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§ 606.01 DEFINITIONS.

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

(a) Campaign committee, contribution, legislative campaign fund, political action committee, political contributing entity and political party. Have the same meanings as in R.C.

§ 3517.01.

(b) Contraband. Any property that is illegal for a person to acquire or possess under a statute, ordinance or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. Contraband includes but is not limited to all of the following:

(1) Any controlled substance, as defined in R.C. § 3719.01, or any device or paraphernalia related thereto;

(2) Any unlawful gambling device or paraphernalia;

(3) Any dangerous ordnance or obscene material.

(c) Deadly force. Any force that carries a substantial risk that it will proximately result in the death of any person.

(d) Detention. Arrest; confinement in any vehicle subsequent to an arrest; confinement in any public or private facility for custody of persons charged with or convicted of crime in this state

or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this state or another state or under the laws of the United States; hospitalization, institutionalization or confinement in any public or private facility that is ordered pursuant to or under the authority of R.C. § 2945.37, § 2945.371, § 2945.38, § 2945.39, § 2945.40, § 2945.401 or § 2945.402; confinement in any vehicle for transportation to or from any facility of any of those natures; detention for extradition or deportation; except as provided in this division, supervision by any employee of any facility of any of those natures that is incidental to hospitalization, institutionalization or confinement in the facility but that occurs outside the facility; supervision by an employee of the Department of Rehabilitation and Correction of a person on any type of release from a state correctional institution; or confinement in any vehicle, airplane or place while being returned from outside of this state into this state by a private person or

entity pursuant to a contract entered into under R.C. § 311.29(E) or R.C. § 5149.03(B). For a person confined in a county jail who participates in a county jail industry program pursuant to R.C. § 5147.30, detention includes time spent at an assigned work site and going to and from the work site.

(e) Detention facility. Any public or private place used for the confinement of a person charged with or convicted of any crime in this state or another state or under the laws of the United States or alleged or found to be a delinquent child or an unruly child in this state or another state or under the laws of the United States.

(f) Force. Any violence, compulsion or constraint physically exerted by any means upon or against a person or thing.

(g) Law enforcement officer. Any of the following:

(1) A Sheriff, Deputy Sheriff, constable, police officer of a township or joint township police district, Marshal, Deputy Marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under R.C. § 3735.31(D) or State Highway Patrol trooper.

(2) An officer, agent or employee of the state or any of its agencies, instrumentalities or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of such statutory duty and authority.

(3) The Mayor, in a capacity as chief conservator of the peace within the municipality.

(4) A member of an auxiliary police force organized by the county, township or municipal law enforcement authorities, within the scope of the member's appointment or commission.

(5) A person lawfully called pursuant to R.C. § 311.07 to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called.

(6) A person appointed by a Mayor pursuant to R.C. § 737.01 as a special patrolling

officer during a riot or emergency, for the purposes and during the time when the person is appointed.

(7) A member of the organized militia of this state or the Armed Forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence.

(8) A prosecuting attorney, assistant prosecuting attorney, secret service officer or municipal prosecutor.

(9) A veterans' home police officer appointed under R.C. § 5907.02.

(10) A member of a police force employed by a regional transit authority under R.C. § 306.35(Y).

(11) A special police officer employed by a port authority under R.C. § 4582.04 or § 4582.28.

(12) The House of Representatives Sergeant at Arms if the House of Representatives Sergeant at Arms has arrest authority pursuant to R.C. § 101.311(E)(1) and an Assistant House of Representatives Sergeant at Arms.

(13) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the Transportation Security Administration of the United States Department of Transportation as provided in 49 C.F.R. Parts 1542 and 1544, as amended.

(h) Not guilty by reason of insanity. A person is Anot guilty by reason of insanity relative to a charge of an offense only if the person proves, in the manner specified in R.C. § 2901.05, that at the time of the commission of the offense, he or she did not know, as a result of a severe mental disease or defect, the wrongfulness of his or her acts.

(i) Offense of violence.

(1) A violation of R.C. § 2903.01, § 2903.02, § 2903.03, § 2903.04, § 2903.11, § 2903.12, § 2903.13, § 2903.15, § 2903.21, § 2903.211, § 2903.22, § 2905.01, § 2905.02, § 2905.11, § 2907.02, § 2907.03, § 2907.05, § 2909.02, § 2909.03, § 2909.24, § 2911.01, § 2911.02, § 2911.11, § 2917.01, § 2917.02, § 2917.03, § 2917.31, § 2919.25, § 2921.03, § 2921.04, § 2921.34 or § 2923.161, division (A)(1), (A)(2) or (A)(3) of R.C. § 2911.12, or of division (B)(1), (B)(2), (B)(3) or (B)(4) of R.C. § 2919.22, or felonious sexual penetration in violation of former R.C. § 2907.12;

(2) A violation of an existing or former municipal ordinance or law of this or any other state or of the United States, substantially equivalent to any section, division or offense listed in division (1) of this definition;

(3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or of the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (1), (2) or (3) of this definition.

(j) Official proceeding. Any proceeding before a legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath, and includes any proceeding before a referee, hearing examiner, commissioner, notary or other person taking testimony or a deposition in connection with an official proceeding.

(k) Party official. Any person who holds an elective or appointive post in a political party in the United States or this state, by virtue of which he or she directs, conducts or participates in directing or conducting party affairs at any level of responsibility.

(l) Person.

(1) A. Subject to division (2) of this definition, as used in any section contained in this

general offenses code that sets forth a criminal offense, person includes all of the following:

1. An individual, corporation, business trust, estate, trust, partnership and association.
2. An unborn human who is viable.

B. As used in any section contained in this general offenses code that does not set forth a criminal offense, person includes an individual, corporation, business trust, estate, partnership and association.

C. As used in division (1)A.2. of this definition, unborn human means an individual organism of the species homo sapiens from fertilization until live birth. Viable means the stage of development of a human fetus at which there is a realistic probability of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.

(2) Notwithstanding division (1)A. of this definition, in no case shall the portion of the definition of the term Aperson that is set forth in division (1)A.2. of this definition be applied or construed in any section contained in this general offenses code that sets forth a criminal offense in any of the following manners:

A. Except as otherwise provided in division (2)A. of this definition, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of R.C. § 2903.01, § 2903.02, § 2903.03, § 2903.04, § 2903.05, § 2903.06, § 2903.08, § 2903.11, § 2903.12, § 2903.13,

§ 2903.14, § 2903.21 or § 2903.22, or any substantially equivalent municipal ordinance, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence but that does violate R.C. § 2919.12, § 2919.13(B), § 2919.151, § 2919.17 or § 2919.18, or any substantially equivalent municipal ordinance, may be punished as a violation of that section, as applicable. Consent is sufficient under this division if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with R.C. § 2919.12.

B. In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:

1. Her delivery of a stillborn baby.
2. Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying.
3. Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human.
4. Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human.
5. Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness, or other psychological illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

(m) Physical harm to persons. Any injury, illness or other physiological impairment, regardless of its gravity or duration.

(n) Physical harm to property. Any tangible or intangible damage to property that, in any

degree, results in loss to its value or interferes with its use or enjoyment. APhysical harm to property does not include wear and tear occasioned by normal use.

(o) Privilege. An immunity, license or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office or relationship, or growing out of necessity.

(p) Property.

(1) Any property, real or personal, tangible or intangible, and any interest or license in that property. AProperty includes but is not limited to cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human-readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright or patent. AFinancial instruments associated with computers include but are not limited to checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities or any computer system representations of any of them.

(2) As used in this definition, trade secret has the same meaning as in R.C. § 1333.61, and telecommunications service and Ainformation service have the same meanings as in R.C. § 2913.01.

(3) As used in this definition and in the definition of Acontraband in this section, Acable television service, Acomputer, Acomputer network, Acomputer software, Acomputer system, Adata, and Atelecommunications device have the same meanings as in R.C. § 2913.01.

(q) Provider agreement and medical assistance program. Have the same meanings as in R.C. § 2913.40.

(r) Public official. Any elected or appointed officer, employee or agent of the state or any political subdivision thereof, whether in a temporary or permanent capacity, and includes but is not limited to legislators, judges and law enforcement officers.

(s) Public servant. Any of the following:

(1) Any public official.

(2) Any person performing ad hoc a governmental function, including but not limited to a juror, member of a temporary commission, master, arbitrator, advisor or consultant.

(3) A person who is a candidate for public office, whether or not he or she is elected or appointed to the office for which he or she is a candidate. A person is a candidate for purposes of this division if he or she has been nominated according to law for election or appointment to public office, or if he or she has filed a petition or petitions as required by law to have his or her name placed on the ballot in a primary, general or special election, or if he or she campaigns as a write-in candidate in any primary, general or special election.

(t) Risk. A significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.

(u) School, Aschool building and Aschool premises. Have the same meanings as in R.C. § 2925.01.

(v) School activity. Any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational or cooperative education school district; a governing authority of a community school established under R.C. Chapter 3314; a governing board of an educational service center; or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under R.C. § 3301.07.

(w) School bus. Has the same meaning as in R.C. § 4511.01.

(x) School safety zone. Consists of a school, school building, school premises, school

activity and school bus.

(y) Serious physical harm to persons. Any of the following:

(1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;

(2) Any physical harm that carries a substantial risk of death;

(3) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;

(4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;

(5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.

(z) Serious physical harm to property. Any physical harm to property that does either of the following:

(1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;

(2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use or enjoyment for an extended period of time.

(aa) Substantial risk. A strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.

(bb) Valuable thing or valuable benefit. Includes but is not limited to a contribution. This inclusion does not indicate or imply that a contribution was not included in those terms before September 17, 1986.

(R.C. §§ 2901.01, 2921.01)

§ 606.02 CLASSIFICATION OF OFFENSES.

As used in this general offenses code:

(a) Offenses include misdemeanors of the first, second, third and fourth degree, minor misdemeanors and offenses not specifically classified.

(b) Regardless of the penalty that may be imposed, any offense specifically classified as a misdemeanor is a misdemeanor.

(c) Any offense not specifically classified is a misdemeanor if imprisonment for not more than one year may be imposed as a penalty.

(d) Any offense not specifically classified is a minor misdemeanor if the only penalty that may be imposed is one of the following:

(1) For an offense committed prior to January 1, 2004, a fine not exceeding $100;

(2) For an offense committed on or after January 1, 2004, a fine not exceeding $150, community service under R.C. § 2929.27(C), or a financial sanction other than a fine under R.C. § 2929.28.

(R.C. § 2901.02)

§ 606.03 OFFENSES DEFINED.

(a) No conduct constitutes a criminal offense against the municipality unless it is defined as an offense in this general offenses code.

(b) An offense is defined when one or more sections of this general offenses code state a positive prohibition or enjoin a specific duty, and provide a penalty for violation of the prohibition or failure to meet that duty.

(c) This section does not affect the power of a court to punish for contempt or to employ any sanction authorized by law to enforce an order, civil judgment or decree.

(R.C. § 2901.03)

§ 606.04 RULES OF CONSTRUCTION.

(a) Except as otherwise provided in division (c) or (d) of this section, sections of this general offenses code defining offenses or penalties shall be strictly construed against the municipality and liberally construed in favor of the accused.

(b) Rules of criminal procedure and sections of this general offenses code providing for criminal procedure shall be construed so as to effect the fair, impartial, speedy and sure administration of justice.

(c) Any provision of a section of this general offenses code that refers to a previous conviction of or plea of guilty to a violation of a section of this general offenses code, the Ohio Revised Code or a division of a section of this general offenses code or the Ohio Revised Code shall be construed to also refer to a previous conviction of or plea of guilty to a substantially equivalent offense under an existing or former law of this municipality, state, another state or the United States or under an existing or former municipal ordinance.

(d) Any provision of this code that refers to a section, or to a division of a section, of this code that defines or specifies a criminal offense shall be construed to also refer to an existing or former law of this state, another state or the United States, to an existing or former municipal ordinance, or to an existing or former division of any such existing or former law or ordinance that defines or specifies, or that defined or specified, a substantially equivalent offense.
(R.C. § 2901.04)

§ 606.05 CRIMINAL LAW JURISDICTION.

(a) A person is subject to criminal prosecution and punishment in this municipality if any of the following occur:

(1) The person commits an offense under the laws of this municipality, any element of which takes place in this municipality;

(2) While in this municipality, the person attempts to commit, or is guilty of complicity in the commission of, an offense in another jurisdiction, which offense is an offense under both

the laws of this municipality and the other jurisdiction, or, while in this municipality, the person conspires to commit an offense in another jurisdiction, which offense is an offense under both the laws of this municipality and the other jurisdiction, and a substantial overt act in furtherance of the conspiracy is undertaken in this municipality by the person or another person involved in the conspiracy, subsequent to the person's entrance into the conspiracy. In any case in which a person attempts to commit, is guilty of complicity in the commission of, or conspires to commit an offense in another jurisdiction as described in this division, the person is subject to criminal prosecution and punishment in this municipality for the attempt, complicity or conspiracy, and for any resulting offense that is committed or completed in the other jurisdiction;

(3) While out of this municipality, the person conspires or attempts to commit, or is guilty of complicity in the commission of, an offense in this municipality;

(4) While out of this municipality, the person omits to perform a legal duty imposed by the laws of this municipality, which omission affects a legitimate interest of the

municipality in protecting, governing or regulating any person, property, thing, transaction or activity in this municipality;

(5) While out of this municipality, the person unlawfully takes or retains property and subsequently brings any of the unlawfully taken or retained property into this municipality;

(6) While out of this municipality, the person unlawfully takes or entices another person and subsequently brings the other person into this municipality;

(7) The person, by means of a computer, computer system, computer network, telecommunication, telecommunications device, telecommunications service or information service, causes or knowingly permits any writing, data, image or other telecommunication to be disseminated or transmitted into this municipality in violation of the law of this state or municipality.

(b) In homicide, the element referred to in division (a)(1) of this section includes the act that causes death, the physical contact that causes death, the death itself, or any other element that is set forth in the offense in question. If any part of the body of a homicide victim is found in this municipality, the death is presumed to have occurred within this municipality.

(c) (1) This municipality includes the land and water within its boundaries and the air space above that land and water, with respect to which this municipality has either exclusive or concurrent legislative jurisdiction. Where the boundary between this municipality and another jurisdiction is disputed, the disputed territory is conclusively presumed to be within this municipality for purposes of this section.

