719.01.

Juvenile means a person under 18 years of age.

Licensed health professional authorized to prescribe drugs has the same meaning as in R.C. § 4729.01.

L.S.D. means lysergic acid diethylamide.

Major drug offender has the same meaning as in R.C. § 2929.01.

Mandatory prison term has the same meaning as in R.C. § 2929.01.

Manufacture means 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 has the same meaning as in R.C. § 3719.01.

Marihuana has the same meaning as in R.C. § 3719.01, except that it does not include hashish.

Methamphetamine means 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 means either of the following:

(a) A violation of R.C. § 2925.11, as it existed prior to July 1, 1996, or a substantially equivalent municipal ordinance.

(b) A violation of 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 has the same meaning as in R.C. § 3719.01.

Person has the same meaning as in R.C. § 3719.01.

Pharmacist has the same meaning as in R.C. § 3719.01.

Pharmacy has the same meaning as in R.C. § 3719.01.

Possess or *possession* means 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.

Premises of a substance addiction services provider's facility means the parcel of real property on which any substance addiction service provider's facility is situated.

Prescription has the same meaning as in R.C. § 4729.01.

Presumption for a prison term or *presumption that a prison term shall be imposed* means a presumption as described in 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 R.C. § 2929.11.

Professional license means any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate or temporary registration that is described in R.C. § 2925.01(W)(1) to (W)(37) and that qualifies a person as a professionally licensed person.

Professionally licensed person means any of the following:

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

(b) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under R.C. Ch. 4703;

(c) A person who is registered as a landscape architect under R.C. Ch. 4703 or who holds a permit as a landscape architect issued under that chapter;

(d) A person licensed under R.C. Ch. 4707;

(e) A person who has been issued a barber instructor's license, assistant barber instructor's license, or independent contractor's license under R.C. Ch. 4709;

(f) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of R.C. Ch. 4710;

(g) 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 license to practice cosmetology, advanced license to practice hair design, advanced license to practice manicuring,

advanced license to practice esthetics, advanced license to practice natural hair styling, 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 R.C. Ch. 4713;

(h) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious 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 R.C. Ch. 4715;

(i) 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 R.C. Ch. 4717;

(j) 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 R.C. Ch. 4723;

(k) A person who has been licensed to practice optometry or to engage in optical dispensing under R.C. Ch. 4725;

(l) A person licensed to act as a pawnbroker under R.C. Ch. 4727;

(m) A person licensed to act as a precious metals dealer under R.C. Ch. 4728;

(n) A person licensed under R.C. Ch. 4729 as a pharmacist or pharmacy intern or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;

(o) A person licensed under R.C. Ch. 4729 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;

(p) A person who is authorized to practice as a physician assistant under R.C. Ch. 4730;

(q) A person who has been issued a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under R.C. Ch. 4731 or has been issued a certificate to practice a limited branch of medicine under that chapter;

(r) A person licensed as a psychologist or school psychologist under R.C. Ch. 4732;

(s) A person registered to practice the profession of engineering or surveying under R.C. Ch. 4733;

(t) A person who has been issued a license to practice chiropractic under R.C. Ch. 4734;

(u) A person licensed to act as a real estate broker or real estate salesperson under R.C. Ch. 4735;

(v) A person registered as a registered environmental health specialist under R.C. Ch. 4736;

(w) A person licensed to operate or maintain a junkyard under R.C. Ch. 4737;

(x) A person who has been issued a motor vehicle salvage dealer's license under R.C. Ch. 4738;

(y) A person who has been licensed to act as a steam engineer under R.C. Ch. 4739;

(z) 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 R.C. Ch. 4741;

(aa) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under R.C. Ch. 4747;

(bb) 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 R.C. Ch. 4749;

(cc) A person licensed to practice as a nursing home administrator under R.C. Ch. 4751;

(dd) A person licensed to practice as a speech-language pathologist or audiologist under R.C. Ch. 4753;

(ee) A person issued a license as an occupational therapist or physical therapist under R.C. Ch. 4755;

(ff) 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 R.C. Ch. 4757;

(gg) A person issued a license to practice dietetics under R.C. Ch. 4759;

(hh) A person who has been issued a license or limited permit to practice respiratory therapy under R.C. Ch. 4761;

(ii) A person who has been issued a real estate appraiser certificate under R.C. Ch. 4763;

(jj) A person who has been issued a home inspector license under R.C. Ch. 4764;

(kk) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules;

(ll) A person who has been issued a license to practice as a certified mental health assistant under chapter 4772 of the Revised Code.

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

Sale has the same meaning as in R.C. § 3719.01.

Sample drug means 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 (1) time, had been placed in a container plainly marked as a sample by a manufacturer.

Schedule I, Schedule II, Schedule III, Schedule IV or *Schedule V* have the same meaning as in R.C. § 3719.01.

School means any school operated by a board of education, any community school established under R.C. Ch. 3314, or any nonpublic school for which the Director of Education and Workforce prescribes minimum standards under 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 means 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 means either of the following:

(a) 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.

(b) 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 R.C. Ch. 3314, or the governing body of a nonpublic school for which the state board of education prescribes minimum standards under 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 means the current edition, with cumulative changes if any, of references that are approved by the state board of pharmacy.

Substance addiction services provider means an agency, association, corporation or other legal entity, individual, or program that provides one (1) or more of the following at a facility:

(a) Either alcohol addiction services, or drug addiction services, or both such services that are certified by the Ohio Director of Mental Health and Addiction Services under R.C. § 5119.36;

(b) Recovery supports that are related to either alcohol addiction services, or drug addiction services, or both such services and paid for with federal, state, or local funds administered by the Ohio Department of ~~Mental~~ Behavioral Health and ~~Addiction Services~~ or a board of alcohol, drug addiction, and mental health services.

Unit dose means 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 has the same meaning as in R.C. § 3719.01.

(Ord. No. 27-2024, § 1(Exh. A), 11-21-2024)

State law reference—R.C. § 2925.01

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 R.C. Chs. 3719, 4715, 4723, 4729, 4730, 4731, ~~and~~ 4741, and 4772.

(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 divisions (c)(2) and (c)(3) 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.

(3) If the drug involved in the violation is a compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and marihuana, one (1) of the following applies:

A. Except as otherwise provided in division (c)(3) B. of this section, the offender is guilty of trafficking in marihuana and shall be punished under division (c)(2) of this section. The offender is not guilty of trafficking in a fentanyl-related compound and shall not be charged with, convicted of, or punished under R.C. § 2925.03(C)(9) for trafficking in a fentanyl-related compound.

B. If the offender knows or has reason to know that the compound, mixture, preparation, or substance that is the drug involved contains a fentanyl-related compound, the offender is guilty of trafficking in a fentanyl-related compound and shall be punished under R.C. § 2925.03(C)(9).

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

State law references—Felony drug trafficking offenses, see R.C. § 2925.03(C); R.C. §§ 2925.03(A)—(C), (I)

624.03 Drug possession offenses.

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

(b) (1) This section does not apply to any of the following:

A. Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with R.C. Chs. 3719, 4715, 4723, 4729, 4730, 4731, ~~and~~ 4741, and 4772.

B. 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.

C. 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.

D. 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 this division (b)(1) D., "deception" and "theft offense" have the same meanings as in R.C. § 2913.01.

(2) A. As used in division (b)(2) of this section:

Community addiction services provider has the same meaning as in R.C. § 5119.01.

Community control sanction has the same meanings as in R.C. § 2929.01

Drug treatment program has the same meanings as in R.C. § 2929.01.

Health care facility has the same meaning as in R.C. § 2919.16.

Minor drug possession offense means a violation of this section or R.C. § 2925.11 that is a misdemeanor or a felony of the fifth degree.

Peace officer has the same meaning as in R.C. § 2935.01.

Post-release control sanction has the same meaning as in R.C. § 2967.28.

Public agency has the same meaning as in R.C. § 2930.01.

Qualified individual means a person who is not on community control or post-release control and is a person acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose as described in division (b)(2) B. of this section.

Seek or obtain medical assistance includes, but is not limited to, making a 9-1-1 call, contacting in person or by telephone call an on-duty peace officer, or transporting or presenting a person to a health care facility.

B. Subject to division (b)(2) F. of this section, a qualified individual shall not be arrested, charged, prosecuted, convicted, or penalized pursuant to this chapter for a minor drug possession offense if all of the following apply:

1. The evidence of the obtaining, possession, or use of the controlled substance or controlled substance analog that would be the basis of the offense was obtained as a result of the qualified individual seeking the medical assistance or experiencing an overdose and needing medical assistance.

2. Subject to division (b)(2) G. of this section, within 30 days after seeking or obtaining the medical assistance, the qualified individual seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.

3. Subject to division (b)(2) G. of this section, the qualified individual who obtains a screening and receives a referral for treatment under division (b)(2) B.2. of this section, upon the request of any prosecuting attorney, submits documentation to the prosecuting attorney that verifies that the qualified individual satisfied the requirements of that division. The documentation shall be limited to the date and time of the screening obtained and referral received.

C. If a person is found to be in violation of any community control sanction and if the violation is a result of either of the following, the court shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in R.C. § 2929.13, 2929.15, or 2929.25, or any substantially equivalent municipal ordinance, whichever is applicable, after which the court has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in any of those applicable sections:

1. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;

2. Experiencing a drug overdose and seeking medical assistance for that overdose or being the subject of another person seeking or obtaining medical assistance for that overdose as described in division (b)(2)B. of this section.

D. If a person is found to be in violation of any post-release control sanction and if the violation is a result of either of the following, the court or the parole board shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in R.C. § 2929.141 or 2967.28, whichever is applicable, after which the court or the parole board has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in either of those applicable sections:

1. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;

2. Experiencing a drug overdose and seeking medical assistance for that emergency or being the subject of another person seeking or obtaining medical assistance for that overdose as described in division (b)(2) B. of this section.

E. Nothing in division (b)(2) B. of this section shall be construed to do any of the following:

1. Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of division (b)(2) B. of this section or with regards to any crime other than a minor drug possession offense committed by a person who qualifies for protection pursuant to division (b)(2) B. of this section for a minor drug possession offense;

2. Limit any seizure of evidence or contraband otherwise permitted by law;

3. Limit or abridge the authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in that division;

4. Limit, modify, or remove any immunity from liability available pursuant to law in effect prior to September 13, 2016, to any public agency or to an employee of any public agency.