(2) The Courts of Common Pleas of Adams, Athens, Belmont, Brown, Clermont, Columbiana, Gallia, Hamilton, Jefferson, Lawrence, Meigs, Monroe, Scioto and Washington counties have jurisdiction beyond the north or northwest shore of the

Ohio River extending to the opposite shore line, between the extended boundary lines of any adjacent counties or adjacent state. Each of those Courts of Common Pleas has concurrent jurisdiction on the Ohio River with any adjacent Court of Common Pleas that borders on that river and with any court of Kentucky or of West Virginia that borders on the Ohio River and that has jurisdiction on the Ohio River under the law of Kentucky or the law of West Virginia, whichever is applicable, or under federal law.

(d) When an offense is committed under the laws of this municipality, and it appears beyond a reasonable doubt that the offense or any element of the offense took place either in this municipality or in another jurisdiction or jurisdictions, but it cannot reasonably be determined in which it took place, the offense or element is conclusively presumed to have taken place in this municipality for purposes of this section.

(e) When a person is subject to criminal prosecution and punishment in this municipality for an offense committed or completed outside this municipality, the person is subject to all specifications for that offense that would be applicable if the offense had been committed within this municipality.

(f) Any act, conduct or element that is a basis of a person being subject under this section to criminal prosecution and punishment in this municipality need not be committed personally by the person as long as it is committed by another person who is in complicity or conspiracy with the person.

(g) This section shall be liberally construed, consistent with constitutional limitations, to allow this municipality the broadest possible jurisdiction over offenses and persons committing offenses in, or affecting, this municipality.

(h) For purposes of division (a)(2) of this section, an overt act is substantial when it is of a character that manifests a purpose on the part of the actor that the object of the conspiracy should be completed.

(i) As used in this section, Acomputer, Acomputer system, Acomputer network, Ainformation service, Atelecommunication, Atelecommunications device, Atelecommunications service, Adata and Awriting have the same meanings as in R.C. § 2913.01.
(R.C. § 2901.11)

§ 606.06 LIMITATION ON CRIMINAL PROSECUTIONS.

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

A. For a felony, six years;

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

C. For a minor misdemeanor, six months.

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

(3) Except as otherwise provided in divisions (b) to (h) 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, § 2907.02, § 2907.03, § 2907.04, § 2907.05, § 2907.21, § 2909.02, § 2909.22, § 2909.23, § 2909.24, § 2909.26, § 2909.27, § 2909.28, § 2909.29, § 2911.01, § 2911.02, § 2911.11, § 2911.12 or § 2917.02, a violation of 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.

(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 years after discovery of the offense either by an aggrieved person or the aggrieved person's legal representative who is not a party to the offense.

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

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

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

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

A. 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.

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

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

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

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

(g) The period of limitation shall not run during any time when the accused purposely avoids

prosecution. Proof that the accused departed this municipality or conceals the accused's identity or whereabouts is prima facie evidence of the accused's purpose to avoid prosecution.

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

(i) The period of limitation for a violation of this Part 6 or Title XXIX of the Ohio Revised Code that involves a physical or mental wound, injury, disability or condition of a nature that reasonably indicates abuse or neglect of a child under 18 years of age or of a mentally retarded, developmentally disabled, or physically impaired child under 21 years of age shall not begin to run until either of the following occurs:

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

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

(j) As used in this section, peace officer has the same meaning as in R.C. § 2935.01.
(R.C. § 2901.13)

§ 606.07 REQUIREMENTS FOR CRIMINAL LIABILITY; VOLUNTARY INTOXICATION.

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

(1) The person's liability is based on conduct that includes either a voluntary act, or an

omission to perform an act or duty that the person is capable of performing;

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

(b) When the section defining an offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal liability for the conduct described in the section, then culpability is not required for a person to be guilty of the offense. When the section neither specifies culpability nor plainly indicates a purpose to impose strict liability, recklessness is sufficient culpability to commit the offense.

(c) Voluntary intoxication may not be taken into consideration in determining the existence of a mental state that is an element of a criminal offense. Voluntary intoxication does not relieve a person of a duty to act if failure to act constitutes a criminal offense. Evidence that a person was voluntarily intoxicated may be admissible to show whether or not the person was physically capable of performing the act with which the person is charged.

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

(1) Culpability. Purpose, knowledge, recklessness or negligence, as defined in R.C. § 2901.22.

(2) Intoxication. Includes but is not limited to intoxication resulting from the ingestion of alcohol, a drug, or alcohol and a drug.

(3) Involuntary acts. Reflexes, convulsions, body movements during unconsciousness or sleep, and body movements that are not otherwise a product of the actor's volition are involuntary acts.

(4) Possession. A voluntary act if the possessor knowingly procured or received the

thing possessed, or was aware of the possessor's control of the thing possessed for a sufficient time to have ended possession.
(R.C. § 2901.21)

§ 606.08 CULPABLE MENTAL STATES.

(a) A person acts purposely when it is his or her specific intention to cause a certain result, or, when the gist of the offense is a prohibition against conduct of a certain nature, regardless of what the offender intends to accomplish thereby, it is his or her specific intention to engage in conduct of that nature.

(b) A person acts knowingly, regardless of his or her purpose, when he or she is aware that his or her conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when he or she is aware that the circumstances probably exist.

(c) A person acts recklessly when, with heedless indifference to the consequences, he or she perversely disregards a known risk that his or her conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, he or she perversely disregards a known risk that the circumstances are likely to exist.

(d) A person acts negligently when, because of a substantial lapse from due care, he or she fails to perceive or avoid a risk that his or her conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a substantial lapse from due care, he or she fails to perceive or avoid a risk that the circumstances may exist.

(e) When the section defining an offense provides that negligence suffices to establish an element thereof, then recklessness, knowledge or purpose is also sufficient culpability for that element. When recklessness suffices to establish an element of an offense, then knowledge or purpose is also sufficient culpability for that element. When knowledge suffices to establish an element of an offense, then purpose is also sufficient culpability for that element.
(R.C. § 2901.22)

§ 606.09 ORGANIZATIONAL CRIMINAL LIABILITY.

(a) An organization may be convicted of an offense under any of the following circumstances:

(1) The offense is a minor misdemeanor committed by an officer, agent or employee of the organization acting in its behalf and within the scope of his or her office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, the provisions shall apply.

(2) A purpose to impose organizational liability plainly appears in the section defining the offense, and the offense is committed by an officer, agent or employee of the organization acting in its behalf and within the scope of his or her office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, the provisions shall apply.

(3) The offense consists of an omission to discharge a specific duty imposed by law on the organization.

(4) If, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated or

performed by the board of directors, trustees, partners, or by a high managerial officer, agent or employee acting in behalf of the organization and within the scope of his or her office or employment.

(b) When strict liability is imposed for the commission of an offense, a purpose to impose organizational liability shall be presumed, unless the contrary plainly appears.

(c) In a prosecution of an organization for an offense other than one for which strict liability is imposed, it is a defense that the high managerial officer, agent or employee having supervisory responsibility over the subject matter of the offense exercised due diligence to prevent its commission. This defense is not available if it plainly appears inconsistent with the purpose of the section defining the offense.

(d) As used in this section, organization means a corporation for profit or not for profit, partnership, limited partnership, joint venture, unincorporated association, estate, trust or other commercial or legal entity. Organization does not include an entity organized as or by a governmental agency for the execution of a governmental program.
(R.C. § 2901.23)

§ 606.10 PERSONAL ACCOUNTABILITY FOR ORGANIZATIONAL CONDUCT.

(a) An officer, agent or employee of an organization, as defined in R.C. § 2901.23, may be prosecuted for an offense committed by the organization, if he or she acts with the kind of culpability required for the commission of the offense, and any of the following apply:

(1) In the name of the organization or in its behalf, he or she engages in conduct constituting the offense, or causes another to engage in that conduct, or tolerates

that conduct when it is of a type for which he or she has direct responsibility;

(2) He or she has primary responsibility to discharge a duty imposed on the organization by law, and the duty is not discharged.

(b) When a person is convicted of an offense by reason of this section, he or she is subject to the same penalty as if he or she had acted in his or her own behalf.
(R.C. § 2901.24)

§ 606.11 ATTEMPTS.

(a) No person, purposely or knowingly, and when purpose or knowledge is sufficient culpability for the commission of an offense, shall engage in conduct that, if successful, would constitute or result in the offense.

(b) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the attempt was either factually or legally impossible under the attendant circumstances, if that offense could have been committed had the attendant circumstances been as the actor believed them to be.

(c) No person who is convicted of committing a specific offense, of complicity in the commission of an offense or of conspiracy to commit an offense, shall be convicted of an attempt to commit the same offense in violation of this section.

(d) It is an affirmative defense to a charge under this section that the actor abandoned his or her effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose.

(e) (1) Whoever violates this section is guilty of an attempt to commit an offense. An attempt to commit aggravated murder, murder or an offense for which the maximum penalty is imprisonment for life is a felony of the first degree, to be prosecuted under appropriate state law. An attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense is an offense of the same degree as the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt. An attempt to commit any other offense is an offense of the next lesser degree than the offense attempted. In the case of an attempt to commit an offense other than a violation of R.C. Chapter 3734 that is not specifically classified, an attempt is a misdemeanor of the first degree if the offense attempted is a felony, and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. In the case of an attempt to commit a violation of any provision of R.C. Chapter 3734, other than R.C. § 3734.18, that relates to hazardous wastes, an attempt is a felony to be prosecuted under appropriate state law. An attempt to commit a minor misdemeanor, or to engage in conspiracy, is not an offense under this section.

(2) In addition to any other sanctions imposed pursuant to division (e)(1) of this section for an attempt to commit aggravated murder or murder in violation of division (a) of this section, if the offender used a motor vehicle as the means to attempt to commit the offense, the court shall impose upon the offender a class two suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license or nonresident operating privilege as specified in R.C.

§ 4510.02(A)(2).

(3) If a person is convicted of or pleads guilty to attempted rape and also is convicted of or pleads guilty to a specification of the type described in R.C. § 2941.1418, § 2941.1419 or § 2941.1420, the offender shall be sentenced to a prison term or term of life imprisonment pursuant to R.C. § 2971.03.

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

(1) Drug abuse offense. Has the same meaning as in R.C. § 2925.01.

(2) Motor vehicle. Has the same meaning as in R.C. § 4501.01.

(R.C. § 2923.02)

§ 606.12 COMPLICITY.

(a) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following:

(1) Solicit or procure another to commit the offense;

(2) Aid or abet another in committing the offense;

(3) Conspire with another to commit the offense in violation of R.C. § 2923.01;

(4) Cause an innocent or irresponsible person to commit the offense.

(b) It is no defense to a charge under this section that no person with whom the accused was in complicity has been convicted as a principal offender.

(c) No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of R.C. § 2923.02 or a substantially equivalent municipal ordinance.

(d) If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission of or an attempt to commit an offense, an attempt to commit an offense, or an offense, the court shall charge the jury in accordance with R.C. § 2923.03(D).

(e) It is an affirmative defense to a charge under this section that, prior to the commission of or attempt to commit the offense, the actor terminated his or her complicity, under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose.

(f) Whoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he or she were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense.
(R.C. § 2923.03)

§ 606.13 SELF DEFENSE; LIMITATIONS ON DUTY TO RETREAT PRIOR TO USING FORCE.

(a) As used in this section, residence and vehicle have the same meanings as in R.C. § 2901.05.

(b) For purposes of any section of this code that sets forth a criminal offense, a person who lawfully is in that person's residence has no duty to retreat before using force in self defense, defense of another, or defense of that person's residence, and a person who lawfully is an occupant of that person's vehicle or who lawfully is an occupant in a vehicle owned by an immediate family member of the person has no duty to retreat before using force in self defense or defense of another.

(R.C. § 2901.09)

CHAPTER 612: ALCOHOLIC BEVERAGES

612.01 Definitions
612.02 Sales to underage persons; prohibitions and misrepresentations
612.03 Sales to intoxicated persons
612.04 Consumption in motor vehicle
612.05 Permit required
612.06 Posting age and firearm warning signs
612.07 Open container prohibited
612.08 Hours of sale or consumption
612.09 Conveying intoxicating liquor or cash onto grounds of detention facilities or other institutions
612.10 Sales of low-alcohol beverages to underage persons; prohibitions and misrepresentations
612.11 Alcohol vaporizing devices prohibited

Cross-reference:

Definitions generally, see § 606.01

Disorderly conduct while voluntarily intoxicated, see § 648.04

Driving or physical control while intoxicated, see § 434.01

Effect of voluntary intoxication on criminal liability, see § 606.07

Using weapons while intoxicated, see § 678.04

Statutory reference:

Liquor Control Law, see R.C. Ch. 4301

Liquor permits, see R.C. Ch. 4303

Local option, see R.C. § 4303.29

Suspension of alcohol sales during emergency, see R.C. § 4301.251

§ 612.01 DEFINITIONS.

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

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

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

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

(d) Cider. All liquids that are fit to use for beverage purposes that contain 0.5% of alcohol by volume, but not more than 6% of alcohol by weight that are made through the normal alcoholic fermentation of the juice of sound, ripe apples, including without limitation flavored, sparkling or carbonated cider and cider made from pure condensed apple must.

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

(f) Community facility. Either of the following:

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

state, a state agency, a political subdivision of the state or a convention facilities authority created pursuant to R.C. § 351.02;

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

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

(h) Hotel. The same meaning as in R.C. § 3731.01, subject to the exceptions mentioned in R.C. § 3731.03.

(i) Intoxicating liquor and Aliquor. All liquids and compounds, other than beer, containing 0.5% or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether they are medicated, proprietary or patented. AIntoxicating liquor and Aliquor include wine even if it contains less than 4% of alcohol by volume, mixed beverages even if they contain less than 4% of alcohol by volume, cider, alcohol and all solids and confections which contain any alcohol.

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

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

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

(m) Mixed beverages. Bottled and prepared cordials, cocktails and highballs, produced by

mixing any type of whiskey, neutral spirits, brandy, gin or other distilled spirits with, or over, carbonated or plain water, pure juices from flowers and plants, and other flavoring materials. The completed product shall contain not less than 0.5% of alcohol by volume and not more than 21% of alcohol by volume.

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

(o) Person. Includes firms and corporations.

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

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

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

(s) Sales area or territory. An exclusive geographic area or territory that is assigned to a

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

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

(u) Spirituous liquor. All intoxicating liquors containing more than 21% of alcohol by volume.

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

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

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

§ 612.02 SALES TO UNDERAGE PERSONS; PROHIBITIONS AND MISREPRESENTATIONS.

(a) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no person shall sell beer or intoxicating liquor to an underage person, shall buy beer or intoxicating liquor for an underage person, or shall furnish it to an underage person unless given by a physician in the regular line of the physician's practice or given for established religious purposes or unless the underage person is supervised by a parent, spouse who is not an underage person, or legal guardian. In proceedings before the Liquor Control Commission, no permit holder, or no employee or agent of a

permit holder, charged with a violation of this division shall be charged, for the same offense, with a violation of R.C. § 4301.22(A)(1) or a substantially equivalent municipal ordinance.

(b) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming beer or intoxicating liquor, unless the intoxicating liquor or beer is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian and the parent, spouse who is not an underage person, or legal guardian is present at the time of the person's possession or consumption of the beer or intoxicating liquor. An owner of a public or private place is not liable for acts or omissions in violation of this division that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(c) No person shall engage or use accommodations at a hotel, inn, cabin, campground or restaurant when the person knows or has reason to know either of the following:

(1) That beer or intoxicating liquor will be consumed by an underage person on the premises of the accommodations that the person engages or uses, unless the person engaging or using the accommodations is the spouse of the underage person and who is not an underage person, or is the parent or legal guardian of all of the underage persons, who consume beer or intoxicating liquor on the premises and that person is on the premises at all times when beer or intoxicating liquor is being consumed by an underage person.

(2) That a drug of abuse will be consumed on the premises of the accommodations by any person, except a person who obtained the drug of abuse pursuant to a prescription issued by a licensed health professionals authorized to prescribe drugs and has the drug of abuse in the original container in which it was dispensed to the person.

(d) (1) No person is required to permit the engagement of accommodations at any hotel, inn, cabin or campground by an underage person or for an underage person, if the person engaging the accommodations knows or has reason to know that the underage person is intoxicated, or that the underage person possesses any beer or intoxicating liquor and is not supervised by a parent, spouse who is not an underage person, or legal guardian who is or will be present at all times when the beer or intoxicating liquor is being consumed by the underage person.

(2) No underage person shall knowingly engage or attempt to engage accommodations at any hotel, inn, cabin or campground by presenting identification that falsely indicates that the underage person is 21 years of age or older for the purpose of violating this section.

(e) (1) No underage person shall knowingly order, pay for, share the cost of, attempt to purchase, possess or consume any beer or intoxicating liquor in any public or private place. No underage person shall knowingly be under the influence of any beer or intoxicating liquor in any public place. The prohibitions set forth in this division against an underage person knowingly possessing, consuming or being under the influence of any beer or intoxicating liquor shall not apply if the underage person is supervised by a parent, spouse who is not an underage person, or legal guardian, or the beer or intoxicating liquor is given by a physician in the regular line of the physician's practice or given for established religious purposes.

(2) A. If a person is charged with violating division (e)(1) of this section in a complaint filed under R.C. § 2151.27, the court may order the child into a diversion program specified by the court and hold the complaint in abeyance pending successful completion of the diversion program. A child is ineligible to enter into

a diversion

program under this division if the child previously has been diverted pursuant to this division. If the child completes the diversion program to the satisfaction of the court, the court shall dismiss the complaint and order the child's record in the case sealed under R.C. §§ 2151.356 through 2151.358. If the child fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.

B. If a person is charged in a criminal complaint with violating division (e)(1) of this section, R.C. § 2935.36 shall apply to the offense, except that a person is ineligible for diversion under that section if the person previously has been diverted pursuant to divisions (e)(2)A. or (e)(2)B. of this section. If the person completes the diversion program to the satisfaction of the court, the court shall dismiss the complaint and order the record in the case sealed under R.C. § 2953.52. If the person fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.

(f) No parent, spouse who is not an underage person, or legal guardian of a minor shall knowingly permit the minor to violate this section or R.C. § 4301.63, § 4301.633 or § 4301.634, or any substantially equivalent municipal ordinance.

(g) The operator of any hotel, inn, cabin or campground shall make the provisions of this section available in writing to any person engaging or using accommodations at the hotel, inn, cabin or campground.

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

(1) ADrug of abuse. Has the same meaning as in R.C. § 3719.011.

(2) AHotel. Has the same meaning as in R.C. § 3731.01.

(3) ALicensed health professional authorized to prescribe drugs and Aprescription. Have the same meanings as in R.C. § 4729.01.

(4) AMinor. A person under the age of 18 years.

(5) AUnderage person. A person under the age of 21 years.

(R.C. § 4301.69)

(i) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no person under the age of 21 years shall purchase beer or intoxicating liquor.
(R.C. § 4301.63)

(j) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no person shall knowingly furnish any false information as to the name, age or other identification of any person under 21 years of age, for the purpose of obtaining, or with the intent to obtain, beer or intoxicating liquor for a person under 21 years of age, by purchase or as a gift.
(R.C. § 4301.633)

(k) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no person under the age of 21 years shall knowingly show or give false information concerning his or her name, age or other identification for the purpose of purchasing or otherwise obtaining beer or intoxicating liquor in any place in this municipality where beer or intoxicating liquor is sold under a permit issued by the Division of Liquor Control, or sold by the Division of Liquor Control.
(R.C. § 4301.634)

(l) Whoever violates division (a) of this section is guilty of a misdemeanor, shall be fined not

less than $500 nor more than $1,000, and in addition to the fine, may be imprisoned for a definite term of not more than six months.
(R.C. § 4301.99(I))

(m) Whoever violates division (b), (c), (d), (e)(1), (f), (g) or (j) of this section is guilty of a misdemeanor of the first degree. If an offender who violates division (e)(1) of this section was under the age of 18 years at the time of the offense and the offense occurred while the offender was the operator of or a passenger in a motor vehicle, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit or probationary driver's license for a period of six months. If the offender is 15 years and six months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of six months. If the offender has not attained the age of 15 years and six months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of 16 years.
(R.C. § 4301.99(C))

(n) Whoever violates division (i) of this section shall be fined not less than $25 nor more than $100. The court imposing a fine for a violation of this section may order that the fine be paid by the performance of public work at a reasonable hour rate established by the court. The court shall designate the time within which the public work shall be completed.
(R.C. § 4301.99(E))

(o) (1) Whoever violates division (k) of this section is guilty of a misdemeanor of the first degree. If, in committing a first violation of division (k), the offender presented to the permit holder or his or her employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state,

or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than $250 and not more than $1,000, and may be sentenced to a term of imprisonment of not more than six months.

(2) On a second violation in which, for the second time, the offender presented to the permit holder or his or her employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than $500 nor more than $1,000, and may be sentenced to a term of imprisonment of not more than six months. The court also may impose a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operation privilege from the range specified in R.C. § 4510.02(A)(7).

(3) On a third or subsequent violation in which, for the third or subsequent time, the offender presented to the permit holder or his or her employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than $500 nor more than $1,000, and may be sentenced to a term of imprisonment of not more than six months. The court also shall impose a class six suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(6), and the court may order that the suspension or denial remain in effect until the offender attains the age of 21 years. The court also may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform.

(R.C. § 4301.99(F))

§ 612.03 SALES TO INTOXICATED PERSONS.

(a) No permit holder and no agent or employee of a permit holder shall sell or furnish beer or intoxicating liquor to an intoxicated person.
(R.C. § 4301.22(B))

(b) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the third degree.
(R.C. § 4301.99(D), (H))

§ 612.04 CONSUMPTION IN MOTOR VEHICLE.

(a) No person shall consume any beer or intoxicating liquor in a motor vehicle. This section does not apply to persons described in R.C. § 4301.62(D) or a substantially equivalent municipal ordinance.
(R.C. § 4301.64)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. If an offender who violates this section was under the age of 18 years at the time of the offense, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit, probationary driver's license or driver's license for a period of not less than six months and not more than one year. If the offender is 15 years and six months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of six months. If the

offender has not attained the age of 15 years and six months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of 16 years.
(R.C. § 4301.99(B))

§ 612.05 PERMIT REQUIRED.

(a) (1) No person personally or by the person's clerk, agent or employee, shall manufacture, manufacture for sale, offer, keep or possess for sale, furnish or sell, or solicit the purchase or sale of any beer or intoxicating liquor in this state, or transport, import or cause to be transported or imported any beer, intoxicating liquor or alcohol in or into this municipality for delivery, use or sale, unless the person has fully complied with R.C. Chapters 4301 and 4303 or is the holder of a permit issued by the Division of Liquor Control and in force at the time.

(2) No manufacturer, supplier, wholesale distributor, broker or retailer of beer or intoxicating liquor, or other person shall employ, retain or otherwise utilize any person in this state to act as an employee, agent, solicitor or salesperson, or act in any other representative capacity to sell, solicit, take orders or receive offers to purchase or expressions of interest to purchase beer or intoxicating liquor from any person, at any location other than a liquor permit premises, except as specifically authorized by R.C. Chapter 4301 or Chapter 4303 or rules adopted thereunder. No function, event or party shall take place at any location other than a liquor permit premises where any person acts in any manner to sell, solicit, take orders or receive offers to purchase or expressions of intent to purchase beer or intoxicating liquor to or from any person, except as specifically authorized by R.C. Chapter 4301 or Chapter 4303 or rules adopted thereunder.
(R.C. § 4303.25)

(b) Whoever violates this section is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

§ 612.06 POSTING AGE AND FIREARM WARNING SIGNS.

(a) (1) Except as otherwise provided in R.C. § 4301.691, every place in this municipality where beer, intoxicating liquor or any low-alcohol beverage is sold for beverage purposes shall display at all times, in a prominent place on the premises thereof, a printed card, which shall be furnished by the Division of Liquor Control and which shall read substantially as follows:

WARNING TO PERSONS UNDER AGE

If you are under the age of 21

Under the statutes of the State of Ohio, if you order, pay for, share the cost of or attempt to purchase, or possess or consume beer or intoxicating liquor in any public place, or furnish false information as to name, age or other identification, you are subject to a fine of up to $1,000, or imprisonment up to 6 months, or both.

If you are under the age of 18

Under the statutes of the State of Ohio, if you order, pay for, share the cost of or attempt to purchase, or possess or consume, any type of beer or wine that contains either no alcohol or less than one-half of one percent of alcohol by volume in any public place, or furnish false information as to the name, age, or other identification, you are subject to a fine of up to $250 or to imprisonment up to 30 days, or both.

(2) No person shall be subject to any criminal prosecution or any proceedings before the Department or the Liquor Control Commission for failing to display this card. No

permit issued by the Department shall be suspended, revoked or canceled because of the failure of the permit holder to display this card.

(b) (1) Every place in this municipality for which a D permit has been issued under R.C. Chapter 4303 shall be issued a printed card by the Division of Liquor Control that shall read substantially as follows:

WARNING

If you are carrying a firearm

Under the statutes of Ohio, if you possess a firearm in any room in which liquor is being dispensed in premises for which a D permit has been issued under Chapter 4303 of the Revised Code, you may be guilty of a felony and may be subjected to a prison term of up to one year.

(2) No person shall be subject to any criminal prosecution or any proceedings before the Division of Liquor Control or the Liquor Control Commission for failing to display this card. No permit issued by the Department shall be suspended, revoked or canceled because of the failure of the permit holder to display this card.
(R.C. § 4301.637)

(c) Whoever violates this section is guilty of a minor misdemeanor.
(R.C. § 4301.70, 4301.99(A))

§ 612.07 OPEN CONTAINER PROHIBITED.

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

(1) Chauffeured limousine. A vehicle registered under R.C. § 4503.24.

(2) Street, highway, and motor vehicle. Have the same meanings as in R.C. § 4511.01.

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

(1) In a liquor store;

(2) Except as provided in division (c) of this section, on the premises of the holder of any permit issued by the Division of Liquor Control;

(3) In any other public place;

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

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

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

A. Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-7, D-8, E, F, F-2, F-5, F-7 or F-8 permit;

B. Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;

C. Beer or intoxicating liquor consumed on the premises of a convention facility as provided in R.C. § 4303.201;

D. Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Liquor Control Commission.

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

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

B. As used in division (c)(3)A. of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. AOrchestral performance. A concert comprised of a group of not fewer than 40 musicians playing various musical instruments.

2. AOutdoor performing arts center. An outdoor performing arts center that is located on not less than 800 acres of land and that is open for performances from the first day of April to the last day of October of each year.

(4) A person may have in the person's possession an opened or unopened container of

beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in division (c)(3)B. of this section if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.

(d) This section does not apply to a person who pays all or a portion of the fee imposed for use of a chauffeured limousine pursuant to a prearranged contract or the guest of the person, when all of the following apply:

(1) The person or guest is a passenger in the limousine.

(2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located.

(3) The limousine is located on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking.

(e) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply:

(1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.

(2) The opened bottle of wine that is resealed in accordance with division (e)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.

(R.C. § 4301.62)

(f) Whoever violates this section is guilty of a minor misdemeanor.
(R.C. § 4301.99(A))

§ 612.08 HOURS OF SALE OR CONSUMPTION.

(a) This section shall apply to the retail sale of beer, wine, mixed beverages or spirituous liquor.

(b) No beer, wine, mixed beverages, or spirituous liquor shall be sold or delivered by an A-1, A-2, B-1, B-2, B-4, B-5, C-1, C-2, C-2X, D-1, D-2, D-2X, D-3 when issued without a D-3A, D-3X, D-4, D-5G, D-5H, D-5K, D-8, F, F-1, F-2, F-3, F-4, F-5, F-6, G or I permit holder:

(1) From Monday to Saturday between the hours of 1:00 a.m. and 5:30 a.m.

(2) On Sunday between the hours of 1:00 a.m. and Sunday midnight, unless statutorily authorized otherwise.

(3) Consumption of beer, wine, mixed beverages or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages or spirituous liquor for on-premises consumption.

(c) No beer, wine, mixed beverages or spirituous liquor shall be sold or delivered by an A-1A, D-3 when issued with a D-3A, D-4A, D-5, D-5A, D-5B, D-5C, D-5D, D-5E, D-5F, D-5I, D-5J, or D-7 permit holder:

(1) From Monday to Saturday between the hours of 2:30 a.m. and 5:30 a.m.

(2) On Sunday between the hours of 2:30 a.m. and Sunday midnight, unless statutorily

authorized otherwise.

(3) Consumption of beer, wine, mixed beverages or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages or spirituous liquor for on-premises consumption.

(d) Permit holders authorized to sell beer, wine, mixed beverages or spirituous liquor at retail who are not specifically identified in divisions (b) or (c) above shall be subject to the provisions of division (b), unless statutorily authorized otherwise.