F. Division (b)(2) B. of this section does not apply to any person who twice previously has been granted an immunity under division (b)(2) B. of this section. No person shall be granted an immunity under division (b)(2) B. of this section more than two (2) times.

G. Nothing in this section shall compel any qualified individual to disclose protected health information in a way that conflicts with the requirements of the "Health Insurance Portability and Accountability Act of 1996," 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. §§ 1320d et seq., as amended, and regulations promulgated by the United States Department of Health and Human Services to implement the act or the requirements of 42 C.F.R. Part 2.

(c) Whoever violates division (a) of this section is guilty of one (1) of the following:

(1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule I or Schedule II, with the exception of marihuana or hashish, whoever violates division (a) of this section is guilty of a felony to be prosecuted under appropriate state law.

(2) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule III, Schedule IV, or Schedule V, 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 division (c)(2) B. of this section, possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, 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 division (c)(3) B. or (c)(3) C. of this section, 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 division (c)(4) B. or (c)(4) C. of this section, possession of hashish is a minor misdemeanor.

B. If the amount of the drug involved equals or exceeds five (5) grams but is less than ten (10) grams of hashish in a solid form or equals or exceeds one (1) gram but is less than two (2) 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 (10) grams of hashish in a solid form or equals or exceeds two (2) 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.

(5) If the drug involved in the violation is a compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and marihuana, one (1) of the following applies:

A. Except as otherwise provided in division (c)(5) B. of this section, the offender is guilty of possession of marihuana and shall be punished as provided in division (c)(3) of this section. Except as otherwise provided in division (c)(5)B. of this section, the offender is not guilty of possession of a fentanyl-related compound under R.C. § 2925.11(C)(11) and shall not be charged with, convicted of, or punished under R.C. § 2925.11(C)(11) for possession of a fentanyl-related compound.

B. If the offender knows or has reason to know that the compound, mixture, preparation, or substance that is the drug involved contains a fentanyl-related compound, the offender is guilty of possession of a fentanyl-related compound and shall be punished under R.C. § 2925.11(C)(11).

(6) If the drug involved in the violation is a compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any Schedule III, Schedule IV, or Schedule V controlled substance that is not a fentanyl-related compound, one (1) of the following applies:

A. Except as otherwise provided in division (c)(6) B. of this section, the offender is guilty of possession of drugs and shall be punished as provided in division (c)(2) of this section. Except as otherwise provided in division (c)(6)B. of this section, the offender is not guilty of possession of a fentanyl-related compound under R.C. § 2925.11(C)(11) and shall not be charged with, convicted of, or punished under R.C. § 2925.11(C)(11) for possession of a fentanyl-related compound.

B. If the offender knows or has reason to know that the compound, mixture, preparation, or substance that is the drug involved contains a fentanyl-related compound, the offender is guilty of possession of a fentanyl-related compound and shall be punished under R.C. § 2925.11(C)(11).

(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) (1) In addition to any person term or jail term authorized or required by division (c) of this section and 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 R.C. §§ 2929.11 through 2929.18, or 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 may suspend the offender's driver's or commercial driver's license or permit for not more than five (5) years. However, if the offender pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent 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 (5) years. If~~ applicable, the court also shall do the following:

> (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 R.C. § 2925.38.

(3) If the offender has a driver’s license or commercial driver’s license or permit R.C. § 2929.33 applies.

(f) (1) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.

> (2) Upon the filing of a motion under division (f) of this section, the sentencing court, in its discretion, may terminate the suspension.

State law references—Felony drug possession offenses, see R.C. § 2925.11(C); R.C. § 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 R.C. Chs. 3719, 4715, 4723, 4729, 4730, 4731, ~~and~~ 4741, and 4772.

(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) (1) ~~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 (5) 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 R.C. § 4511.19 or a substantially equivalent 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 (5) 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.

<u>If the offender has a driver's license or commercial driver's license or permit R.C. §</u> <u>2929.33 applies.</u>

(2) A. Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.

B. Upon the filing of a motion under division (d)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

State law reference—R.C. § 2925.12

624.06 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 introducing 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 R.C. Ch. 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 R.C. Ch. 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 R.C. Ch. 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 R.C. Chs. 3719, 4715, 4723, 4729, 4730, 4731, ~~and~~ 4741, and 4772. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by 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 marihuana.

(e) Notwithstanding R.C. Ch. 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 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) (1) ~~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 (5) 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 R.C. § 4511.19 or a substantially equivalent 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 (5) 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.

<u>If the offender has a driver's license or commercial driver's license or permit R.C. § 2929.33 applies.</u>

(2) A. Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016 may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.

B. Upon the filing of a motion under division (g)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

(h) *Illegal use or possession of marihuana 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) A. In addition to any other sanction imposed upon an offender for a violation division (h) of this section, the court may suspend for not more than five (5) 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 R.C. § 4511.19 or a substantially equivalent 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 (5) years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of division (h) of this section, the court immediately shall comply with R.C. § 2925.38.

B. 1. Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under division (h) of this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under division (h) of this section shall not file such a motion.

2. Upon the filing of a motion under division (h)(7) B. of this section, the sentencing court, in its discretion, may terminate the suspension.

State law reference—R.C. §§ 2925.14, 2925.141

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) (1) ~~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 (5) 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 R.C. § 4511.19 or a substantially equivalent 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 (5) 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.

<u>If the offender has a driver’s license or commercial driver’s license or permit R.C. § 2929.33 applies.</u>

(2) A. Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to the September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of R.C. § 4511.19 or a substantially equivalent municipal ordinance or law of another state or the United States that

arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.

B. Upon the filing of a motion under division (c)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

State law reference—R.C. § 2925.31

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 R.C. Chs. 3719, 4715, 4723, 4725, 4729, 4730, 4731, ~~and~~ 4741, and 4772.

(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 Schedule II, 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, Schedule IV or Schedule V, 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.

State law references—Felony offenses, see R.C. § 2925.36(C)(2); R.C. §§ 2925.36(A)—

(C)

624.15 Sale of pseudoephedrine.

(a) *Unlawful purchases.*

(1) As used in divisions (a), (b), (c) and (d) of this section:

Consumer product means any food or drink that is consumed or used by humans and any drug, including a drug that may be provided legally only pursuant to a prescription, that is intended to be consumed or used by humans.

Ephedrine means any material, compound, mixture, or preparation that contains any quantity of ephedrine, any of its salts, optical isomers, or salts of optical isomers.

Ephedrine product means a consumer product that contains ephedrine.

Pseudoephedrine means any material, compound, mixture, or preparation that contains any quantity of pseudoephedrine, any of its salts, optical isomers, or salts of optical isomers.

Pseudoephedrine product means a consumer product that contains pseudoephedrine.

Retailer means a place of business that offers consumer products for sale to the general public.

Single-ingredient preparation means a compound, mixture, preparation, or substance that contains a single active ingredient.

Terminal distributor of dangerous drugs has the same meaning as in R.C. § 4729.01.

(2) A.

1. No individual shall knowingly purchase, receive, or otherwise acquire an amount of pseudoephedrine product or ephedrine product that is greater than either of the following unless the pseudoephedrine product or ephedrine product is dispensed by a pharmacist pursuant to a valid prescription issued by a licensed health professional authorized to prescribe drugs and the conduct of the pharmacist and the licensed health professional authorized to prescribe drugs is in accordance with R.C. Ch. 3719, 4715, 4723, 4729, 4730, 4731, ~~or~~ 4741, or 4772:

a. Three and six-tenths (3.6) grams within a period of a single day;

b. Nine (9) grams within a period of 30 consecutive days.

2. The limits specified in divisions (a)(2)A.1.a. and (a)(2)A.1.b. of this section apply to the total amount of base pseudoephedrine or base ephedrine in the pseudoephedrine product or ephedrine product, respectively. The limits do not apply to the product's overall weight.

B. It is not a violation of division (b)(1) of this section for an individual to receive or accept more than an amount of pseudoephedrine product or ephedrine product specified in division (a)(2)A.1.a. or (a)(2)A.1.b. of this section if the individual is an employee of a retailer or terminal distributor of dangerous drugs, and the employee receives or accepts from the retailer or terminal distributor of dangerous drugs the pseudoephedrine product or ephedrine product in a sealed container in connection with manufacturing, warehousing, placement, stocking, bagging, loading, or unloading of the product.

(3) A. No individual under 18 years of age shall knowingly purchase, receive, or otherwise acquire a pseudoephedrine product, or ephedrine product unless the pseudoephedrine product or ephedrine product is dispensed by a pharmacist pursuant to a valid prescription issued by a licensed health professional authorized to prescribe drugs and the conduct of the pharmacist and the licensed health professional authorized to prescribe drugs is in accordance with R.C. Ch. 3719, 4715, 4723, 4729, 4730, 4731, ~~or~~ 4741, or 4772.

B. Division (a)(3) A. of this section does not apply to an individual under 18 years of age who purchases, receives, or otherwise acquires a pseudoephedrine product or ephedrine product from any of the following:

1. A licensed health professional authorized to prescribe drugs or pharmacist who dispenses, sells, or otherwise provides the pseudoephedrine product or ephedrine product to that individual and whose conduct is in accordance with R.C. Ch. 3719, 4715, 4723, 4729, 4730, 4731, ~~or~~ 4741, or 4772;

2. A parent or guardian of that individual who provides the pseudoephedrine product or ephedrine product to the individual;

3. A person, as authorized by that individual's parent or guardian, who dispenses, sells, or otherwise provides the pseudoephedrine product or ephedrine product to the individual;

4. A retailer or terminal distributor of dangerous drugs who provides the pseudoephedrine product or ephedrine product to that individual if the individual is an employee of the retailer or terminal distributor of dangerous drugs and the individual receives or accepts from the retailer or terminal distributor of dangerous drugs the pseudoephedrine product or ephedrine product in a sealed container in connection with manufacturing, warehousing, placement, stocking, bagging, loading, or unloading of the product.

(4) No individual under 18 years of age shall knowingly show or give false information concerning the individual's name, age, or other identification for the purpose of purchasing, receiving, or otherwise acquiring a pseudoephedrine product or ephedrine product.

(5) No individual shall knowingly fail to comply with the requirements of R.C. § 3715.051(B).

(6) Whoever violates division (a)(2) A. of this section is guilty of unlawful purchase of a pseudoephedrine product or ephedrine product, a misdemeanor of the first degree.