(e) The hours on Sunday during which sales, delivery or consumption of alcoholic beverages may take place are established by statute, but in no event shall they begin prior to 5:30 a.m.
(O.A.C. 4301:1-1-49)

(f) No association, corporation, local unit of an association or corporation or D permit holder who holds an F-2 permit shall sell beer or intoxicating liquor beyond the hours of sale allowed by the permit. This division imposes strict liability on the holder of the permit and on any officer, agent or employee of the permit holder.
(R.C. § 4303.202(B))

(g) No F-8 permit holder shall sell beer or intoxicating liquor beyond the hours of sale allowed by the permit. This division imposes strict liability on the holder of an F-8 permit and on any officer, agent or employee of that permit holder.
(R.C. § 4303.208(C))

(h) Whoever violates divisions (f) or (g) of this section is guilty of a misdemeanor of the fourth degree.

(R.C. § 4303.99(D))

§ 612.09 CONVEYING INTOXICATING LIQUOR OR CASH ONTO GROUNDS OF DETENTION FACILITIES OR OTHER INSTITUTIONS.

(a) No person shall knowingly convey, or attempt to convey, onto the grounds of a detention facility or of an institution that is under the control of the Department of Mental Health or the Department of Mental Retardation and Developmental Disabilities, any of the following items:

(1) Any deadly weapon or dangerous ordnance, as defined in R.C. § 2923.11, or any part of or ammunition for use in the deadly weapon or dangerous ordnance.

(2) Any drug of abuse, as defined in R.C. § 3719.011.

(3) Any intoxicating liquor, as defined in R.C. § 4301.01.

(b) Division (a) of this section does not apply to any person who conveys or attempts to convey an item onto the grounds of a detention facility or of an institution under the control of the Department of Mental Health or the Department of Mental Retardation and Developmental Disabilities, with written authorization of the person in charge of the detention facility or the institution and in accordance with the written rules of the detention facility or the institution.

(c) No person shall knowingly deliver, or attempt to deliver, to any person who is confined in a detention facility or to any patient in an institution under the control of the Department of Mental Health or the Department of Mental Retardation and Developmental Disabilities, any item listed in division (a).

(d) No person shall knowingly deliver or attempt to deliver cash to any person who is confined in a detention facility.

(e) No person shall knowingly deliver, or attempt to deliver, to any person who is confined in a detention facility a cellular telephone, two-way radio or other electronic communications device.

(f) (1) It is an affirmative defense to a charge under division (a)(1) of this section that the weapon or dangerous ordnance in question was being transported in a motor vehicle for any lawful purpose, that it was not on the actor's person, and if the weapon or dangerous ordnance was a firearm, that it was unloaded and was being carried in a closed package, box or case or in a compartment that can be reached only by leaving the vehicle.

(2) It is an affirmative defense to a charge under division (c) of this section that the actor was not otherwise prohibited by law from delivering the item to the confined person or the patient and that either of the following applies:

A. The actor was permitted by the written rules of the detention facility or the institution to deliver the item to the confined person or the patient.

B. The actor was given written authorization by the person in charge of the detention facility or the institution to deliver the item to the confined person or the patient.

(g) (1) Whoever violates division (a)(1) of this section or commits a violation of division (c) of this section involving any item listed in division (a)(1) of this section is guilty of illegal conveyance of weapons onto the grounds of a detention facility or a mental health or mental retardation and developmental disabilities institution, a felony to be prosecuted under appropriate state law.

(2) Whoever violates division (a)(2) of this section or commits a violation of division (c) of this section involving any drug of abuse is guilty of illegal conveyance of drugs of

abuse onto the grounds of a detention facility or a mental health or mental retardation and developmental disabilities institution, a felony to be prosecuted under appropriate state law.

(3) Whoever violates division (a)(3) of this section or commits a violation of division (c) of this section involving any intoxicating liquor is guilty of illegal conveyance of intoxicating liquor onto the grounds of a detention facility or a mental health or mental retardation and developmental disabilities institution, a misdemeanor of the second degree.

(4) Whoever violates division (d) of this section is guilty of illegal conveyance of cash onto the grounds of a detention facility, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (d) of this section or a substantially equivalent state law or municipal ordinance, illegal conveyance of cash onto the grounds of a detention facility is a felony to be prosecuted under appropriate state law.

(5) Whoever violates division (e) of this section is guilty of illegal conveyance of a communications device onto the grounds of a detention facility, a misdemeanor of the first degree. If the offender previously has been convicted or pleaded guilty to a violation of division (e) of this section or a substantially equivalent state law or municipal ordinance, illegal conveyance of a communications device onto the grounds of a detention facility is a felony to be prosecuted under appropriate state law. (R.C. § 2921.36)

§ 612.10 SALES OF LOW-ALCOHOL BEVERAGES TO UNDERAGE PERSONS; PROHIBITIONS AND MISREPRESENTATIONS.

(a) As used in this section, underage person means a person under 18 years of age.

(b) No underage person shall purchase any low-alcohol beverage.

(c) No underage person shall order, pay for, share the cost of or attempt to purchase any low-alcohol beverage.

(d) No person shall knowingly furnish any false information as to the name, age or other identification of any underage person for the purpose of obtaining or with the intent to obtain any low-alcohol beverage for an underage person, by purchase or as a gift.

(e) No underage person shall knowingly show or give false information concerning his or her name, age or other identification for the purpose of purchasing or otherwise obtaining any low-alcohol beverage in any place in this municipality.

(f) No person shall sell or furnish any low-alcohol beverage to, or buy any low-alcohol beverage for, an underage person, unless given by a physician in the regular line of his or her practice or given for established religious purposes, or unless the underage person is accompanied by a parent, spouse who is not an underage person, or legal guardian.

(g) (1) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming any low-alcohol beverage, unless the low-alcohol beverage is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian, and the parent, spouse who is not an underage person, or legal guardian is present when the person possesses or consumes the low-alcohol beverage.

(2) An owner of a public or private place is not liable for acts or omissions in violation of division (g)(1) that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(h) No permit issued by the Division of Liquor Control shall be suspended, revoked or cancelled because of a violation of either division (f) or (g).

(i) No underage person shall knowingly possess or consume any low-alcohol beverage in any public or private place, unless he or she is accompanied by a parent, spouse who is not an underage person, or legal guardian, or unless the low-alcohol beverage is given by a physician in the regular line of his or her practice or given for established religious purposes.

(j) No parent, spouse who is not an underage person, or legal guardian of an underage person shall knowingly permit the underage person to violate this section.
(R.C. § 4301.631)

(k) No low-alcohol beverage shall be sold to any person under 18 years of age.
(R.C. § 4301.22(A)(2))

(l) Whoever violates division (b) of this section shall be fined not less than $25 nor more than $100. The court imposing a fine for a violation of division (b) of this section may order that the fine be paid by the performance of public work at a reasonable hour rate established by the court. The court shall designate the time within which the public work shall be completed.
(R.C. § 4301.99(E))

(m) Whoever violates divisions (c) through (k) hereof is guilty of a misdemeanor of the fourth

degree.
(R.C. § 4301.99(B))

§ 612.11 ALCOHOL VAPORIZING DEVICES PROHIBITED.

(a) As used in this section, alcohol vaporizing device means a machine or other device that mixes beer or intoxicating liquor with pure oxygen or any other gas to produce a vaporized product for the purpose of consumption by inhalation.

(b) No person shall sell or offer for sale an alcohol vaporizing device.

(c) No person shall purchase or use an alcohol vaporizing device.
(R.C. § 4301.65)

(d) (1) Whoever violates division (b) of this section is guilty of misdemeanor of the third degree. For a second or subsequent violation occurring within a period of five consecutive years after the first violation, a person is guilty of a misdemeanor of the first degree.
(R.C. § 4301.99(J))

(2) Whoever violates division (c) of this section is guilty of a minor misdemeanor.
(R.C. § 4301.99(A))

CHAPTER 618: ANIMALS

618.01 Dogs and other animals running at large; dangerous and vicious dogs
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Cross-reference:

Assaulting police dog or horse or assistance dog, see § 642.12

Definitions generally, see § 606.01

Driving animals upon roadway, see §§ 404.05, 412.05

Offensive odors from places where animals are kept or fed, see § 660.04

Statutory reference:

Power to restrain and impound animals, see R.C. § 715.23

§ 618.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE; DANGEROUS AND VICIOUS DOGS.

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

(1) Dangerous dog. A dog that, without provocation, and subject to the following sentence, has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person while that dog is off the premises of its owner, keeper or harborer or some other responsible person, or not physically restrained or confined in a locked pen which has a top, locked fenced yard or other locked enclosure which has a top. ADangerous dog does not include a police dog that has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person while the police dog is being used to assist law enforcement officers in the performance of their official duties.

(2) Menacing fashion. A dog that would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person.

(3) Police dog. A dog that has been trained and may be used to assist one or more law enforcement officers in the performance of their official duties.

(4) Vicious dog.

A. A dog that, without provocation and subject to division B. of this definition, meets any of the following criteria:

1. Has killed or caused serious injury to any person;
2. Has caused injury, other than killing or serious injury, to any person or has killed another dog;

3. Belongs to a breed that is commonly known as a pit bull dog. The ownership, keeping or harboring of such a breed of dog shall be prima facie evidence of the ownership, keeping or harboring of a vicious dog.

B. Vicious dog does not include either of the following:

1. A police dog that has killed or caused serious injury to any person or that has caused injury, other than killing or serious injury, to any person while the police dog is being used to assist law enforcement officers in the performance of their official duties.

2. A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper or harborer of the dog.

(5) Without provocation. A dog acts without provocation when it was not teased, tormented or abused by a person, or it was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out the activity.
(R.C. § 955.11(A))

(b) A person who is the owner or has charge of any animal shall not permit it to run at large in the public road, highway, street, lane or alley, or upon unenclosed land, or permit them to go upon any private yard, lot or enclosure without the consent of the owner of the yard, lot or enclosure.

(c) No person shall cause animals to be herded, kept, or detained for the purpose of grazing on premises other than those owned or occupied by the owner or keeper thereof without the consent of the owner of the premises.

(d) The running at large of the animal in or upon any of the places mentioned in divisions (b) and (c) above is prima facie evidence that it is running at large in violation of this section. (R.C. §§ 951.01, 951.02)

(e) No owner, keeper or harborer of any female dog shall permit it to go beyond the premises of the owner, keeper or harborer at any time the dog is in heat unless the dog is properly in leash.

(f) Except when a dog is lawfully engaged in hunting and accompanied by the owner, keeper, harborer, or handler of the dog, no owner, keeper or harborer of any dog shall fail at any time to do either of the following:

(1) Keep the dog physically confined or restrained upon the premises of the owner, keeper or harborer by a leash, tether, adequate fence, supervision or secure enclosure to prevent escape;

(2) Keep the dog under the reasonable control of some person.

(g) Except when a dangerous or vicious dog is lawfully engaged in hunting or training for the purpose of hunting and is accompanied by the owner, keeper, harborer, or handler of the dog, no owner, keeper or harborer of a dangerous or vicious dog shall fail to do either of the following:

(1) While the dog is on the premises of the owner, keeper or harborer, securely confine it at all times in a locked pen that has a top, locked fenced yard or other locked enclosure that has a top, except that a dangerous dog may, in the alternative, be tied with a leash or tether so that the dog is adequately restrained.

(2) While the dog is off the premises of the owner, keeper or harborer, keep that dog on a chain-link leash or tether that is not more than six feet in length and additionally do at least one of the following: keep the dog in a locked pen that has a top, locked fenced yard or other locked enclosure that has a top; have the leash or tether

controlled by a person who is of suitable age and discretion or securely attach, tie or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station a person in close enough proximity to that dog so as to prevent it from causing injury to any person; or muzzle that dog.

(h) No owner, keeper or harborer of a vicious dog shall fail to obtain liability insurance with an insurer authorized to write liability insurance in this state providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than $100,000 because of damage or bodily injury to or death of a person caused by the vicious dog.

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

(1) Debark or surgically silence a dog that the person knows or has reason to believe is a vicious dog;

(2) Possess a vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;

(3) Falsely attest on a waiver form provided by the veterinarian under division (j) of this section that the person's dog is not a vicious dog or otherwise provide false information on that written waiver form.

(j) Before a veterinarian debarks or surgically silences a dog, the veterinarian may give the owner of the dog a written waiver form that attests that the dog is not a vicious dog. The written waiver form shall include all of the following:

(1) The veterinarian's license number and current business address;

(2) The number of the license of the dog if the dog is licensed;

(3) A reasonable description of the age, coloring and gender of the dog as well as any notable markings on the dog;

(4) The signature of the owner of the dog attesting that the owner's dog is not a vicious dog;

(5) A statement that R.C. § 955.22(F) prohibits any person from doing any of the following:

A. Debarking or surgically silencing a dog that the person knows or has reason to believe is a vicious dog;

B. Possessing a vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;

C. Falsely attesting on a waiver form provided by the veterinarian under R.C. § 955.22(G) that the person's dog is not a vicious dog or otherwise provide false information on that written waiver form.

(k) It is an affirmative defense to a charge of a violation of division (i) of this section that the veterinarian who is charged with the violation obtained, prior to debarking or surgically silencing the dog, a written waiver form that complies with division (j) of this section and that attests that the dog is not a vicious dog.
(R.C. § 955.22)

(l) Whoever violates divisions (b) or (c) of this section is guilty of a misdemeanor of the fourth degree.
(R.C. § 951.99)

(m) (1) Whoever violates divisions (e) or (f) of this section shall be fined not less than $25 or more than $100 on a first offense; and on each subsequent offense, shall be fined not less than $75 or more than $250 and may be imprisoned for not more than 30 days.

(2) In addition to the penalties prescribed in division (m)(1) above, if the offender is guilty of a violation of division (e) or (f) of this section, the court may order the offender to personally supervise the dog that the offender owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both.

(n) (1) If a violation of division (g) of this section involves a dangerous dog, whoever violates that division (g) is guilty of a misdemeanor of the fourth degree on a first offense and of a misdemeanor of the third degree on each subsequent offense. Additionally, the court may order the offender to personally supervise the dangerous dog that the offender owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both, and the court may order the offender to obtain liability insurance pursuant to division (h) of this section. The court, in the alternative, may order the dangerous dog to be humanely destroyed by a licensed veterinarian, the County Dog Warden or the County Humane Society.

(2) If a violation of division (g) of this section involves a vicious dog, whoever violates that division (g) is guilty of one of the following:

A. On a first offense, a misdemeanor of the first degree if the dog causes injury other than killing or serious injury to any person. The person shall be guilty of a felony on each subsequent offense and shall be prosecuted under appropriate state law. Additionally, the court may order the vicious dog to be humanely destroyed by a licensed veterinarian, the County Dog Warden or the County Humane Society.