(7) Whoever violates division (a)(3) A. of this section is guilty of underage purchase of a pseudoephedrine product or ephedrine product, a delinquent act that would be a misdemeanor of the fourth degree if it could be committed by an adult.

(8) Whoever violates division (a)(4) of this section is guilty of using false information to purchase a pseudoephedrine product or ephedrine product, a delinquent act that would be a misdemeanor of the first degree if it could be committed by an adult.

(9) Whoever violates division (a)(5) of this section is guilty of improper purchase of a pseudoephedrine product or ephedrine product, a misdemeanor of the fourth degree.

(b) *Unlawful retail sales.*

(1) A.

1. Except as provided in division (b)(1)B of this section, no retailer or terminal distributor of dangerous drugs or an employee of a retailer or terminal distributor of dangerous drugs shall knowingly sell, offer to sell, hold for sale, deliver, or otherwise provide to any individual an amount of pseudoephedrine product or ephedrine product that is greater than either of the following:

a. Three and six-tenths (3.6) grams within a period of a single day;

b. Nine (9) grams within a period of 30 consecutive days.

2. The maximum amounts specified in divisions (b)(1)A.1.a. and (b)(1)A.1.b. of this section apply to the total amount of base pseudoephedrine or base ephedrine in the pseudoephedrine product or ephedrine product, respectively. The maximum amounts do not apply to the product's overall weight.

B. 1. Division (b)(1)A. of this section does not apply to any quantity of pseudoephedrine product or ephedrine product dispensed by a pharmacist pursuant to a valid prescription issued by a licensed health professional authorized to prescribe drugs if the conduct of the pharmacist and the licensed health professional authorized to prescribe drugs is in accordance with R.C. Ch. 3719, 4715, 4723, 4729, 4730, 4731, ~~or~~ 4741, or 4772.

2. It is not a violation of division (b)(1)A. of this section for a retailer, terminal distributor of dangerous drugs, or employee of either to provide to an individual more than an amount of pseudoephedrine product or ephedrine product specified in division (b)(1)A.1.a. or (b)(1)A.1.b. of this section under either of the following circumstances:

a. The individual is an employee of the retailer or terminal distributor of dangerous drugs, and the employee receives or accepts from the retailer, terminal distributor of dangerous drugs, or employee the pseudoephedrine product or ephedrine product in a sealed container in connection with manufacturing, warehousing, placement, stocking, bagging, loading, or unloading of the product;

b. A stop-sale alert is generated after the submission of information to the national precursor log exchange under the conditions described in R.C. § 3715.052(A)(2).

(2) A. Except as provided in division (b)(2) B. of this section, no retailer or terminal distributor of dangerous drugs or an employee of a retailer or terminal distributor of dangerous drugs shall sell, offer to sell, hold for sale, deliver, or otherwise provide a pseudoephedrine product or ephedrine product to an individual who is under 18 years of age.

B. Division (b)(2) A. of this section does not apply to any of the following:

1. A licensed health professional authorized to prescribe drugs or pharmacist who dispenses, sells, or otherwise provides a pseudoephedrine product or ephedrine product to an individual under 18 years of age and whose conduct is in accordance with R.C. Ch. 3719, 4715, 4723, 4729, 4730, 4731, ~~or~~ 4741, or 4772;

2. A parent or guardian of an individual under 18 years of age who provides a pseudoephedrine product or ephedrine product to the individual;

3. A person who, as authorized by the individual's parent or guardian, dispenses, sells, or otherwise provides a pseudoephedrine product or ephedrine product to an individual under 18 years of age;

4. The provision by a retailer, terminal distributor of dangerous drugs, or employee of either of a pseudoephedrine product or ephedrine product in a sealed container to an employee of the retailer or terminal distributor of dangerous drugs who is under 18 years of age in connection with manufacturing, warehousing, placement, stocking, bagging, loading, or unloading of the product.

(3) No retailer or terminal distributor of dangerous drugs shall fail to comply with the requirements of R.C. § 3715.051(A) or 3715.052(A)(2).

(4) No retailer or terminal distributor of dangerous drugs shall fail to comply with the requirements of R.C. § 3715.052(A)(1).

(5) Whoever violates division (b)(1) A. of this section is guilty of unlawfully selling a pseudoephedrine product or ephedrine product, a misdemeanor of the first degree.

(6) Whoever violates division (b)(2) A. of this section is guilty of unlawfully selling a pseudoephedrine product or ephedrine product to a minor, a misdemeanor of the fourth degree.

(7) Whoever violates division (b)(3) of this section is guilty of improper sale of a pseudoephedrine product or ephedrine product, a misdemeanor of the second degree.

8) Whoever violates division (b)(4) of this section is guilty of failing to submit information to the national precursor log exchange, a misdemeanor for which the offender shall be fined not more than $1,000.00 per violation.

(c) *Transaction scans.*

(1) For the purpose of this division and division (d) of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

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 any pseudoephedrine product or ephedrine product from the seller, agent or employee.

Identification card has the same meaning as in R.C. § 2927.021.

Seller means a retailer or terminal distributor of dangerous drugs.

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 any pseudoephedrine product or ephedrine product.

Transaction scan device has the same meaning as in R.C. § 2927.021.

(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 a pseudoephedrine product or ephedrine product.

B. If the information deciphered by the transaction scan performed under division (c)(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 pseudoephedrine product or ephedrine product to the card holder.

C. Division (c)(2) A. of this section does not preclude a seller or an agent or employee of a seller as a condition for selling, giving away or otherwise distributing a pseudoephedrine product or ephedrine product to the person presenting the document from using a transaction scan device to check the validity of a document other than a driver's or commercial driver's license or an identification card if the document includes a bar code or magnetic strip that may be scanned by the device.

(3) Rules adopted by the Registrar of Motor Vehicles under R.C. § 4301.61(C) apply to the use of transaction scan devices for purposes of this division (c) and division (d) 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 the following:

1. The name, address, and date of birth of the person listed on the driver's or commercial driver's license or identification card presented by a card holder;

2. The expiration date, identification number, and issuing agency of the driver's or commercial driver's license or identification card presented by a 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 (c)(4) A. of this section except for purposes of division (d) of this section or R.C. § 2925.58 or 3715.052(A)(1).

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 (d) of this section or any other section of the Ohio Revised Code.

(5) Nothing in this division (c) or division (d) of this section relieves a seller or an agent or employee of a seller of any responsibility to comply with any other applicable state or federal laws or rules governing the sale, giving away or other distribution of pseudoephedrine products or ephedrine products.

(6) Whoever violates division (c)(2) B. or (c)(4) of this section is guilty of engaging in an illegal pseudoephedrine product or ephedrine 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.

(d) *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 (b) of this section in which the age of the purchaser or other recipient of a pseudoephedrine product 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 receive a pseudoephedrine product 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 pseudoephedrine product was 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 (d)(1) of this section, the trier of fact in the action for the alleged violation of division (b) of this section shall consider any written policy that the seller has adopted and implemented and that is intended to prevent violations of division (b) of this section. For purposes of division (d)(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 a pseudoephedrine product is 18 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 (d)(1) of this section is raised, the registrar of motor vehicles or a deputy registrar who issued an identification card under R.C. §§ 4507.50 through 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.

(e) *Retailer's duties.*

(1) As used in divisions (e) and (f) of this section:

Consumer product means any food or drink that is consumed or used by humans and any drug, including a drug that may be provided legally only pursuant to a prescription, that is intended to be consumed or used by humans.

Drug has the same meanings as in R.C. § 4729.01.

Ephedrine means any material, compound, mixture, or preparation that contains any quantity of ephedrine, any of its salts, optical isomers, or salts of optical isomers.

Ephedrine product means a consumer product that contains ephedrine.

Law enforcement official means an officer or employee of any agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, who is empowered by the law to investigate or conduct an official inquiry into a potential violation of law or prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

Licensed health professional authorized to prescribe drugs has the same meanings as in R.C. § 4729.01.

National precursor log exchange or *exchange* means the electronic system for tracking sales of pseudoephedrine products and ephedrine products on a national basis that is administered by the National Association of Drug Diversion Investigators or a successor organization.

Pharmacist means a person licensed under R.C. Ch. 4729 to engage in the practice of pharmacy.

Pharmacy has the same meanings as in R.C. § 4729.01.

Prescriber has the same meanings as in R.C. § 4729.01.

Prescription has the same meanings as in R.C. § 4729.01.

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 R.C. §§ 4507.50 to 4507.52 that shows a person is 18 years of age or older.

Pseudoephedrine means any material, compound, mixture, or preparation that contains any quantity of pseudoephedrine, any of its salts, optical isomers, or salts of optical isomers.

Pseudoephedrine product means a consumer product that contains pseudoephedrine.

Retailer means a place of business that offers consumer products for sale to the general public.

Single-ingredient preparation means a compound, mixture, preparation, or substance that contains a single active ingredient.

Stop-sale alert means a notification sent from the national precursor log exchange to a retailer or terminal distributor of dangerous drugs indicating that the completion of a sale of a pseudoephedrine product or ephedrine product would result in a violation of R.C. § 2925.56(A)(1) or federal law.

Terminal distributor of dangerous drugs has the same meanings as in R.C. § 4729.01.

Wholesaler has the same meaning as in R.C. § 3719.01.

(2) A retailer or terminal distributor of dangerous drugs that sells, offers to sell, holds for sale, delivers, or otherwise provides a pseudoephedrine product or ephedrine product to the public shall do all of the following:

A. Segregate pseudoephedrine products or ephedrine products from other merchandise so that no member of the public may procure or purchase such products without the direct assistance of a pharmacist or other authorized employee of the retailer or terminal distributor of dangerous drugs;

B. With regard to each time a pseudoephedrine product or ephedrine product is sold or otherwise provided without a valid prescription:

1. Determine, by examination of a valid proof of age, that the purchaser or recipient is at least 18 years of age;

2. a. Using any information available, including information from the national precursor log exchange if the information is accessible, make a reasonable

attempt to ensure that no individual purchases or receives an amount of pseudoephedrine product or ephedrine product that is greater than either of the following:

i. Three and six-tenths (3.6) grams within a period of a single day;

ii. Nine (9) grams within a period of 30 consecutive days.

b. The maximum amounts specified in divisions (e)(2)B.2.a.i. and (e)(2)B.2.a.ii. of this section apply to the total amount of base pseudoephedrine or base ephedrine in the pseudoephedrine product or ephedrine product, respectively. The maximum amounts do not apply to the product's overall weight.

C. Maintain a log book of pseudoephedrine product or ephedrine product purchases, in accordance with R.C. § 3715.051;

D. If required to comply with section R.C. § 3715.052, submit the information specified in divisions (A)(1)(a) to (A)(1)(d) of that section to the national precursor log exchange.

(3) Prescriptions, orders, and records maintained pursuant to this section and stocks of pseudoephedrine products and ephedrine products shall be open for inspection to federal, state, county, and municipal officers, and employees of the state board of pharmacy whose duty it is to enforce the laws of this state or of the United States relating to controlled substances. Such prescriptions, orders, records, and stocks shall be open for inspection by the state medical board and its employees for purposes of enforcing R.C. Ch. 4731.

(f) *Theft or loss; reporting requirements.*

(1) Each retailer, terminal distributor of dangerous drugs, pharmacy, prescriber or wholesaler that sells, offers to sell, holds for sale, delivers or otherwise provides any pseudoephedrine product and that discovers the theft or loss of any pseudoephedrine product in an amount of more than nine (9) grams per incident of theft or loss shall notify all of the following upon discovery of the theft or loss:

A. The state board of pharmacy, by telephone immediately upon discovery of the theft or loss;

B. Law enforcement authorities. If the incident is a theft and the theft constitutes a felony, the retailer, terminal distributor of dangerous drugs, pharmacy, prescriber or wholesaler shall report the theft to the law enforcement authorities in accordance with R.C. § 2921.22.

(2) Within 30 days after making a report by telephone to the state board of pharmacy pursuant to division (f)(1)A of this section, a retailer, terminal distributor of dangerous drugs, pharmacy, prescriber or wholesaler shall send a written report to the state board of pharmacy.

(3) The reports required under this section shall identify the product that was stolen or lost, the amount of the product stolen or lost, and the date and time of discovery of the theft or loss.

State law reference—R.C. §§ 2925.55, 2925.56, 2925.57, 2925.58, 3715.05, 3715.06

CHAPTER 630. GAMBLING*

630.01 Definitions.

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

***Cross references**—Definitions generally, see section 606.01; Disposition of unclaimed or forfeited property held by Police Department, see section 608.16

State law references—Power to destroy devices, see R.C. § 715.51; Power to prohibit gambling, see R.C. § 715.49

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:

(a) A game with all of the following characteristics:

(1) 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 (5) horizontal and five (5) 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;

(2) 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;

(3) 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 (1) of the 75 possible combinations of a letter and a number that can appear on the bingo cards or sheets;

(4) 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.

(b) Instant bingo, electronic instant bingo, 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, 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:

(a) Not to exceed five (5) continuous hours for the conduct of one (1) or more games described in division (a) of the definition of "bingo" in this section, instant bingo and electronic instant bingo;

(b) A period for the conduct of instant bingo and electronic instant bingo for not more than two (2) hours before and not more than two (2) hours after the period described in division (a) 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; electronic instant bingo systems; 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 R.C. Ch. 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 (a) or (b) of the definition of "bingo" in this section that is conducted by a charitable organization that has obtained a license pursuant to 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 R.C. § 2915.13, or any substantially equivalent municipal ordinance.

Charitable organization means:

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

(1) An organization that is exempt from federal income taxation under IRC § 501(a) and described in IRC § 501(c)(3);

(2) 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).

(b) To qualify as a charitable organization, an organization shall have been in continuous existence as such in this state for a period of two (2) 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 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:

(a) 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);

(b) 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 those individuals, provided that no part of the net earnings of the 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 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;

(c) 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 that use would qualify as a deductible charitable contribution under IRC 170;

(d) 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 R.C. § ~~122.66~~ 5101.311.

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 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:

(a) Sells, offers for sale or otherwise provides or offers to provide the bingo supplies to another person for use in this state;

(b) 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 means:

(a) "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:

(1) It provides a means for a participant to input numbers and letters announced by a bingo caller.

(2) It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device.

(3) It identifies a winning bingo pattern.

(b) "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 means:

(a) 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:

(1) 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.

(2) Each electronic instant bingo ticket within a deal has a unique serial number that is not regenerated.

(3) Each electronic instant bingo ticket within a deal is sold for the same price.

(4) After a participant purchases an electronic instant bingo ticket, the combination of numbers or symbols on the ticket is revealed to the participant.

(5) 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.

(6) 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.

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

(1) Any game, entertainment, or bonus theme that replicates or simulates any of the following:

A. The gambling games of keno, blackjack, roulette, poker, craps, other casino-style table games;

B. Horse racing;

C. Gambling games offered in this state on slot machines or video lottery terminals. As used in this division, "video lottery terminal" has the same meaning as in R.C. § 3770.21.

(2) Any device operated by dropping one (1) or more coins or tokens into a slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one (1) to three (3) 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;

(3) 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:

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

(1) It is used by not more than one (1) player at a time to play electronic instant bingo on a single screen that is physically connected to the device;

(2) 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 R.C. § 2915.08.

(b) 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:

(a) The purchase or lease of bingo supplies;

(b) The annual license fee required under R.C. § 2915.08;

(c) Bank fees and service charges for a bingo session or game account described in R.C. § 2915.10;

(d) Audits and accounting services;

(e) Safes;

(f) Cash registers;

(g) Hiring security personnel;

(h) Advertising bingo;

(i) Renting premises in which to conduct a bingo session;

(j) Tables and chairs;

(k) 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;

(l) Payment of real property taxes and assessments that are levied on a premises on which bingo is conducted;

(m) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the attorney general under R.C. § 2915.08(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:

(a) A book, totalizer or other equipment used for recording bets;

(b) A ticket, token or other device representing a chance, share or interest in a scheme of chance or evidencing a bet;

(c) A deck of cards, dice, gaming table, roulette wheel, slot machine or other apparatus designed for use in connection with a game of chance;

(d) Any equipment, device, apparatus or paraphernalia specially designed for gambling purposes;

(e) Bingo supplies sold or otherwise provided, or used, in violation of this chapter or R.C. Ch. 2915.

Gambling offense means any of the following:

(a) A violation of R.C. Ch. 2915;

(b) 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 provision of this chapter or R.C. Ch. 2915 or a violation of R.C. § 2915.06 as it existed prior to July 1, 1996;

(c) 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;

(e) A conspiracy or attempt to commit, or complicity in committing, any offense under division (a), (b) or (c) 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 includes the following information for the game:

(a) The name of the game;

(b) The manufacturer's name or distinctive logo;

(c) The form number;

(d) The ticket count;

(e) The prize structure, including the number of winning tickets by denomination and the respective winning symbol or number combinations for the winning tickets;

(f) The cost per play;

(g) 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:

(a) 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 (2) years prior to conducting bingo.

(b) 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.

(c) 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 (1) or more bingo numbers by the use of a seal card or bingo blower. "Instant bingo" also includes a punch board game. 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 (1) 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:

(a) It is activated upon the insertion of United States currency.

(b) It performs no gaming functions.

(c) It does not contain a video display monitor or generate noise.

(d) It is not capable of displaying any numbers, letters, symbols or characters in winning or losing combinations.

(e) It does not simulate or display rolling or spinning reels.

(f) 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.

(g) It may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses.

(h) 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:

(a) Cash, gift cards or any equivalent thereof;

(b) Plays on games of chance, state lottery tickets, or bingo;

(c) Firearms, tobacco or alcoholic beverages; or

(d) A redeemable voucher that is redeemable for any of the items listed in division (a), (b) or (c) 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 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 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 form of instant bingo that uses 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.

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 (1) or more prizes are won by one (1) or more persons who have purchased a raffle ticket. The one(1) 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:

(a) 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

(b) 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 R.C. § 2915.08, 2915.081 or 2915.082 or a charitable gaming license issued by another jurisdiction.

Scheme of chance means:

(a) A slot machine unless authorized under R.C. Ch. 3772, lottery unless authorized under 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 50 percent 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 (1) location;

(2) Less than 50 percent of participants who purchase goods or services at any one (1) location do not accept, use, or redeem the goods or services sold or purportedly sold;

(3) More than 50 percent of prizes at any one (1) location are revealed to participants through an electronic device simulating a game of chance or a "casino game" as defined in 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 (1) 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 20 percent of the gross revenue received at one (1) 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.

(b) 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 (1) or more seals that, when removed or opened, reveal predesignated winning numbers, letters or symbols.

Security personnel means 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 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 means:

(a) (1) 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:

A. The wholesale value of a merchandise prize awarded as a result of the single play of a machine does not exceed $10.00;

B. 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;

C. 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

D. Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.

(2) A card for the purchase of gasoline is a redeemable voucher for purposes of division (a) 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.

(b) A device shall not be considered a skill-based amusement machine and shall be considered a slot machine if it pays cash or one (1) or more of the following apply:

(1) 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;

(2) Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the player's score;

(3) 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;

(4) The success of any player is or may be determined by a chance event that cannot be altered by player actions;

(5) The ability of any player to succeed at the game is determined by game features not visible or known to the player;

(6) The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.

(c) All of the following apply to any machine that is operated as described in division (a) of this definition:

(1) As used in this definition of "skill-based amusement machine," "game" and "play" mean one (1) 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.

(2) 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.

(3) 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.

(d) For purposes of division (a) 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 means:

(a) Either of the following:

(1) 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;

(2) 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.

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

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 (3) years.

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

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 R.C. Ch. 2915, pari-mutuel wagering as authorized by R.C. Ch. 3769, lotteries conducted by the state lottery commission as authorized by R.C. Ch. 3770, and casino gaming as authorized by R.C. Ch. 3772.

Sweepstakes terminal device means:

(a) 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 of 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.

(b) As used in this definition and in section 630.02:

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

Entry means one (1) event from the initial activation of the sweepstakes terminal device until all the sweepstakes prize results from that activation are revealed.

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.

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 section 630.02(g) and R.C. § 2915.02(G).

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 (5) 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 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 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:

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

(1) The playing fields are used for athletic activities by one (1) 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.

(2) The playing fields are not used for any profit-making activity at any time during the year.

(b) 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.

State law reference—R.C. § 2915.01

CHAPTER 636. OFFENSES RELATING TO PERSONS*

636.06 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:~~,~~

(1) “Emergency service responder” has the same meaning as in R.C. § 2903.13 and also includes a probation officer.