B. A felony on a first or subsequent offense if the dog kills or seriously injures a person and shall be prosecuted under appropriate state law. Additionally, the court shall order that the vicious dog be humanely destroyed by a licensed veterinarian, the County Dog Warden or the County Humane Society.

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

(p) Whoever violates division (i) of this section is guilty of a felony to be prosecuted under appropriate state law. Additionally, the court shall order that the vicious dog be humanely destroyed by as licensed veterinarian, the County Dog Warden or the County Humane Society.
(R.C. § 955.99(E) - (H), (J))

§ 618.02 ABANDONING ANIMALS.

(a) No owner or keeper of a dog, cat or other domestic animal shall abandon the animal.
(R.C. § 959.01)

(b) Whoever violates division (a) of this section is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.
(R.C. § 959.99(E)(2))

§ 618.03 KILLING OR INJURING ANIMALS.

(a) No person shall maliciously, or willfully and without the consent of the owner, kill or injure a dog, cat or any other domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity.
(R.C. § 959.02)

(b) Except as otherwise provided in this division, whoever violates division (a) of this section is guilty of a misdemeanor of the second degree. If the value of the animal killed or the injury done amounts to $300 or more, whoever violates division (a) of this section is guilty of a misdemeanor of

the first degree.
(R.C. § 959.99(B))

§ 618.04 POISONING ANIMALS.

(a) No person shall maliciously, or willfully and without the consent of the owner, administer poison, except a licensed veterinarian acting in that capacity, to a dog, cat or any other domestic animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by any such animal, either upon his or her own lands or the lands of another.
(R.C. § 959.03)

(b) Whoever violates division (a) of this section is guilty of a misdemeanor of the fourth degree.
(R.C. § 959.99(C))

§ 618.05 CRUELTY TO ANIMALS; CRUELTY TO COMPANION ANIMALS.

(a) No person shall:

(1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during the confinement with a sufficient quantity of good wholesome food and water;

(2) Impound or confine an animal without affording it, during the confinement, access to shelter from wind, rain, snow or excessive direct sunlight, if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. This division does not apply to animals impounded or confined prior to slaughter. For

the purpose of this section, Ashelter means an artificial enclosure, windbreak, sunshade or natural windbreak or sunshade that is developed from the earth's contour, tree development or vegetation;

(3) Carry or convey an animal in a cruel or inhuman manner;

(4) Keep animals other than cattle, poultry or fowl, swine, sheep or goats in an enclosure without wholesome exercise and change of air, nor feed cows on food that produces impure or unwholesome milk;

(5) Detain livestock in railroad cars or compartments longer than 28 hours after they are so placed without supplying them with necessary food, water and attention, nor permit the stock to be so crowded as to overlie, crush, wound or kill each other.

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

(c) All fines collected for violations of division (a) of this section shall be paid to the Society or Association for the Prevention of Cruelty to Animals, if there is one in the municipality; otherwise, all fines shall be paid to the General Fund.
(R.C. § 959.13)

(d) *Cruelty to companion animals.*

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

A. Companion animal. Any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept. Companion animal does not include

livestock or any wild animal.

B. Cruelty, torment, and torture. Have the same meanings as in R.C. § 1717.01.

C. Federal Animal Welfare Act. The Laboratory Animal Act of 1966, Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C. 2131 et seq., as amended by the Animal Welfare Act of 1970, Pub. L. No. 91-579, 84 Stat. 1560 (1970), the Animal Welfare Act Amendments of 1976, Pub. L. No. 94-279, 90 Stat. 417 (1976), and the Food Security Act of 1985, Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.

D. Practice of veterinary medicine. Has the same meaning as in R.C. § 4741.01.

E. AResidential dwelling. A structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.

F. AWild animal. Has the same meaning as in R.C. § 1531.01.

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

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

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

B. Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow or excessive direct sunlight, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement or impoundment or confinement in any of those specified manners.

(4) Divisions (d)(2) and (d)(3) of this section do not apply to any of the following:

A. A companion animal used in scientific research conducted by an institution in accordance with the Federal Animal Welfare Act and related regulations;

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

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

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

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

(5) Notwithstanding any section of the Ohio Revised Code that otherwise provides for the distribution of fine moneys, the Clerk of Court shall forward all fines the Clerk collects that are so imposed for any violation of this division (e) to the Treasurer of the municipality, whose county humane society or law enforcement agency is to be paid the fine money as determined under this division. The Treasurer shall pay the fine moneys to the county humane society or the county, township, municipal corporation or state law enforcement agency in this state that primarily was responsible for or involved in the investigation and prosecution of the violation. If a county humane society receives any fine moneys under this division, the county humane society shall use the fine moneys to provide the training that is required for humane agents under R.C. § 1717.06.

(R.C. § 959.131)

(e) Whoever violates division (a) of this section is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition, including but not limited to the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this division, the proceeds from the sale first shall be applied to pay the
expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.
(R.C. § 959.99(D))

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

(2) Whoever violates division (d)(3) of this section is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(3) A. A court may order a person who is convicted of or pleads guilty to a violation of division (d) of this section to forfeit to an impounding agency, as defined in R.C. § 959.132, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.

B. A court may order a person who is convicted of or pleads guilty to a violation of division (d) of this section to reimburse an impounding agency for the

reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under R.C. § 959.132.

(4) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of division (d) of this section suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

(R.C. § 959.99(E))

Statutory reference:

Impoundment of companion animals; notice and hearing, see R.C. § 959.132

§ 618.06 COLORING RABBITS AND BABY POULTRY; SALE OR DISPLAY OF POULTRY.

(a) No person shall dye or otherwise color any rabbit or baby poultry, including but not limited to chicks and ducklings. No person shall sell, offer for sale, expose for sale, raffle or give away any rabbit or baby poultry which has been dyed or otherwise colored. No poultry younger than four weeks of age may be sold, given away or otherwise distributed to any person in lots of less than six. Stores, shops, vendors and others offering young poultry for sale or other distribution shall provide and operate brooders or other heating devices that may be necessary to maintain poultry in good health, and shall keep adequate food and water available to the poultry at all times.
(R.C. § 925.62)

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

offense; each subsequent offense is a misdemeanor of the third degree.
(R.C. § 925.99(B))

§ 618.07 BARKING OR HOWLING DOGS.

(a) No person shall own, harbor or keep in custody a dog which disturbs the peace by barking, yelping, howling or making other loud noises to the annoyance and/or discomfort of any person. Continuous barking, yelping, howling and/or making other loud noises for 15 consecutive minutes by the dog, whether confined inside a residence or building or to the outside area, shall be deemed to have disturbed the peace and to have caused the annoyance and discomfort of persons; provided, that at the time of the complaint, no person or persons were trespassing or threatening to trespass upon the private property of the owner, and provided that the dog was not being teased or provoked in any manner.

(b) Any person who shall allow any dog habitually to remain, be lodged or fed within any dwelling, building, yard or enclosure owned or occupied by the person shall be considered as harboring or keeping the dog.

(c) Upon an initial complaint, an enforcement officer shall warn the person in writing of the violation. Upon a second such complaint within 30 days, the enforcement officer shall charge the person with a violation of this section.

(d) Division (a) of this section does not apply to owners, operators or employees of licensed veterinary hospitals, licensed kennels or licensed animal boarding establishments, nor does this

section apply to blind, deaf or hearing impaired, or mobility impaired persons when the dog serves as an assistance dog.

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

§ 618.08 REGISTRATION OF DOGS REQUIRED.

(a) No owner, keeper or harborer of a dog more than three months of age, nor owner of a dog kennel, shall fail to file an application for registration required by R.C. § 955.01, nor shall he or she fail to pay the legal fee therefor.
(R.C. § 955.21)

(b) Whoever violates this section shall be fined not less than $25 nor more than $100 on a first offense, and on each subsequent offense shall be fined not less than $75 nor more than $250 and may be imprisoned for not more than 30 days.
(R.C. § 955.99(E))

§ 618.09 HINDERING CAPTURE OF UNREGISTERED DOG.

(a) No person shall obstruct or interfere with anyone lawfully engaged in capturing an unlicensed dog or making an examination of a dog wearing a tag.
(R.C. § 955.24)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(R.C. § 955.99(B))

§ 618.10 DOGS REQUIRED TO WEAR TAGS.

(a) No owner of a dog, except a dog constantly confined to a registered kennel, shall fail to require the dog to wear, at all times, a valid tag issued in connection with a certificate of registration. A dog's failure at any time to wear a valid tag shall be prima facie evidence of a lack of registration and shall subject any dog found not wearing the tag to impoundment, sale or

destruction.
(R.C. § 955.10)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(R.C. § 955.99(B))

§ 618.11 UNLAWFUL TAGS.

(a) No person shall own, keep or harbor a dog wearing a fictitious, altered or invalid registration tag or a registration tag not issued by the County Auditor in connection with the registration of that animal.
(R.C. § 955.25)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(R.C. § 955.99(B))

§ 618.12 RABIES QUARANTINE.

(a) No person having knowledge of the existence of rabies in an animal, or knowledge that an animal has exhibited symptoms or behavior suggestive of rabies, or knowledge that an animal has bitten any person, shall fail to immediately report that information to the Mayor or the Chief of Police.

(b) Whenever it is established by the Mayor or Chief of Police that any animal has bitten any person or exhibits symptoms or behavior suggestive of rabies, the person who owns, harbors or otherwise cares for the animal shall confine it in close quarantine and isolation or shall place the animal in the establishment of a veterinarian until, in either case, it is determined by the County

Board of Health that the animal is not afflicted with rabies. The isolation and quarantine period hereby required shall be not less than ten days from the date the person was bitten. If the animal has, or develops, any symptoms suspicious of rabies during the ten-day period, the County Board of Health shall be notified immediately. All expenses incurred for the keeping of the animal, or the necessary tests to determine whether rabies exists, shall be borne exclusively by the person who owns, harbors or otherwise cares for the animal.

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

§ 618.13 HUNTING PROHIBITED.

(a) The hunting of animals or fowl within the municipality is prohibited. No person shall hunt, kill or attempt to kill any animal or fowl by the use of firearms or any other means. However, nothing in this section shall be deemed to prohibit the killing of rats and other undesirable rodents authorized to be killed by the Chief of Police using means for this killing which are also authorized by the Chief.

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

§ 618.14 NUISANCE CONDITIONS PROHIBITED.

(a) No person shall keep or harbor any animal or fowl in the municipality so as to create noxious or offensive odors or unsanitary conditions which are a menace to the health, comfort or safety of the public.

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

§ 618.15 IMPOUNDING AND DISPOSITION; RECORDS.

(a) A police officer or animal warden may impound every dog or other animal found in violation of § 618.01. If the impounded dog is not wearing a valid registration tag, the dog shall forthwith be turned over to an officer charged by law with the custody and disposal of such dogs. If the dog is wearing a valid registration tag or the identity of the owner or harborer is otherwise established, notice shall immediately be given to the owner or harborer that the dog has been impounded. Notice may be by telephone or by ordinary mail to the last known address of the owner or harborer. The dog shall not be released except upon the payment of reasonable expenses for its taking and keeping. Any dog not redeemed within three days of the time it is seized or impounded may be sold or otherwise disposed of as provided by R.C. § 955.16.

(b) A record of all dogs impounded, the disposition of the same, the owner's name and address, if known, and a statement of any costs or receipts involving the dog shall be kept.

§ 618.16 REPORTING ESCAPES.

(a) The owner or keeper of any member of a species of the animal kingdom that escapes from the owner's or keeper's custody or control and that is not indigenous to this state or presents a risk of serious physical harm to persons or property, or both, shall, within one hour after the owner or keeper discovers or reasonably should have discovered the escape, report it to:

(1) A law enforcement officer of the municipality and the County Sheriff; and

(2) The Clerk of Council.

(b) If the office of the Clerk of Council is closed to the public at the time a report is required

by division (a) of this section, it is sufficient compliance with division (a)(2) of this section if the owner or keeper makes the report within one hour after the office is next open to the public.

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

(R.C. § 2927.21)

CHAPTER 624: DRUGS

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Cross-reference:

Alcoholic beverages, see Ch. 612

Disorderly conduct while voluntarily intoxicated, see § 648.04

Driving or physical control while under the influence, see § 434.01

Effect of voluntary intoxication on criminal liability, see § 606.07

Intoxicated pedestrians, see § 416.10

Placing harmful substance or objects in food or confection, see § 636.16

Using weapons while intoxicated, see § 678.04

Statutory reference:

Treatment of drug dependent persons in lieu of conviction, see R.C. § 2951.041

§ 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.

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

(b) Adulterate. To cause a drug to be adulterated as described in R.C. § 3715.63.

(c) Bulk amount. Of a controlled substance, means any of the following:

(1) For any compound, mixture, preparation or substance included in Schedule I, Schedule II or Schedule III, with the exception of marihuana, cocaine, L.S.D., heroin and hashish and except as provided in division (2) or (5) of this definition, whichever of the following is applicable:

A. An amount equal to or exceeding ten grams or 25 unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I opiate or opium derivative;

B. An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;

C. An amount equal to or exceeding 30 grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule

I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a Schedule I stimulant or depressant;

D. An amount equal to or exceeding 20 grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II opiate or opium derivative;

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

F. An amount equal to or exceeding 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the federal drug abuse control laws, as defined in this section, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;

G. An amount equal to or exceeding three grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the federal drug abuse control laws;

(2) An amount equal to or exceeding 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a

Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;

(3) An amount equal to or exceeding 20 grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III opiate or opium derivative;

(4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance;

(5) An amount equal to or exceeding 200 solid dosage units, 16 grams, or 16 milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid.

(d) Certified grievance committee. A duly constituted and organized committee of the Ohio State Bar Association or of one or more local bar associations of the state that complies with the criteria set forth in Rule V, Section 6 of the Rules for the Government of the Bar of Ohio.

(e) Cocaine. Any of the following:

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

(2) Coca leaves or a salt, compound, derivative or preparation of coca leaves, including ecgonine, a salt, isomer or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine.

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

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

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

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

(i) Counterfeit controlled substance. Any of the following:

(1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to the trademark, trade name or identifying mark.

(2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it.

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

(4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its markings, labeling, packaging, distribution or the price for which it is sold or offered for sale.

(j) Crack cocaine. A compound, mixture, preparation or substance that is or contains any

amount of cocaine that is analytically identified as the base form of cocaine or that is in a form that resembles rocks or pebbles generally intended for individual use.

(k) Cultivate. Includes planting, watering, fertilizing or tilling.