(2) "~~organization~~ Organization" includes an entity that is a governmental employer.

(3) “Probation officer” means a probation officer appointed by a municipal court under R.C. § 1901.33, a probation officer appointed by a county court under R.C. §1907.201, and a probation officer appointed by a court of common pleas under R.C. § 2301.27.

State law reference—R.C. § 2903.22

636.14 Contributing to the unruliness or delinquency of a child.

(a) As used in this section:

Delinquent child has the same meaning as in R.C. § 2152.02.

Unruly child has the same meaning as in R.C. § 2151.022.

(b) 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~~ a child being a habitual truant;

(4) If the person is the parent, guardian, or custodian of a child who has the duties under 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 R.C. § 2919.121, fail to ensure that the child complies with those duties under R.C. Chs. 2152 and 2950.

(c) An adjudication of a child as being unruly or delinquent is unnecessary for a conviction under this section.

(d) 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 violation of this section is a separate offense.

State law reference—R.C. § 2919.24

636.21 Illegal distribution of cigarettes, other tobacco products, or alternative nicotine products; transaction scans.

(a) *Illegal distribution of cigarettes, other tobacco products, or alternative nicotine products.*

(1) As used in this section:

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 21 years of age or older.

Alternative nicotine product means:

A. Subject to division B of this definition, 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.

B. The phrase does not include any of the following:

1. Any cigarette or other tobacco product;

2. Any product that is a "drug" as that term is defined in 21 U.S.C. § 321(g)(1);

3. Any product that is a "device" as that term is defined in 21 U.S.C. § 321(h);

4. 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. The phrase 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. The phrase 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 R.C. §§ 4507.50 to 4507.52 that shows that a person is 18 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. The phrase 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. The phrase 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 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. The phrase 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. The phrase 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). The phrase includes any product containing nicotine, regardless of concentration.

Vending machine has the same meaning as "coin machine" in 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 under 21 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 (½) 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 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, 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 20 cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one (1) 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 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, 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

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 (½) 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 person under 21 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 21 years of age under division (a)(2) A. of this section is a parent, spouse who is 21 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, alternative nicotine 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 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., (a)(2) E., or (a)(2) F. or (a)(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., (a)(2) B., (a)(2) D., (a)2) E.., or (a2) F.F. or (a)(3) of this section or a substantially equivalent state law or municipal ordinance, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

<u>(7)A. Notwithstanding R.C. § 2929.28(A)(2), if an offender is convicted of or pleads guilty to a violation of division (2)A. of this section, the court shall impose a fine in the following amount:</u>

<u>(i) Except as otherwise provided in divisions (8)A(i), (iii), (iv), and (v) of this section, not more than two hundred fifty dollars;</u>

<u>(ii) Except as otherwise provided in divisions (8)A(iii), (iv), and (v) of this section, if an offender has previously been convicted of or pleaded guilty to a violation of division (2)A of this section, not more than five hundred dollars;</u>

<u>(iii) Except as otherwise provided in divisions (8)A(iv) and (v) of this section, if an offender previously has been convicted of or pleaded guilty to two or more violations of division (2)A of this section, five hundred dollars;</u>

(iv) Except as otherwise provided in division (8)A(v) of this section, if an offender previously has been convicted of or pleaded guilty to three or more violations of division (2)A of this section, one thousand dollars;

(v) If an offender previously has been convicted of or pleaded guilty to four or more violations of division (2)A of this section, one thousand five hundred dollars.

(b) The financial sanctions required by division (7)A of this section are in lieu of the financial sanctions described in R.C. § 2929.28(A)(2) of the Revised Code, but are in addition to any other sanctions or penalties that may apply to the offender, including other financial sanctions under that section or a jail term under R.C. § 2929.24.

~~B.~~(8) Whoever violates division (a)(2) C. of this section is guilty of permitting a person under 21 years of age to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, permitting a person under 21 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 or a substantially equivalent state law or municipal ordinance, permitting a person under 21 years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

(~~7~~9) 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 21 years of age in violation of this section and that are used, possessed, purchased, or received by a person under 21 years of age in violation of R.C. § 2151.87 are subject to seizure and forfeiture as contraband under R.C. Ch. 2981.

(b) *Transaction scan.*

(1) For the purpose of this division and division (c) of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

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, other tobacco products, or alternative nicotine products from a seller, agent or employee.

Identification card means an identification card issued under R.C. §§ 4507.50 to 4507.52.

Seller means a seller of cigarettes, other tobacco products, or alternative nicotine products and includes any person whose gift of or other distribution of cigarettes, other tobacco products, or alternative nicotine products is subject to the prohibitions of division (a) of this section.

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, other tobacco products, or alternative nicotine products.

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, 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, 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, other tobacco products, or alternative nicotine products to the person presenting the document.

(3) Rules adopted by the registrar of motor vehicles under 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, 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 or 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, 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 receive cigarettes, 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, 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, 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 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):

Authorized recipient of tobacco products means a person who is:

A. Licensed as a cigarette wholesale dealer under R.C. § 5743.15;

B. Licensed as a retail dealer as long as the person purchases cigarettes with the appropriate tax stamp affixed;

C. An export warehouse proprietor as defined in Section 5702 of the Internal Revenue Code;

D. An operator of a customs bonded warehouse under 19 U.S.C. § 1311 or 19 U.S.C. § 1555;

E. An officer, employee, or agent of the federal government or of this state acting in the person's official capacity;

F. A department, agency, instrumentality, or political subdivision of the federal government or of this state;

G. A person having a consent for consumer shipment issued by the Tax Commissioner under R.C. § 5743.71.

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 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 $1,000.00 for each violation of division (d)(3)A., (d)(3) B. or (d)(4) of this section.

(e) *Furnishing false information to obtain tobacco products.*

(1) No person who is 18 years of age or older but younger than 21 years of age shall knowingly furnish false information concerning that person's name, age, or other identification for the purpose of obtaining tobacco products.

(2) Whoever violates division (e)(1) of this section is guilty of furnishing false information to obtain tobacco products. Except as otherwise provided in this division, furnishing false information to obtain tobacco products is a misdemeanor of the fourth degree. If the offender

previously has been convicted of or pleaded guilty to a violation of division (e)(1) of this section or a substantially equivalent state law or municipal ordinance, furnishing false information to obtain tobacco products is a misdemeanor of the third degree.

State law reference—R.C. §§ 2927.02, 2927.021, 2927.022, 2927.023, 2927.024

CHAPTER 642. OFFENSES RELATING TO PROPERTY*

642.01 Definitions.

For the purpose of this chapter and chapter 672, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Active duty service member means any member of the armed forces of the United States performing active duty under Title 10 of the United States Code.

***Cross references**—Alteration, injury, removal of traffic-control devices, see section 414.08; Definitions generally, see section 606.01; Detention of shoplifters and those committing motion picture piracy; protection of institutional property, see section 608.17; Disposition of unclaimed or forfeited property held by Police Department, see section 608.16; Endangering aircraft and airport operations, see section 678.11; "Physical harm to property" defined, see section 606.01; Possessing criminal tools, see section 678.12; "Property" defined, see section 606.01; "Serious physical harm to property" defined, see section 606.01; Theft and fraud, see chapter 672

State law references—Parents' liability for destructive acts of their children, see R.C. § 3109.09; Value of written instrument or evidence of debt, see R.C. § 1.07

Anhydrous ammonia means a compound formed by the combination of two (2) gaseous elements, nitrogen and hydrogen, in the manner described below. "Anhydrous ammonia" is one (1) part nitrogen to three (3) parts hydrogen (NH3). "Anhydrous ammonia" by weight is 14 parts nitrogen to three (3) parts hydrogen, which is approximately 82 percent nitrogen to 18 percent hydrogen.

Assistance dog has the same meaning as in R.C. § ~~955.011~~ 955.021.

Cable television service means 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 means any mechanical or electronic device designed to do both of the following:

(a) Receive a coin or bill, or token made for that purpose;

(b) In return for the insertion or deposit of a coin, bill or token, automatically dispense property, provide a service or grant a license.

Computer means 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 (a) through (d) of this definition or of a type or kind similar to a type or kind described in divisions (a) through (d) of this definition:

(a) 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;

(b) 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;

(c) 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;

(d) 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 means:

(a) "Computer hacking" means any of the following:

(1) 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;

(2) 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:

A. Mail transfer programs to send mail to persons other than the authorized users of that computer or computer network;

B. File transfer program services or proxy servers to access other computers, computer systems or computer networks;

C. Web servers to redirect users to other web pages or web servers.

(3) A. Subject to division (a)(3)B. 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.

B. The group of computer programs referred to in division (a)(3)A. 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 knows as "nslookup" and "whois" and other systems administration computer software.

(4) 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.

(b) "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 means a set of related and remotely-connected computers and communication facilities that includes more than one (1) computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.

Computer program means 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 means computer programs, procedures and other documentation associated with the operation of a computer system.

Computer system means 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 means 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 R.C. § 301.29.

Dangerous drug has the same meaning as in R.C. § 4729.01.

Data means 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 means 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 means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.

Deprive means to do any of the following:

> (a) 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;
>
> (b) To dispose of property so as to make it unlikely that the owner will recover it;
>
> (c) 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 means 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 R.C. § 2925.01.

Elderly person means 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:

(a) A peace officer, as defined in R.C. § 2935.01;

(b) 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;

(c) A member of a private fire company, as defined in R.C. § 9.60, or a volunteer firefighter;

(d) A member of a joint ambulance district or joint emergency medical services district;

(e) 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 of operated by a political subdivision or a private entity;

(f) The state fire marshal, the chief deputy state fire marshal or an assistant state fire marshal;

(g) 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 R.C. § 5502.63.

Firearm and *dangerous ordnance* have the same meaning as in R.C. § 2923.11.

Forge means 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 means 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 R.C. § 2913.04.

Information service means:

(a) Subject to division (b) 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.

(b) "Information service" does not include any use of a capability of a type described in division (a) 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 R.C. § 341.42.

Motor vehicle has the same meaning as in 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:

(a) It is maintained as a permanent or temporary dwelling, even though it is temporarily unoccupied and whether or not any person is actually present;

(b) At the time, it is occupied as the permanent or temporary habitation of any person, whether or not any person is actually present;

(c) At the time, it is specially adapted for the overnight accommodation of any person, whether or not any person is actually present;

(d) At the time, any person is present or likely to be present in it.

Owner means, 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 R.C. § 2921.321.

Political subdivision has the same meaning as in R.C. § 2744.01.

Rented property means 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 R.C. § 128.01(F)(1), common carrier services, and food, drink, transportation, entertainment and cable television services and, for purposes of R.C. § 2913.04 or any substantially equivalent municipal ordinance, includes cable services as defined in that section.

Slug means 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 R.C. § 2744.01.

Telecommunication means 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 means 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 means the providing, allowing, facilitating or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.

Theft offense means any of the following:

(a) A violation of R.C. § 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.08, 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 R.C. § 2913.47 or 2913.48, or R.C. § 2913.51, 2915.05, or 2921.41;

(b) 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 (a) of this definition, or a violation of R.C. § 2913.41, 2913.81 or 2915.06 as it existed prior to July 1, 1996;

(c) 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;

(d) A conspiracy to commit, attempt to commit, or complicity in committing any offense under division (a), (b) or (c) of this definition.

Utter means to issue, publish, transfer, use, put or send into circulation, deliver or display.

Writing means 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.

State law reference—R.C. §§ 2909.01, 2913.01

642.12 Assaulting police dog or horse, or assistance dog.

(a) No person shall knowingly cause, or attempt to cause, physical harm to a police dog or horse in either of the following circumstances:

(1) The police dog or horse is assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted.

(2) The police dog or horse is not assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog or horse is a police dog or horse.

(b) No person shall recklessly do any of the following:

(1) Taunt, torment or strike a police dog or horse;

(2) Throw an object or substance at a police dog or horse;

(3) Interfere with or obstruct a police dog or horse, or interfere with or obstruct a law enforcement officer who is being assisted by a police dog or horse, in a manner that does any of the following:

A. Inhibits or restricts the law enforcement officer's control of the police dog or horse;

B. Deprives the law enforcement officer of control of the police dog or horse;

C. Releases the police dog or horse from its area of control;

D. Enters the area of control of the police dog or horse without the consent of the law enforcement officer, including placing food or any other object or substance into that area;

E. Inhibits or restricts the ability of the police dog or horse to assist a law enforcement officer.

(4) Engage in any conduct that is likely to cause serious physical injury or death to a police dog or horse;

(5) If the person is the owner, keeper or harborer of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a police dog or horse that at the time of the conduct is assisting a law enforcement officer in the performance of the officer's duties or that the person knows is a police dog or horse.

(c) No person shall knowingly cause, or attempt to cause, physical harm to an assistance dog in either of the following circumstances:

(1) The dog is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted.

(2) The dog is not assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog is an assistance dog.

(d) No person shall recklessly do any of the following:

(1) Taunt, torment or strike an assistance dog;

(2) Throw an object or substance at an assistance dog;

(3) Interfere with or obstruct an assistance dog, or interfere with or obstruct a blind, deaf or hearing impaired, or mobility impaired person who is being assisted or served by an assistance dog, in a manner that does any of the following:

A. Inhibits or restricts the assisted or served person's control of the dog;

B. Deprives the assisted or served person of control of the dog;

C. Releases the dog from its area of control;

D. Enters the area of control of the dog without the consent of the assisted or served person, including placing food or any other object or substance into that area;

E. Inhibits or restricts the ability of the dog to assist the assisted or served person;

(4) Engage in any conduct that is likely to cause serious physical injury or death to an assistance dog;

(5) If the person is the owner, keeper or harborer of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger an assistance dog that at the time of the conduct is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person or that the person knows is an assistance dog.

(e) (1) Whoever violates division (a) of this section is guilty of assaulting a police dog or horse. Except as otherwise provided in this division, assaulting a police dog or horse is a misdemeanor of the second degree. If the violation results in physical harm to the police dog or horse other than death or serious physical harm, assaulting a police dog or horse is a misdemeanor of the first degree. If the violation results in serious physical harm to the police dog or horse or results in its death, assaulting a police dog or horse is a felony to be prosecuted under appropriate state law.

(2) Whoever violates division (b) of this section is guilty of harassing a police dog or horse. Except as otherwise provided this division, harassing a police dog or horse is a misdemeanor of the second degree. If the violation results in physical harm to the police dog or horse but does not result in its death or in serious physical harm to it, harassing a police dog or horse is a misdemeanor of the first degree. If the violation results in serious physical harm to the police dog or horse or results in its death, harassing a police dog or horse is a felony to be prosecuted under appropriate state law.

(3) Whoever violates division (c) of this section is guilty of assaulting an assistance dog. Except as otherwise provided in this division, assaulting an assistance dog is a misdemeanor of the second degree. If the violation results in physical harm to the assistance dog other than death or serious physical harm, assaulting an assistance dog is a misdemeanor of the first degree. If the violation results in serious physical harm to the assistance dog or results in its death, assaulting an assistance dog is a felony to be prosecuted under appropriate state law.

(4) Whoever violates division (d) of this section is guilty of harassing an assistance dog. Except as otherwise provided in this division, harassing an assistance dog is a misdemeanor of the second degree. If the violation results in physical harm to the assistance dog but does not result in the death or in serious physical harm to it, harassing an assistance dog is a misdemeanor of the first degree. If the violation results in serious physical harm to the assistance dog or results in its death, harassing an assistance dog is a felony to be prosecuted under appropriate state law.

(5) In addition to any other sanctions or penalty imposed for the offense under this section, R.C. Ch. 2929 or any other provision of the Revised Code or this Code, whoever violates division (a), (b), (c) or (d) of this section is responsible for the payment of all of the following:

A. Any veterinary bill or bill for medication incurred as a result of the violation by the police department regarding a violation of division (a) or (b) of this section or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog regarding a violation of division (c) or (d) of this section;

B. The cost of any damaged equipment that results from the violation;

C. If the violation did not result in the death of the police dog or horse or the assistance dog that was the subject of the violation and if, as a result of that dog or horse being the subject of the violation, the dog or horse needs further training or retraining to be able to continue in the capacity of a police dog or horse or an assistance dog, the cost of any further training or retraining of that dog or horse by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog;

D. If the violation resulted in the death of the assistance dog that was the subject of the violation or resulted in serious physical harm to the police dog or horse or the assistance dog that was the subject of the violation to the extent that the dog or horse needs to be replaced on either a temporary or a permanent basis, the cost of replacing that dog or horse and of any further training of a new police dog or horse or a new assistance dog by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog, which replacement or training is required because of the death of or the serious physical harm to the dog or horse that was the subject of the violation.

(f) This section does not apply to a licensed veterinarian whose conduct is in accordance with R.C. Ch. 4741.

(g) This section only applies to an offender who knows or should know at the time of the violation that the police dog or horse or assistance dog that is the subject of a violation under this section is a police dog or horse or an assistance dog.

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

Assistance dog, blind and *mobility impaired person* have the same meaning as in R.C. § ~~955.011~~ 955.021.

Physical harm means any injury, illness or other psychological impairment, regardless of its gravity or duration.

Police dog or horse means a dog or horse that has been trained and may be used to assist law enforcement officers in the performance of their official duties.

Serious physical harm means any of the following:

(1) Any physical harm that carries a substantial risk of death.

(2) Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming.

(3) Any physical harm that causes acute pain of a duration that results in substantial suffering.

State law reference—R.C. § 2921.321

CHAPTER 648. PEACE DISTURBANCES*

CHAPTER 660. SAFETY, SANITATION AND HEALTH*

CHAPTER 665. WEEDS AND GRASS

CHAPTER 666. SEX RELATED OFFENSES*

666.01 Definitions.

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

Harmful to juveniles means that quality of any material or performance describing or representing nudity, sexual conduct, sexual excitement or sado-masochistic abuse in any form to which all of the following apply:

(a) The material or performance, when considered as a whole, appeals to the prurient interest of juveniles in sex.

(b) The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles.

(c) The material or performance, when considered as a whole, lacks serious literary, artistic, political and scientific value for juveniles.

Juvenile means any unmarried person under 18 years of age.

Material means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, video cassette, laser disc, phonograph record, cassette tape, compact disc or other tangible thing capable of arousing interest through sight, sound or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape or similar data storage device.

Mental health client or patient has the same meaning as in R.C. § 2305.51.

Mental health professional has the same meaning as in R.C. § 2305.115.

Minor means a person under the age of 18.

Nudity means the showing, representation or depiction of human male or female genitals, pubic area or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.

Obscene when considered as a whole, and judged with reference to ordinary adults or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to that group, any material or performance is "obscene" if any of the following apply:

(a) Its dominant appeal is to prurient interest.

(b) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement or nudity in a way that tends to represent human beings as mere objects of sexual appetite.

(c) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty or brutality.

(d) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way that inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral or artistic purpose.

(e) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such an interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral or artistic purpose.

Performance means any motion picture, preview, trailer, play, show, skit, dance or other exhibition performed before an audience.

Prostitute means a male or female who promiscuously engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.

Sado-masochistic abuse means flagellation or torture by or upon a person or the condition of being fettered, bound or otherwise physically restrained.

Sexual activity means sexual conduct or sexual contact, or both.

Sexual conduct means vaginal intercourse between a male and female; anal intercourse, fellatio and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

Sexual contact means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

Sexual excitement means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

Spouse means a person married to an offender at the time of an alleged offense, except that the person shall not be considered the spouse when any of the following apply:

(a) When the parties have entered into a written separation agreement pursuant to R.C. § 3103.06.

(b) When an action is pending between the parties for annulment, divorce, dissolution of marriage or legal separation.

(c) In the case of an action for legal separation, after the effective date of the judgment for legal separation.

Licensed medical professional means any of the following medical professionals:

(a) A physician assistant licensed under Chapter 4730. of the Revised Code;

(b) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;

(c) A massage therapist licensed under Chapter 4731. of the Revised Code.

State law reference—R.C. § 2907.01

666.03 Sexual imposition.

(a) No person shall have sexual contact with another; cause another to have sexual contact with the offender; or cause two (2) or more other persons to have sexual contact when ~~any of the following applies:~~ 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.