(l) Dangerous drug. Any of the following:

(1) Any drug to which either of the following applies:

A. Under the Federal Food, Drug and Cosmetic Act, is required to bear a label containing the legend Caution: Federal law prohibits dispensing without a prescription or Caution: Federal law restricts this drug to use by or on the order of

a licensed veterinarian or any similar restrictive statement, or may be dispensed only upon a prescription.

B. Under R.C. Chapter 3715 or Chapter 3719, may be dispensed only upon a prescription.

(2) Any drug that contains a Schedule V controlled substance and that is exempt from R.C. Chapter 3719 or to which that chapter does not apply.

(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.

(m) Deception. Has the same meaning as in R.C. § 2913.01.

(n) Disciplinary counsel. The disciplinary counsel appointed by the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court under the Rules for the Government of the Bar of Ohio.

(o) Dispense. To sell, leave with, give away, dispose of or deliver.

(p) Distribute. To deal in, ship, transport or deliver, but does not include administering or dispensing a drug.

(q) Drug. Any of the following:

(1) Any article recognized in the official United States Pharmacopeia, National Formulary

or any supplement intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals.

(2) Any other article intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals.

(3) Any article, other than food, intended to affect the structure or any function of the body of humans or other animals.

(4) Any article intended for use as a component of any article specified in division (1), (2) or (3) above; but does not include devices or their components, parts or accessories.

(r) Drug abuse offense. Any of the following:

(1) 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.

(2) A violation of an existing or former law of any municipality, state or of the United States, that is substantially equivalent to any section listed in division (1) of this definition.

(3) An offense under an existing or former law of any municipality, state or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element.

(4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit, any offense under division (1), (2) or (3) of this definition.

(s) Drug dependent person. Any person who, by reason of the use of any drug of abuse, is physically and/or psychologically dependent upon the use of that drug to the detriment of

the person's health or welfare.

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

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

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

(w) AHarmful intoxicant. Does not include beer or intoxicating liquor, but means any of the following:

(1) Any compound, mixture, preparation or substance the gas, fumes or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation or other harmful physiological effects, and includes but is not limited to any of the following:

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

B. Any aerosol propellant.

C. Any fluorocarbon refrigerant.

D. Any anesthetic gas.

(2) Gamma Butyrolactone;

(3) 1,4 Butanediol.

(x) Hashish. The resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid concentrate, liquid extract or liquid distillate form.

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

(z) Juvenile. A person under 18 years of age.

(aa) Laboratory. A laboratory approved by the State Board of Pharmacy as proper to be entrusted with the custody of controlled substances and the use of controlled substances for scientific and clinical purposes and for purposes of instruction.

(bb) Lawful prescription. A prescription that is issued for a legitimate medical purpose by a licensed health professional authorized to prescribe drugs, that is not altered or forged, and that was not obtained by means of deception or by the commission of any theft offense.

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

(1) A dentist licensed under R.C. Chapter 4715.

(2) A clinical nurse specialist, certified nurse-midwife or certified nurse practitioner who holds a certificate to prescribe issued under R.C. § 4723.48.

(3) An optometrist licensed under R.C. Chapter 4725 to practice optometry under a therapeutic pharmaceutical agent's certificate.

(4) A physician authorized under R.C. Chapter 4731 to practice medicine and surgery, osteopathic medicine and surgery, or podiatry.

(5) A physician assistant who holds a certificate to prescribe issued under R.C. Chapter 4730.

(6) A veterinarian licensed under R.C. Chapter 4741.

(dd) L.S.D. Lysergic acid diethylamide.

(ee) Major drug offender. Has the same meaning as in R.C. § 2929.01.

(ff) Mandatory prison term. Has the same meaning as in R.C. § 2929.01.

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

labeling and other activities incident to production.

(hh) Manufacturer. A person who manufactures a controlled substance, as manufacture is defined by this section.

(ii) Marihuana. All parts of a plant of the genus cannabis, whether growing or not, the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture or preparation of a plant of that type or of its seeds or resin. Marihuana does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. Marihuana does not include hashish .

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

(kk) Minor drug possession offense. Either of the following:

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

(2) 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.

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

(mm) Person. Any individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association or other legal entity.

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

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

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

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

(rr) Presumption for a prison term or presumption that a prison term shall be imposed. 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.

(ss) Professional license. 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)(36) and that qualifies a person as a professionally licensed person.

(tt) Professionally licensed person. Any of the following:

(1) A person who has obtained a license as a manufacturer of controlled substances or a wholesaler of controlled substances under R.C. Chapter 3719;

(2) 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. Chapter 4701 and who holds an Ohio permit issued under that chapter;

(3) A person who holds a certificate of qualification to practice architecture issued or

renewed and registered under R.C. Chapter 4703;

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

(5) A person licensed under R.C. Chapter 4707;

(6) A person who has been issued a certificate of registration as a registered barber under R.C. Chapter 4709;

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

(8) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, managing cosmetologist's license, managing hair designer's license, managing manicurist's license, managing esthetician's license, managing natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license or tanning facility permit under R.C. Chapter 4713;

(9) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious intravenous sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license or a dental hygienist's teacher's certificate under R.C. Chapter 4715;

(10) 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. Chapter 4717;

(11) 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. Chapter 4723;

(12) A person who has been licensed to practice optometry or to engage in optical

dispensing under R.C. Chapter 4725;

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

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

(15) A person licensed as a pharmacist, a pharmacy intern, a wholesale distributor of dangerous drugs or a terminal distributor of dangerous drugs under R.C. Chapter 4729;

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

(17) A person who has been issued a certificate to practice medicine and surgery, osteopathic medicine and surgery, a limited branch of medicine or podiatry under R.C. Chapter 4731;

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

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

(20 A person who has been issued a license to practice chiropractic under R.C. Chapter 4734;

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

(22) A person registered as a registered sanitarian under R.C. Chapter 4736;

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

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

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

(26) A person who has been issued a license or temporary permit to practice veterinary

medicine or any of its branches, or who is registered as a graduate animal technician under R.C. Chapter 4741;

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

(28) A person who has been issued a class A, class B or class C license or who has been registered as an investigator or security guard employee under R.C. Chapter 4749;

(29) A person licensed and registered to practice as a nursing home administrator under R.C. Chapter 4751;

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

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

(32) A person who is licensed as a professional clinical counselor or professional counselor, licensed as a social worker or independent social worker, or registered as a social work assistant under R.C. Chapter 4757;

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

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

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

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

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

(vv) Sale. Includes delivery, barter, exchange, transfer or gift, or offer thereof, and each

transaction of those natures made by any person, whether as principal, proprietor, agent, servant or employee.

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

(xx) Schedule I, II, III, IV or V. Controlled substance Schedules I, II, III, IV and V established pursuant to R.C. § 3719.41, as amended pursuant to R.C. § 3719.43 or § 3719.44.

(yy) School. Any school operated by a board of education, any community school established under R.C. Chapter 3314, or any nonpublic school for which the State Board of Education 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.

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

(aaa) School premises. Either of the following:

(1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed.

(2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under R.C. Chapter 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.

(bbb) Standard Pharmaceutical Reference Manual. The current edition, with cumulative changes if any, of any of the following reference works:

(1) The *National Formulary*.

(2) The *United States Pharmacopeia*, prepared by the authority of the United States Pharmacopeia Convention, Inc.

(3) Other standard references that are approved by the State Board of Pharmacy.

(ccc) Theft offense. Has the same meaning as in R.C. § 2913.01.

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

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

(R.C. §§ 2925.01, 3719.01, 3719.011, 4729.01)

§ 624.02 TRAFFICKING IN CONTROLLED SUBSTANCES; GIFT OF MARIHUANA.

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

(1) Sell or offer to sell a controlled substance;

(2) Prepare for shipment, ship, transport, deliver, prepare for distribution or distribute a controlled substance, when the offender knows or has reasonable cause to believe that the controlled substance 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. Chapters 3719, 4715, 4723, 4729, 4730, 4731 and 4741.

(2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration.

(3) Any person who sells, offers for sale, prescribes, dispenses or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the AFederal 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 division (c)(3) of this section, if the offense involves a gift of 20 grams or less of marihuana or a compound, mixture, preparation or substance containing marihuana other than hashish, trafficking in marihuana is a minor misdemeanor upon a first offense and a misdemeanor of the third degree upon

a subsequent offense.

(3) If the offense involves a gift of 20 grams or less of marihuana or a compound, mixture, preparation or substance containing marihuana other than hashish and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.

(d) In addition to any prison term authorized or required by division (c) of this section and R.C. §§ 2929.13 and 2929.14, and in addition to any other sanction imposed for the offense under this section or R.C. §§ 2929.11 through 2929.18, the court that sentences a person who is convicted of or pleads guilty to a violation of division (a) of this section shall do all of the following that are applicable regarding the offender:

(1) The court shall suspend for not less than six months nor more than five years the driver's or commercial driver's license or permit of any person who is convicted of or has pleaded guilty to a violation of this section.

(2) If the offender is a professionally licensed person, the court immediately shall comply with R.C. § 2925.38.

(e) (1) Notwithstanding any contrary provision of R.C. § 3719.21 and except as provided in R.C. § 2925.03(H), the Clerk of the Court shall pay any mandatory fine imposed pursuant to this section and any fine other than a mandatory fine that is imposed for a violation of this section pursuant to R.C. § 2929.18(A) or (B)(5) to the county, township, municipality, 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 making the arrest of, and in prosecuting, the offender. However, the Clerk shall not pay a mandatory fine so imposed to a law enforcement agency unless the agency has adopted a written internal control policy under division

(e)(2) of this section that addresses the use of the fine moneys that it receives. Each agency shall use the mandatory fines so paid to subsidize the agency's law enforcement efforts that pertain to drug offenses, in accordance with the written internal control policy adopted by the recipient agency under division (e)(2) of this section.

(2) A. Prior to receiving any fine moneys under division (e)(1) of this section or R.C. § 2925.42(B), a law enforcement agency shall adopt a written internal control policy that addresses the agency's use and disposition of all fine moneys so received and that provides for the keeping of detailed financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure. The policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation. All financial records of the receipts of those fine moneys, the general type of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure by an agency are public records open for inspection under R.C. § 149.43. Additionally, a written internal control policy adopted under this division is such a public record, and the agency that adopted it shall comply with it.

B. Each law enforcement agency that receives in any calendar year any fine moneys under division (e)(1) of this section or R.C. § 2925.42(B) shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept by the agency pursuant to division (e)(2)A. of this section for that calendar year, and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the Attorney General. Each report received by the Attorney General is a public record open for

inspection under R.C. § 149.43.

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

A. Law enforcement agencies. Includes but is not limited to the State Board of Pharmacy and the office of a prosecutor.

B. Prosecutor. Has the same meaning as in R.C. § 2935.01.

(f) As used in this section, drug includes any substance that is represented to be a drug. (R.C. § 2925.03)

Statutory reference:

Felony drug trafficking offenses, see R.C. § 2925.03(C)

§ 624.03 CULTIVATION OF MARIHUANA.

(a) No person shall knowingly cultivate marihuana.

(b) This section does not apply to any person listed in R.C. § 2925.03(B)(1), (B)(2) or (B)(3), or a substantially equivalent municipal ordinance, to the extent and under the circumstances described in that division.

(c) Whoever commits a violation of division (a) of this section is guilty of illegal cultivation of marihuana.

(1) Except as otherwise provided in the following divisions, illegal cultivation of marihuana is a minor misdemeanor or, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the fourth degree.

(2) If the amount of marihuana involved equals or exceeds 100 grams but is less than

200 grams, illegal cultivation of marihuana is a misdemeanor of the fourth degree or, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the third degree.

(3) If the amount of marihuana involved equals or exceeds 200 grams, illegal cultivation of marihuana is a felony to be prosecuted under appropriate state law.

(d) In addition to any prison term authorized or required by division (c) of this section and R.C. §§ 2929.13 and 2929.14, and in addition to any other sanction imposed for the offense under this section or R.C. §§ 2929.11 through 2929.18, the court that sentences a person who is convicted of or pleads guilty to a violation of division (a) of this section shall do all of the following that are applicable regarding the offender:

(1) The court shall suspend the offender's driver's or commercial driver's license or permit in accordance with R.C. § 2925.03(G). If an offender's driver's or commercial driver's license or permit is suspended in accordance with that division, the offender may request termination of, and the court may terminate, the suspension in accordance with that division.

(2) If the offender is a professionally licensed person, the court immediately shall comply with R.C. § 2925.38.

(e) 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.

(R.C. § 2925.04)

§ 624.04 DRUG ABUSE.

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

(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. Chapters 3719, 4715, 4723, 4729, 4730, 4731 and 4741.

(2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration.

(3) Any person who sells, offers for sale, prescribes, dispenses or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the Federal Food, Drug and Cosmetic Act, and is sold, offered for sale, prescribed, dispensed or administered for that purpose in accordance with that Act.

(4) Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

(c) Whoever violates division (a) of this section is guilty of one 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 of R.C. § 3719.41, with the exception of marihuana, or is cocaine, L.S.D., heroin or a compound, mixture or preparation containing such drug, drug abuse is a felony to be prosecuted under appropriate state law.

(2) If the drug involved is a compound, mixture, preparation or substance included in

Schedule III, Schedule IV or Schedule V of R.C. § 3719.41, whoever violates division (a) of this section is guilty of possession of drugs. The penalty for the offense shall be determined as follows:

A. Except as otherwise provided in the following division, possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, it is a felony to be prosecuted under appropriate state law.

B. If the amount of the drug involved equals or exceeds the bulk amount, possession of drugs is a felony to be prosecuted under appropriate state law.

(3) If the drug involved in the violation is marihuana or a compound, mixture, preparation or substance containing marihuana other than hashish, whoever violates division (a) of this section is guilty of possession of marihuana. The penalty for the offense shall be determined as follows:

A. Except as otherwise provided in the following divisions, possession of marihuana is a minor misdemeanor.

B. If the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a misdemeanor of the fourth degree.

C. If the amount of the drug involved equals or exceeds 200 grams, possession of marihuana is a felony to be prosecuted under appropriate state law.

(4) If the drug involved in the violation is hashish or a compound, mixture, preparation or substance containing hashish, whoever violates division (a) of this section is guilty of possession of hashish. The penalty for the offense shall be determined as follows:

A. Except as otherwise provided in the following divisions, possession of hashish is a minor misdemeanor.

B. If the amount of the drug involved equals or exceeds five grams but is less than

ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.

C. If the amount of the drug involved equals or exceeds ten grams of hashish in a solid form or equals or exceeds two grams of hashish in a liquid concentrate, liquid extract or liquid distillate form, possession of hashish is a felony to be prosecuted under appropriate state law.