~~(1) The offender knows that the sexual contact is offensive to the other person, or one (1) of the other persons, or is reckless in that regard.~~

~~(2) The offender knows that the other person's, or one (1) 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 (1) of the other persons, submits because of being unaware of the sexual contact.~~

~~(4) The other person, or one (1) 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 (4) or more years older than the other person.~~

~~(5) The offender is a mental health professional, the other person or one (1) 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 previously has been convicted of or pleaded guilty to a violation of this section, R.C. § 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, former 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 (3) or more violations of this section, R.C. § 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, former R.C. § 2907.12, or a substantially equivalent state law or municipal ordinance, 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 R.C. § 2929.24, the court may impose on the offender a definite jail term of not more than one (1) year.

(Ord. No. 27-2024, § 1(Exh. A), 11-21-2024)

State law references—Gross sexual imposition, felony, see R.C. § 2907.05; Notice to licensing board or agency upon indictment, conviction or guilty plea of mental health professional, see R.C. §§ 2907.17 and 2907.18; R.C. § 2907.06

666.24 Nonconsensual dissemination of private sexual images.

(a) As used in this section:

Child-victim oriented offense and sexually oriented offense have the same meaning as in R.C. § 2950.01.

Cable service provider has the same meaning as in R.C. § 1332.01.

Direct-to-home satellite service has the meaning defined in 47 U.S.C. § 303, as amended.

Disseminate means to post, distribute, or publish on a computer device, computer network, web site, or other electronic device or medium of communication.

Image means a photograph, film, videotape, digital recording, or other depiction or portrayal of a person.

Interactive computer service has the meaning defined in the "Telecommunications Act of 1996," 47 U.S.C. § 230, as amended.

Internet provider means a provider of internet service, including all of the following:

(1) Broadband service, however defined or classified by the Federal Communications Commission;

(2) Information service or telecommunications service, both as defined in the "Telecommunications Act of 1996," 47 U.S.C. § 153, as amended;

(3) Internet protocol-enabled services, as defined in R.C. § 4927.01.

Mobile service has the meaning defined in 47 U.S.C. § 153, as amended.

Sexual act means any of the following:

(1) Sexual activity;

(2) Masturbation;

(3) An act involving a bodily substance that is performed for the purpose of sexual arousal or gratification;

(4) Sado-masochistic abuse.

Telecommunications carrier has the meaning defined in 47 U.S.C. § 153, as amended.

Video service provider has the same meaning as in R.C. § 1332.21.

Fabricated sexual image has the same meaning as in R.C. § 2307.66.

(b) No person shall knowingly disseminate an image of another person if all of the following apply:

(1) The person in the image is 18 years of age or older.

(2) The person in the image can be identified from the image itself or from information displayed in connection with the image and the offender supplied the identifying information.

(3) The person in the image is in a state of nudity or is engaged in a sexual act.

(4) The image is disseminated without consent from the person in the image.

(5) The image is disseminated with intent to harm the person in the image.

(c) No person shall knowingly disseminate a fabricated sexual image of another person without the other person's consent.

(d) No person shall, without the consent of the depicted person, in order to harass, extort, threaten, or cause physical, emotional, reputational, or economic harm to a person falsely depicted, knowingly do either of the following:

(1) Create a fabricated sexual image with intent to distribute;

(2) Solicit the creation of a fabricated sexual image with intent to distribute.

(e) This section does not prohibit the dissemination of an image or fabricated sexual image if any of the following apply:

(1) The image or fabricated sexual image is disseminated for the purpose of a criminal investigation that is otherwise lawful.

(2) The image or fabricated sexual image is disseminated for the purpose of, or in connection with, the reporting of unlawful conduct.

(3) The image or fabricated sexual image is part of a news report or commentary or an artistic or expressive work, such as a performance, work of art, literary work, theatrical work, musical work, motion picture, film, or audiovisual work.

(4) The image or fabricated sexual image is disseminated by a law enforcement officer, or a corrections officer or guard in a detention facility, acting within the scope of the person's official duties.

(5) The image or fabricated sexual image is disseminated for another lawful public purpose.

(6) ~~The~~ If the person in the image or fabricated sexual image is eighteen years of age or older, the person in the image or fabricated sexual image is knowingly and willingly in a state of nudity

or engaged in a sexual act and is knowingly and willingly in a location in which the person does not have a reasonable expectation of privacy.

(7) The image is disseminated for the purpose of medical treatment or examination.

(~~d~~f) The following entities are not liable for a violation of this section solely as a result of an image or fabricated sexual image or other information provided by another person:

(1) A provider of interactive computer service;

(2) A mobile service;

(3) A telecommunications carrier;

(4) An internet provider;

(5) A cable service provider;

(6) A direct-to-home satellite service;

(7) A video service provider.

(~~e~~g) Any conduct that is a violation of this section and any other section of this Code or the Ohio Revised Code may be prosecuted under this section, the other section, or both sections.

(~~f~~h) (1)A. Except as otherwise provided in division (~~f~~h)(1)B, (~~f~~h)(1)C, or (~~f~~h)(1)D of division (b) this section, whoever violates this section is guilty of nonconsensual dissemination of private sexual images, a ~~misdemeanor~~ felony of the ~~third~~ fifth degree.

B If 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, a sexually oriented offense, or a child-victim oriented offense, nonconsensual dissemination of private sexual images is a ~~misdemeanor~~ of the ~~second~~ fourth degree.

(2)A Except as otherwise provided in division (h)(2)B of this section, whoever violates division (c) of this section is guilty of nonconsensual dissemination of fabricated sexual images, a felony of the fourth degree.

B If the offender ~~previously~~ has previously been convicted of or pleaded guilty to ~~two or more violations~~ a violation of this section or any substantially equivalent state law or municipal ordinance, a sexually oriented offense, or a child-victim oriented offense, nonconsensual dissemination of ~~private~~ fabricated sexual images is a ~~misdemeanor~~ felony of the ~~first~~ third degree.

(3)A Except as otherwise provided in division (h)(3)B of this section, whoever violates division (d) of this section is guilty of nonconsensual creation of fabricated sexual images, a felony of the fourth degree.

B If the ~~offender is under 18 years of age and the person in the image is not more than five years older than the offender~~ has previously been convicted of or pleaded guilty to a violation of this section, a sexually oriented offense, or a child-victim oriented offense, ~~the offender shall not be prosecuted under this section~~ nonconsensual creation of fabricated sexual images is a felony of the third degree.

(~~2~~4) In addition to any other penalty or disposition authorized or required by law, the court may order any person who is convicted of a violation of this section or who is adjudicated delinquent by reason of a violation of this section to criminally forfeit all of the following property to the state under Chapter 2981. of the Revised Code:

A. Any profits or proceeds and any property the person has acquired or maintained in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation;

B. Any interest in, securities of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise that the person has established, operated, controlled, or conducted in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation.

(~~g~~i) A victim of a violation of this section may commence a civil cause of action against the offender, as described in R.C. § 2307.66.

State law reference—R.C. § 2917.211

CHAPTER 672. THEFT AND FRAUD*

672.01 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 R.C. § 2913.71;

(3) If the victim of the offense is an elderly person, 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;

(8) If the property stolen is anhydrous ammonia; or

(9) If the property stolen is a special purchase article as defined in R.C. § 4737.04 or is a bulk merchandise container as defined in R.C. § 4737.012.

<u>(10)A. If the property stolen is a catalytic converter, a violation of this section is theft of a catalytic converter, a felony of the fifth degree.</u>

<u>B. If the property stolen is a catalytic converter and the offender is a business entity, a violation of this section is enterprise theft of a catalytic converter and, pursuant to R.C. § 2929.31, is punishable by a fine of not more than seven thousand five hundred dollars per violation.</u>

<u>C. The clerk of the court shall pay any fine imposed pursuant to division (b)(10) of this section to the county, township, municipal corporation, park district as created pursuant to R.C. § 511.18 or 1545.04, or state law enforcement agencies in this state that primarily were responsible for, or involved in, arresting and prosecuting the offender.</u>

<u>D. As used in division (b)(10) of this section, “catalytic converter” has the same meaning as in R.C. § 4737.04.</u>

(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 (1) of the following:

(1) Unless division (c)(2) of this section applies, suspend for not more than six (6) months the offender's 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 R.C. § 4510.02(A)(7), provided that the suspension shall be at least six (6) 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 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 R.C. Ch. 4510.

State law references—Felony theft provisions, see R.C. § 2913.02(B); R.C. § 2913.02

672.02 Receiving stolen property.

(a)

<u>As used in this section:</u>

<u>(1) “Bulk merchandise container” has the same meaning as in R.C. § 4737.012.</u>

<u>(2) “Catalytic converter” and “special purchase article” have the same meanings as in R.C. § 4737.04.</u>

(3) "Dangerous drug" has the same meaning as in R.C. § 4729.01.

(4) "Dangerous ordnance" and "firearm" have the same meanings as in R.C. § 2923.11.

(5) "Motor vehicle" has the same meaning as in R.C. § 4501.01.

(b) No person shall receive, retain or dispose of property of another knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense.

(bc) It is not a defense to a charge of receiving stolen property in violation of this section that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being obtained through the commission of a theft offense.

(~~c~~d) Whoever violates this section is guilty of receiving stolen property. Except as otherwise provided in this division, receiving stolen property is 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) The value of the property involved is $1,000.00 or more;

(2) The property involved is any of the property listed in R.C. § 2913.71;

(3) The property involved is a firearm or dangerous ordnance, as defined in R.C. § 2923.11;

(4) The property involved is a motor vehicle as defined in R.C. § 4501.01;

(5) The property involved is any dangerous drug, as defined in R.C. § 4729.01; or

(6) The property involved in violation of this section is a special purchase article as defined in R.C. § 4737.04 or a bulk merchandise container as defined in R.C. § 4737.012.

(e)(1) Except as otherwise provided in this division, if the property involved is a catalytic converter, a violation of this section is receiving a stolen catalytic converter, a felony of the fifth degree.

(2) If the property involved is a catalytic converter and the offender is a business entity, a violation of this section is enterprise receipt of a stolen catalytic converter and, pursuant to R.C. § 2929.31, is punishable by a fine of not more than seven thousand five hundred dollars per violation.

(3) The clerk of the court shall pay any fine imposed pursuant to division (e) of this section to the county, township, municipal corporation, park district, as created pursuant to R.C. § 511.18 or 1545.04, or state law enforcement agencies in this state that primarily were responsible for or involved in arresting and prosecuting the offender.

State law reference—R.C. § 2913.51

672.22 Medicaid fraud.

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

Provider means any person who has signed a provider agreement with the department of Medicaid to provide goods or services pursuant to the 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 Medicaid program.

Provider agreement has the same meaning as in R.C. § 5164.01.

Presumption that a prison term shall be imposed means a presumption, as described in 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 R.C. § 2929.11.

Recipient means any individual who receives goods or services from a provider under the Medicaid program.

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 Medicaid director to be kept for the Medicaid program.

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 Medicaid program or that states income and expense and is or may be used to determine a rate of reimbursement under the Medicaid 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 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 Medicaid program any property, money or other consideration in addition to the amount of reimbursement under the Medicaid program and the person's provider agreement for the goods or services and any cost-sharing expenses authorized by R.C. § 5162.20 or rules adopted by the Medicaid director regarding the Medicaid program.
>
> (2) Solicit, offer or receive any remuneration, other than any cost-sharing expenses authorized by R.C. § 5162.20 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 Medicaid program.

(d) No person, having submitted a claim for or provided goods or services under the Medicaid program, shall do either of the following for a period of at least six (6) years after a reimbursement pursuant to that claim, or a reimbursement for those goods or services, is received under the 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 felony of the fifth degree and, notwithstanding R.C. § 2929.18, the court shall impose as the fine for the offense a fine of one thousand dollars.

(1) ~~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.

(2) If the value of property, services, or funds obtained in violation of this section is seven thousand five hundred dollars or more and is less than seventy-five thousand dollars, Medicaid fraud is a felony of the third degree and, notwithstanding R.C. § 2929.18, the court shall impose as the fine for the offense a fine of twenty-five thousand dollars.

(3) If the value of the property, services, or funds obtained in violation of this section is seventy-five thousand dollars or more and is less than one hundred fifty thousand dollars, Medicaid fraud is a felony of the third degree and there is a presumption for a prison term. Notwithstanding R.C. § 2929.18, the court shall impose as the fine for the offense a fine of seventy-five thousand dollars.

(4) If the value of the property, services, or funds obtained in violation of this section is one hundred fifty thousand dollars or more and is less than seven hundred fifty thousand dollars, Medicaid fraud is a felony of the second degree and there is a presumption of a prison term. Notwithstanding R.C. § 2929.18, the court shall impose as the fine for the offense a fine of one hundred fifty thousand dollars.

(5) If the value of the property or services stolen is seven hundred fifty thousand dollars or more, Medicaid fraud is a felony of the first degree and there is a presumption of a prison term. Notwithstanding R.C. § 2929.18, the court shall impose as the fine for the offense a fine of one hundred fifty thousand dollars.

(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 Medicaid 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, R.C. § 2913.40 or 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 enrollment in the Medicaid program or in a document that requires a disclosure of assets for the purpose of determining eligibility for the Medicaid program:

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 or recipient of Medicaid 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 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~~ may order that a person who is guilty of Medicaid eligibility fraud make restitution in the ~~full~~ amount of 200% of any Medicaid services paid on behalf of an applicant for or recipient of Medicaid 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 Medicaid services 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 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 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:

Medicaid services has the same meaning as in R.C. § 5164.01.

Property means any real or personal property or other asset in which a person has any legal title or interest.

State law reference—R.C. §§ 2913.40, 2913.401

CHAPTER 678. WEAPONS AND EXPLOSIVES*

678.14 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 R.C. § 2923.126:

(1) A concealed handgun license that is issued under R.C. § 2923.125 shall expire five (5) 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 R.C. § 2923.125 or 2923.1213 may

carry a concealed handgun anywhere in this state if the license is valid 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.

(2) A valid concealed handgun license does not authorize the licensee to carry a concealed handgun in any manner prohibited under R.C. § 2923.12(B) or in any manner prohibited under 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; 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 R.C. § 5119.14(A) or 5123.03(A)(1);

B. A school safety zone if the licensee's carrying the concealed handgun is in violation of R.C. § 2923.122;

C. A courthouse or another building or structure in which a courtroom is located if the licensee's carrying the concealed handgun is in violation of R.C. § 2923.123;

D. Any premises or open air arena for which a D permit has been issued under R.C. Ch. 4303, if the licensee's carrying the concealed handgun is in violation of 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 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. 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, unless the governing body with authority over the building has enacted a

statute, ordinance, or policy that permits a licensee to carry a concealed handgun into the building;

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.

2. A political subdivision shall be immune from liability in a civil action, to the extent and in the manner provided in R.C. Ch. 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 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. The immunities described in this division apply to an entity that leases its property to the nonprofit corporation or permits its property to be used by the nonprofit corporation for any purpose.

C. 1. a. Except as provided in division (b)(3) C.2. of this section and R.C. § 2923.1214, 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 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 under R.C. § 2911.21 or under any other criminal law of this state or criminal law, ordinance, or resolution of a political subdivision of this state, and instead is subject only to a civil cause of action for trespass based on the violation.

b. 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 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 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, 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:

Residential premises has the same meaning as in R.C. § 5321.01, except "residential premises" does not include a dwelling unit that is owned or operated by a college or university.

Landlord, tenant, and *rental agreement* have the same meanings as in R.C. § 5321.01.

(4) A person who holds a valid concealed handgun license issued by another state that is recognized by the attorney general pursuant to a reciprocity agreement entered into pursuant to R.C. § 109.69 or a person who holds a valid concealed handgun license under the circumstances described in 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 R.C. § 2923.125 and is subject to the same restrictions that apply to a person who has been issued a license under that section that is valid at the time in question.

(5) A. 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 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.

B. 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 R.C. § 2923.125(G)(1) has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under R.C. § 2923.125 and is subject to the same restrictions as specified in this division (b).

C. A tactical medical professional who is qualified to carry firearms while on duty under R.C. § 109.771 has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under R.C. § 2923.125.

D. A fire investigator who is qualified to carry firearms while on duty under R.C. § 109.774 has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under R.C. § 2923.125.

(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 R.C. § 2923.125 and is subject to the same restrictions that apply to a person who has been issued a license issued under that section that is valid at the time in question. 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 (1) 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 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 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 (5) 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 (5) 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 R.C. § 109.801 may be required to pay the cost of the program.

(7) For the purpose of division (b) of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Fire investigator has the same meaning as R.C. § 109.71.

Governing body has the same meaning as in R.C. § 154.01.

Government facility of this state or a political subdivision of this state means any of the following:

A. 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;

B. The office of a deputy registrar serving pursuant to R.C. Ch. 4503 that is used to perform deputy registrar functions.

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.

Qualified retired peace officer means a person who satisfies all of the following:

A. The person satisfies the criteria set forth in divisions (b)(6) B.1. a. to (b)(6) B.1.d. of this section.

B. The person is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

C. The person is not prohibited by federal law from receiving firearms.

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.

Tactical medical professional has the same meaning as in R.C. § 109.71.

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.

(c) *Posting of signs prohibiting possession.* Each person, board, or entity that owns or controls any place or premises identified in R.C. § 2923.126(B) 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 the following one (1) 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."

(Ord. No. 27-2024, § 1(Exh. A), 11-21-2024)

State law reference—R.C. §§ 2923.1211(B), (C), 2923.1212, 2923.126

CHAPTER 698. PENALTIES AND SENTENCING*

698.03 Imposing sentence for misdemeanor.

(a) (1) Unless a mandatory jail term is required to be imposed by R.C. § 1547.99(G), 4510.14(B) or 4511.19(G), or any other provision of the Revised Code, or any municipal ordinance, a court that imposes a sentence under this chapter upon an offender for a misdemeanor or minor misdemeanor has discretion to determine the most effective way to achieve the purposes and principles of sentencing set forth in section 698.02.

(2) Unless a specific sanction is required to be imposed or is precluded from being imposed by the section setting forth an offense or the penalty for an offense or by any provision of section 666.99 or 698.02 of this Code or R.C. § 2929.23 to 2929.28, a court that imposes a sentence upon an offender for a misdemeanor may impose on the offender any sanction or combination of sanctions under sections 698.02(b) to (f). The court shall not impose a sentence that imposes an unnecessary burden on local government resources.

(b) (1) In determining the appropriate sentence for a misdemeanor, the court shall consider all of the following factors:

A. The nature and circumstances of the offense or offenses;

B. Whether the circumstances regarding the offender and the offense or offenses indicate that the offender has a history of persistent criminal activity and that the offender's character and condition reveal a substantial risk that the offender will commit another offense;

C. Whether the circumstances regarding the offender and the offense or offenses indicate that the offender's history, character and condition reveal a substantial risk that the offender will be a danger to others and that the offender's conduct has been characterized by a pattern of repetitive, compulsive or aggressive behavior with heedless indifference to the consequences;

D. Whether the victim's youth, age, disability or other factor made the victim particularly vulnerable to the offense or made the impact of the offense more serious;

E. Whether the offender is likely to commit future crimes in general, in addition to the circumstances described in divisions (b)(1) B. and (b)(1) C. of this section;

F. Whether the offender has an emotional, mental, or physical condition that is traceable to the offender's service in the armed forces of the United States and that was a contributing factor in the offender's commission of the offense or offenses;

G. The offender's military service record.

(2) <u>In determining the appropriate sentence for a misdemeanor, if the offender enters an Alford plea, the sentencing court shall not consider whether the offender showed genuine remorse for the offense.</u>

(3) In determining the appropriate sentence for a misdemeanor, in addition to complying with division (b)(1) of this section, the court may consider any other factors that are relevant to achieving the purposes and principles of sentencing set forth in section 698.02(a).

(c) Before imposing a jail term as a sentence for a misdemeanor, a court shall consider the appropriateness of imposing a community control sanction or a combination of community control sanctions under sections 698.02(c), (d), (e) and (f). A court may impose the longest jail term authorized under section 698.02(b) only upon offenders who commit the worst forms of the offense or upon offenders whose conduct and response to prior sanctions for prior offenses demonstrate that the imposition of the longest jail term is necessary to deter the offender from committing a future crime.

(d) (1) A sentencing court shall consider any relevant oral or written statement made by the victim, the defendant, the defense attorney or the prosecuting authority regarding sentencing for a misdemeanor. This division does not create any rights to notice other than those rights authorized by R.C. Ch. 2930.

(2) At the time of sentencing for a misdemeanor or as soon as possible after sentencing, the court shall notify the victim of the offense of the victim's right to file an application for an award of reparations pursuant to R.C. §§ 2743.51 to 2743.72.

State law reference—R.C. § 2929.22