(d) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(e) In addition to any prison term or jail term authorized or required by division (c) of this section and 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 shall do the following if applicable regarding the offender:

(1) Notwithstanding any contrary provision of R.C. § 3719.21, the Clerk of Court shall pay a fine imposed for a violation of this section pursuant to R.C. § 2929.18(A) in accordance with and subject to the requirements of R.C. § 2925.03(F). The agency that receives the fine shall use the fine as specified in R.C. § 2925.03(F).

(2) The court shall suspend for not less than six months nor more than five years the

offender's driver's or commercial driver's license or permit.

(3) 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.

(R.C. § 2925.11)

Statutory reference:

Felony drug possession offenses, see R.C. § 2925.11(C)

§ 624.05 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. Chapters 3719, 4715, 4723, 4729, 4730, 4731 and 4741.

(c) Whoever violates this section is guilty of possessing drug abuse instruments, a misdemeanor of the second degree. If the offender previously has been convicted of a drug abuse offense, violation of this section is a misdemeanor of the first degree.

(d) In addition to any other sanction imposed upon an offender for a violation of this section,

the court shall suspend for not less than six months nor more than five years the offender's driver's or commercial driver's license or permit. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.
(R.C. § 2925.12)

§ 624.06 PERMITTING DRUG ABUSE.

(a) No person who is the owner, operator or person in charge of a locomotive, watercraft, aircraft or other vehicle, as defined in R.C. § 4501.01, shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.

(b) No person, who is the owner, lessee or occupant, or who has custody, control or supervision of premises, or real estate, including vacant land, shall knowingly permit his or her premises, or real estate, including vacant land, to be used for the commission of a felony drug abuse offense by another person.

(c) Whoever violates this section is guilty of permitting drug abuse.

(1) Except as provided in division (c)(2) of this section, permitting drug abuse is a misdemeanor of the first degree.

(2) Permitting drug abuse is a felony, and punishable under appropriate state law, if the felony drug abuse offense in question is a violation of R.C. § 2925.02 or § 2925.03.

(d) In addition to any prison term authorized or required by division (c) of this section and R.C. §§ 2929.13 and 2929.14, and in addition to any other sanction imposed for the offense under this section or R.C. §§ 2929.11 through 2929.18, the court that sentences a person who is

convicted of or pleads guilty to a violation of division (a) of this section shall do all of the following that are applicable regarding the offender:

(1) The court shall suspend for not less than six months nor more than five years the offender's driver's or commercial driver's license or permit.

(2) If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.

(e) Notwithstanding any contrary provision of R.C. § 3719.21, the Clerk of Court shall pay a fine imposed for a violation of this section pursuant to R.C. § 2929.18(A) in accordance with and subject to the requirements of R.C. § 2925.03(F). The agency that receives the fine shall use the fine as specified in R.C. § 2925.03(F).

(f) Any premises or real estate that is permitted to be used in violation of division (b) of this section constitutes a nuisance subject to abatement pursuant to R.C. Chapter 3767.
(R.C. § 2925.13)

§ 624.07 USE OR POSSESSION OF PARAPHERNALIA.

(a) As used in this section, Adrug 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. Chapter 2925.

(3) The proximity of the equipment, product or material to any controlled substance.

(4) The existence of any residue of a controlled substance on the equipment, product or material.

(5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product or material, to deliver it to any person whom he or she knows intends to use the equipment, product or material to facilitate a violation of any provision of this chapter or R.C. Chapter 2925. A finding that the owner or anyone in control of the equipment, product or material is not guilty of a violation of any other provision of this chapter or R.C. Chapter 2925 does not prevent a finding that the equipment, product or material was intended or designed by the offender for use as drug paraphernalia.

(6) Any oral or written instruction provided with the equipment, product or material concerning its use.

(7) Any descriptive material accompanying the equipment, product or material and explaining or depicting its use.

(8) National or local advertising concerning the use of the equipment, product or material.

(9) The manner and circumstances in which the equipment, product or material is displayed for sale.

(10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product or material to the total sales of the business enterprise.

(11) The existence and scope of legitimate uses of the equipment, product or material in the community.

(12) Expert testimony concerning the use of the equipment, product or material.

(c) (1) 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) 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. Chapters 3719, 4715, 4723, 4729, 4730, 4731 and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by R.C. § 3719.172.

(e) Notwithstanding R.C. Chapter 2981, any drug paraphernalia that was used, possessed, sold or manufactured in violation of this section shall be seized, after a conviction for that violation, shall be forfeited, and upon forfeiture shall be disposed of pursuant to R.C. § 2981.12(B).

(f) (1) Whoever violates division (c)(1) of this section is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.

(2) Except as provided in division (f)(3) of this section, whoever violates division (c)(2) of this section is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.

(3) Whoever violates division (c)(2) of this section by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.

(4) Whoever violates division (c)(3) of this section is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.

(g) In addition to any other sanction imposed upon an offender for a violation of this section, the court shall suspend for not less than six months nor more than five years the offender's driver's or commercial driver's license or permit. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court shall immediately comply with R.C. § 2925.38.
(R.C. § 2925.14)

§ 624.08 ABUSING HARMFUL INTOXICANTS.

(a) Except for lawful research, clinical, medical, dental or veterinary purposes, no person, with

purpose to induce intoxication or similar physiological effects, shall obtain, possess or use a harmful intoxicant.

(b) Whoever violates this section is guilty of abusing harmful intoxicants, a misdemeanor of the first degree. If the offender previously has been convicted of a drug abuse offense, abusing harmful intoxicants is a felony to be prosecuted under appropriate state law.

(c) In addition to any other sanction imposed upon an offender for a violation of this section, the court shall suspend for not less than six months nor more than five years the offender's driver's or commercial driver's license or permit. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.
(R.C. § 2925.31)

§ 624.09 IMPROPERLY DISPENSING OR DISTRIBUTING NITROUS OXIDE.

(a) No person who dispenses or distributes nitrous oxide in cartridges shall fail to comply with either of the following:

(1) The record-keeping requirements established under division (c) of this section.

(2) The labeling and transaction identification requirements established under division (d) of this section.

(b) Whoever violates division (a)(1) or (a)(2) of this section is guilty of improperly dispensing or distributing nitrous oxide, a misdemeanor of the fourth degree.

(c) Beginning July 1, 2001, a person who dispenses or distributes nitrous oxide shall record

each transaction involving the dispensing or distribution of the nitrous oxide on a separate card. The person shall require the purchaser to sign the card and provide a complete residence address. The person dispensing or distributing the nitrous oxide shall sign and date the card. The person shall retain the card recording a transaction for one year from the date of the transaction. The person shall maintain the cards at the person's business address and make them available during normal business hours for inspection and copying by officers or employees of the State Board of Pharmacy or of other law enforcement agencies that are authorized to investigate violations of this code, R.C. Chapter 2925, Chapter 3719 or Chapter 4729, or federal drug abuse control laws. The cards used to record each transaction shall inform the purchaser of the following:

(1) That nitrous oxide cartridges are to be used only for purposes of preparing food;

(2) That inhalation of nitrous oxide can have dangerous health effects; and

(3) That it is a violation of state law to distribute or dispense cartridges of nitrous oxide to any person under age 21, punishable as a felony of the fifth degree.

(d) (1) Each cartridge of nitrous oxide dispensed or distributed in this municipality shall bear the following printed warning: ANitrous oxide cartridges are to be used only for purposes of preparing food. Nitrous oxide cartridges may not be sold to persons under age 21. Do not inhale contents. Misuse can be dangerous to your health.

(2) Each time a person dispenses or distributes one or more cartridges of nitrous oxide, the person shall mark the packaging containing the cartridges with a label or other device that identifies the person who dispensed or distributed the nitrous oxide and the person's business address.

(R.C. § 2925.32(B)(4), (D)(2), (F), (G))

Statutory reference:

Trafficking in harmful intoxicants, felony offenses, see R.C. § 2925.32

§ 624.10 POSSESSING NITROUS OXIDE IN MOTOR VEHICLES.

(a) As used in this section, motor vehicle, street and highway have the same meaning as in R.C. § 4511.01.

(b) Unless authorized by these Codified Ordinances or by state law, no person shall possess an open cartridge of nitrous oxide in either of the following circumstances:

(1) While operating or being a passenger in or on a motor vehicle on a street, highway or other public or private property open to the public for purposes of vehicular traffic or parking.

(2) While being in or on a stationary motor vehicle on a street, highway or other public or private property open to the public for purposes of vehicular traffic or parking.

(c) Whoever violates this section is guilty of possessing nitrous oxide in a motor vehicle, a misdemeanor of the fourth degree.
(R.C. § 2925.33)

§ 624.11 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. Chapters 3719, 4715, 4723, 4725, 4729, 4730, 4731 and 4741.

(c) (1) Whoever violates this section is guilty of illegal dispensing of drug samples.

(2) If the drug involved in the offense is a compound, mixture, preparation, or substance included in Schedule I or Schedule II of R.C. § 3719.41 with the exception of marihuana, illegal dispensing of drug samples is a felony to be prosecuted under appropriate state law.

(3) If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in Schedule III, Schedule IV or Schedule V of R.C. § 3719.41, or is marihuana, the penalty for the offense shall be determined as follows:

A. Except as otherwise provided in the following division, illegal dispensing of drug samples is a misdemeanor of the second degree.

B. If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a misdemeanor of the first degree.

(d) In addition to any prison term authorized or required by division (c) of this section and R.C. §§ 2929.13 and 2929.14, and in addition to any other sanction imposed for the offense under this section or R.C. §§ 2929.11 through 2929.18, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (a) of this section shall do both of the following:

(1) The court shall suspend for not less than six months nor more than five years the offender's driver's or commercial driver's license.

(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.

(e) Notwithstanding any contrary provision of R.C. § 3719.21, the Clerk of Court shall pay a

fine imposed for a violation of this section pursuant to R.C. § 2929.18(A) in accordance with and subject to the requirements of R.C. § 2925.03(F). The agency that receives the fine shall use the fine as specified in R.C. § 2925.03(F).
(R.C. § 2925.36)
Statutory reference:
Felony offenses, see R.C. § 2925.36(C)(2)

§ 624.12 COUNTERFEIT CONTROLLED SUBSTANCES.

(a) No person shall knowingly possess any counterfeit controlled substance.

(b) Whoever violates division (a) of this section shall be guilty of possession of counterfeit controlled substances, a misdemeanor of the first degree.

(c) Notwithstanding any contrary provision of R.C. § 3719.21, the Clerk of Court shall pay a fine imposed for a violation of this section pursuant to R.C. § 2929.18(A) in accordance with and subject to the requirements of R.C. § 2925.03(F). The agency that receives the fine shall use the fine as specified in R.C. § 2925.03(F).
(R.C. § 2925.37(A), (G), (M))
Statutory reference:
Trafficking, other felony counterfeit controlled substance offenses, see R.C. § 2925.37(H) - (K)

§ 624.13 CONTROLLED SUBSTANCE OR PRESCRIPTION LABELS.

(a) Whenever a manufacturer sells a controlled substance, and whenever a wholesaler sells a controlled substance in a package the wholesaler has prepared, the manufacturer or wholesaler shall

securely affix to each package in which the controlled substance is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of controlled substance contained therein. No person, except a pharmacist for the purpose of dispensing a controlled substance upon a prescription, shall alter, deface or remove any label so affixed.

(b) No person shall alter, deface or remove any label affixed pursuant to R.C. § 3719.08 as long as any of the original contents remain.

(R.C. § 3719.08(A), (E))

(c) Whoever violates this section is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, or R.C. § 3719.07 or § 3719.08, or a drug abuse offense, a violation of this section is a felony to be prosecuted under appropriate state law. If the violation involves the sale, offer to sell, or possession of a Schedule I or Schedule II controlled substance, with the exception of marihuana, and if the offender, as a result of the violation, is a major drug offender, then R.C. § 3719.99(D) applies.

(R.C. § 3719.99(C))

§ 624.14 POSSESSION, SALE AND DISPOSAL OF HYPODERMICS.

(a) Possession of a hypodermic is authorized for the following:

(1) A manufacturer or distributor of, or dealer in hypodermics, or medication packaged in hypodermics, and any authorized agent of employee of that manufacturer, distributor or dealer, in the regular course of business;

(2) A terminal distributor of dangerous drugs, in the regular course of business;

(3) A person authorized to administer injections, in the regular course of the person's profession or employment;

(4) A person, when the hypodermic in his or her possession was lawfully obtained and is

kept and used for the purpose of self-administration of insulin or other drug prescribed for the treatment of disease by a licensed health professional authorized to prescribe drugs;

(5) A person whose use of a hypodermic is for legal research, clinical, educational or medicinal purposes;

(6) A farmer, for the lawful administration of a drug to an animal;

(7) A person whose use of a hypodermic is for lawful professional, mechanical, trade or craft purposes.

(b) No manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, or their authorized agents or employees, and no terminal distributor of dangerous drugs shall display any hypodermic for sale. No person authorized to possess a hypodermic pursuant to division (a) of this section shall negligently fail to take reasonable precautions to prevent any hypodermic in the person's possession from theft or acquisition by any unauthorized person.
(R.C. § 3719.172(A), (B))

(c) Whoever violates division (b) of this section is guilty of a misdemeanor of the third degree. If the offender previously has been convicted of a violation of division (b) of this section, R.C. § 3719.05, § 3719.06, § 3719.13, § 3719.172(B) or § 3719.31, or a drug abuse offense, a violation of division (b) of this section is a misdemeanor of the first degree.
(R.C. § 3719.99(E))

Statutory reference:

Felony offenses, see R.C. § 3719.172(C), (D)

§ 624.15 EVIDENCE.

(a) (1) In any criminal prosecution for a violation of this chapter or R.C. Chapter 2925 or Chapter 3719, a laboratory report from the Bureau of Criminal Identification and Investigation or a laboratory operated by another law enforcement agency, or a laboratory established by or under the authority of an institution of higher education that has its main campus in this state and that is accredited by the Association of American Universities or the North Central Association of Colleges and Secondary Schools, primarily for the purpose of providing scientific service to law enforcement agencies, and signed by the person performing the analysis, stating that the substance that is the basis of the alleged offense has been weighed and analyzed and stating the findings as to the content, weight and identity of the substance and that it contains any amount of a controlled substance and the number and description of unit dosages, is prima facie evidence of the content, identity and weight or the existence and number of unit dosages of the substance. In any criminal prosecution for a violation of R.C. § 2925.041 or a violation of this chapter, R.C. Chapter 2925 or R.C. Chapter 3719 that is based on the possession of chemicals sufficient to produce a compound, mixture, preparation, or substance included in Schedule I, Schedule II, Schedule III, Schedule IV or Schedule V, a laboratory report from the Bureau or from any laboratory that is operated or established as described in this division that is signed by the person performing the analysis, stating that the substances that are the basis of the alleged offense have been weighed and analyzed and stating the findings as to the content, weight, and identity of each of the substances, is prima facie evidence of the content, identity and weight of the substances.

(2) Attached to that report shall be a copy of a notarized statement by the signer of the report giving the name of the signer and stating that the signer is an employee of the laboratory issuing the report and that performing the analysis is a part of the signer's

regular duties, and giving an outline of the signer's education, training and experience for performing an analysis of materials included under this section. The signer shall attest that scientifically accepted tests were performed with due caution, and that the evidence was handled in accordance with established and accepted procedures while in the custody of the laboratory.

(b) The prosecuting attorney shall serve a copy of the report on the attorney of record for the accused, or on the accused if the accused has no attorney, prior to any proceeding in which the report is to be used against the accused other than at a preliminary hearing or grand jury proceeding where the report may be used without having been previously served upon the accused.

(c) The report shall not be prima facie evidence of the contents, identity and weight or the existence and number of unit dosages of the substance if the accused or the accused's attorney demands the testimony of the person signing the report, by serving the demand upon the prosecuting attorney, within seven days from the accused or the accused's attorney's receipt of the report. The time may be extended by a trial judge in the interests of justice.

(d) Any report issued for use under this section shall contain notice of the right of the accused to demand, and the manner in which the accused shall demand, the testimony of the person signing the report.

(e) Any person who is accused of a violation of this chapter or R.C. Chapter 2925 or Chapter 3719 is entitled, upon written request made to the prosecuting attorney, to have a portion of the substance that is, or of each of the substances that are, the basis of the alleged violation preserved for the benefit of independent analysis performed by a laboratory analyst employed by the accused person, or, if the accused is indigent, by a qualified laboratory analyst appointed by the court. The portion shall be a representative sample of the entire substance that is, or of each of the substances

that are, the basis of the alleged violation and shall be of sufficient size, in the opinion of the court, to permit the accused's analyst to make a thorough scientific analysis concerning the identity of the substance or substances. The prosecuting attorney shall provide the accused's analyst with the sample portion at least 14 days prior to trial, unless the trial is to be held in a court not of record or unless the accused person is charged with a minor misdemeanor, in which case the prosecuting attorney shall provide the accused's analyst with the sample portion at least three days prior to trial. If the prosecuting attorney determines that such a sample portion cannot be preserved and given to the accused's analyst, the prosecuting attorney shall so inform the accused person, or the accused's attorney. In such a circumstance, the accused person is entitled, upon written request made to the prosecuting attorney, to have the accused's privately employed or court appointed analyst present at an analysis of the substance that is, or the substances that are, the basis of the alleged violation, and, upon further written request, to receive copies of all recorded scientific data that result from the analysis and that can be used by an analyst in arriving at conclusions, findings or opinions concerning the identity of the substance or substances subject to the analysis.

(f) In addition to the rights provided under division (e) of this section, any person who is accused of a violation of this chapter or R.C. Chapter 2925 or Chapter 3719 that involves a bulk amount of a controlled substance, or any multiple thereof, or who is accused of a violation of R.C. § 2925.11 or a substantially equivalent municipal ordinance, other than a minor misdemeanor violation, that involves marihuana, is entitled, upon written request made to the prosecuting attorney, to have a laboratory analyst of the accused's choice, or, if the accused is indigent, a qualified laboratory analyst appointed by the court, present at a measurement or weighing of the substance that is the basis of the alleged violation. Also, the accused person is entitled, upon further written request, to receive copies of all recorded scientific data that result from the measurement or weighing and that can be used by an analyst in arriving at conclusions, findings, or opinions concerning the weight, volume or number of unit doses of the substance subject to the measurement

or weighing.
(R.C. § 2925.51)

(g) In addition to the financial sanctions authorized or required under R.C. §§ 2929.18 and 2929.28 and to any costs otherwise authorized or required under any provision of law, the court imposing sentence upon an offender who is convicted of or pleads guilty to a drug abuse offense may order the offender to pay to the state, municipal or county law enforcement agencies that handled the investigation and prosecution all of the costs that the state, municipal corporation or county reasonably incurred in having tests performed under this section or R.C. § 2925.51 or in any other manner on any substance that was the basis of, or involved in, the offense to determine whether the substance contained any amount of a controlled substance if the results of the tests indicate that the substance tested contained any controlled substance. No court shall order an offender under this section to pay the costs of tests performed on a substance if the results of the tests do not indicate that the substance tested contained any controlled substance. The court shall hold a hearing to determine the amount of costs to be imposed under this section. The court may hold the hearing as part of the sentencing hearing for the offender.
(R.C. § 2925.511)

§ 624.16 DOUBLE JEOPARDY.

No person shall be prosecuted for a violation of this chapter if the person has been acquitted or convicted under the federal drug abuse control laws of the same act or omission which, it is alleged, constitutes a violation of this chapter.
(R.C. §§ 2925.50, 3719.19)

§ 624.17 CONTROLLED SUBSTANCE SCHEDULES.

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

Statutory reference:

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

Schedule I

(a) Narcotics - opiates

(b) Narcotics - opium derivatives

(c) Hallucinogens

(d) Depressants

(e) Stimulants

Schedule II

(a) Narcotics - opium and opium derivatives

(b) Narcotics - opiates

(c) Stimulants

(d) Depressants

(e) Hallucinogenic substances

(f) Immediate precursors

Schedule III

(a) Stimulants

(b) Depressants

(c) Narcotic antidotes

(d) Narcotics - narcotic preparations

(e) Anabolic steroids

(f) Hallucinogenic substances

Schedule IV

(a) Narcotic drugs

(b) Depressants

(c) Fenfluramine

(d) Stimulants

(e) Other substances

Schedule V

(a) Narcotic drugs

(b) Narcotics - narcotic preparations

(c) Stimulants

§ 624.18 PSEUDOEPHEDRINE SALES.

(a) *Unlawful purchases.*

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

A. Consumer product. 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.

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

C. Pseudoephedrine product. A consumer product consisting of a single-ingredient

preparation of pseudoephedrine in which pseudoephedrine is the active ingredient. Pseudoephedrine product does not include either of the following:

1. A consumer product containing pseudoephedrine that is in a liquid, liquid capsule or gel capsule form;
2. A consumer product primarily intended for administration to children under 12 years of age, according to the label instructions, in solid dosage form, including chewable tablets, when individual dosage units do not exceed 15 milligrams of pseudoephedrine.

D. Retailer. A place of business that offers consumer products for sale to the general public.

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

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

(2) A. No individual shall knowingly purchase, receive or otherwise acquire more than nine grams of any pseudoephedrine product within a period of 30 consecutive days, unless the pseudoephedrine 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. Chapter 3719, Chapter 4715, Chapter 4723, Chapter 4729, Chapter 4731 or Chapter 4741.

B. It is not a violation of division (a)(2)A. of this section for an individual to receive or accept more than nine grams of any pseudoephedrine product within a period of 30 consecutive days 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 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, unless the pseudoephedrine 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. Chapter 3719, Chapter 4715, Chapter 4723, Chapter 4729, Chapter 4731 or Chapter 4741.

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 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 to that individual and whose conduct is in accordance with R.C. Chapter 3719, Chapter 4715, Chapter 4723, Chapter 4729, Chapter 4731 or Chapter 4741;
2. A parent or guardian of that individual who provides the pseudoephedrine 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 to the individual;
4. A retailer or terminal distributor of dangerous drugs who provides the pseudoephedrine 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 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.

(5) No individual shall knowingly fail to comply with the requirements of division (e)(3)C. of this section.

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

(R.C. § 2925.55)

(b) *Unlawful retail sales.*

(1) A. 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 within a period of 30 consecutive days an

amount of pseudoephedrine product that is greater than nine grams.

B. Division (b)(1)A. of this section does not apply to any quantity of pseudoephedrine 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. Chapter 3719, Chapter 4715, Chapter 4723, Chapter 4729, Chapter 4731 or Chapter 4741.

C. 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 nine grams of any pseudoephedrine product within a period of 30 consecutive days if 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 in a sealed container in connection with manufacturing, warehousing, placement, stocking, bagging, loading or unloading of the product.

(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 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 to an individual under 18 years of age and whose conduct is in accordance with R.C. Chapter 3719, Chapter 4715, Chapter 4723, Chapter 4729, Chapter 4731 or Chapter 4741;

2. A parent or guardian of an individual under 18 years of age who provides a pseudoephedrine 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 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 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 division (e)(3)B. of this section.

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

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

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

(R.C. § 2925.56)

(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.

A. Card holder. 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 from the seller, agent or

employee.

B. Identification card and Atransaction scan device. Have the same meanings as in R.C. § 2927.021.

C. Seller. A retailer or terminal distributor of dangerous drugs.

D. Transaction scan. 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.

(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.

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 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 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 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 and identification number 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.

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.

(6) Whoever violates division (c)(2)B. or (c)(4) of this section is guilty of engaging in an illegal pseudoephedrine product transaction scan, and the court may impose upon the offender a civil penalty of up to $1,000 for each violation. The Clerk of the Court shall pay each collected civil penalty to the County Treasurer for deposit into the County Treasury.

(R.C. § 2925.57)

(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.

(R.C. § 2925.58)

(e) *Retailer's duties.*

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

A. Drug, licensed health professional authorized to prescribe drugs, pharmacy,

prescriber, prescription, and terminal distributor of dangerous drugs. Have the same meanings as in R.C. § 4729.01.

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

C. Proof of age. 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 through 4507.52 that shows a person is 18 years of age or older.

D. 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 to the public shall do all of the following:

A. Segregate pseudoephedrine products from other merchandise so that no member of the public may procure or purchase the 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 is sold or otherwise provided:

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

2. Make a reasonable attempt to ensure that no individual purchases or receives more than nine grams of pseudoephedrine products within a period of 30 consecutive days.

C. Maintain a log book of pseudoephedrine product purchases, in accordance with division (e)(3) of this section.

(3) A. As used in this division (e)(3), Alaw enforcement official means an officer or employee of any agency or authority of the United States, a state, a territory, a

political division 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.

B. A retailer or terminal distributor of dangerous drugs that sells, offers to sell, holds for sale, delivers or otherwise provides a pseudoephedrine product to the public shall maintain a log book of all purchases of pseudoephedrine products. The log book may be maintained in a tangible format, in an electronic format, or in both a tangible format and an electronic format. As part of this requirement, the retailer or terminal distributor of dangerous drugs shall do all of the following:

1. Require each purchaser to sign an entry in the log book that is maintained in the electronic or tangible format;
2. Determine whether the name signed in the entry in the log book corresponds with the name on a government-issued identification card;
3. Retain the log book in a tangible format, in an electronic format, or in both a tangible format and an electronic format for a minimum of one year after the date of the last purchase recorded in the log book;
4. Include in the log book in the manner described in division (e)(3)E. of this section or, in the alternative, post, in a conspicuous location, the following statement: AOhio law prohibits the over-the-counter purchase within any period of 30 consecutive days of more than nine grams of any consumer product in which pseudoephedrine is the only active ingredient. If you purchase a consumer product in which pseudoephedrine is the only active ingredient, you are required to sign a log book that may be accessible to law enforcement officers and to provide a government-issued identification

card to verify your identity. Except in limited circumstances, the purchase within any period of 30 consecutive days of more than nine grams of any consumer product in which pseudoephedrine is the only active ingredient, and the purchase by any individual under 18 years of age of any consumer product in which pseudoephedrine is the only active ingredient, are subject to criminal prosecution or delinquency proceedings in accordance with Ohio law. Also, the provision of false information concerning an individual's name, age or other identification for the purpose of acquiring any consumer product in which pseudoephedrine is the only active ingredient is subject to criminal prosecution or delinquency proceedings in accordance with Ohio law.

C. Each purchaser of a pseudoephedrine product shall do all of the following:
   1. Sign and print the purchaser's name and address in the log book;
   2. Provide a government-issued identification card to the retailer or terminal distributor of dangerous drugs to verify the purchaser's identity.

D. Information contained in the log book may not be used or disclosed except in the following circumstances:
   1. In response to a court order or subpoena;
   2. In response to a request from a law enforcement official to be used for law enforcement purposes.

E. If a retailer or terminal distributor of dangerous drugs chooses to include the statement set forth in division (e)(3)B.4. of this section in the log book maintained under division (e)(3)B. of this section, the statement shall be set forth in the following manner:
   1. If the log book is maintained in an electronic format, the statement shall be set forth in such a manner that it is presented on the viewing screen to

each purchaser who is signing an entry in the log book before the purchaser may sign the entry.

2. If the log book is maintained in a tangible format, the statement shall be set forth on the cover of the log book and on each page of the log book.

(4) Prescriptions, orders and records maintained pursuant to this section and stocks of pseudoephedrine 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. Chapter 4731.

(R.C. § 3715.05)

(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 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.

(R.C. § 3715.06)

CHAPTER 630: GAMBLING

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Cross-reference

Definitions generally, see § 606.01

Disposition of unclaimed or forfeited property held by Police Department, see § 654.16

Statutory reference:

Power to destroy devices, see R.C. § 715.51

Power to prohibit gambling, see R.C. § 715.49

§ 630.01 DEFINITIONS.

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

(a) Amateur athletic organization. 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 training for amateur athletic competition that is sanctioned by a national governing body as defined in the AAmateur Sports Act of 1978, 90 Stat. 3045, 36 U.S.C. 373.

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

(c) Bingo. Either of the following:

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

A. The participants use bingo cards or sheets, including paper formats and electronic representation or image formats, that are divided into 25 spaces arranged in 5 horizontal and 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;

B. The participants cover the spaces on the bingo cards or sheets that correspond to combinations of letters and numbers that are announced by a bingo game operator;

C. A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically, from a receptacle that contains 75 objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the 75 possible combinations of a letter and a number that can appear on the bingo cards or sheets;

D. The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers, as described in division (1)C. of this definition, that a predetermined and pre-

announced pattern of spaces has been covered on a bingo card or sheet being used by the participant.

(2) Instant bingo, punch boards and raffles.

(d) Bingo game operator. Any person, except security personnel, who performs work or labor at the site of bingo, including but not limited to collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling and serving food or beverages.

(e) Bingo session. A period that includes both of the following:

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

(2) A period for the conduct of instant bingo and seal cards for not more than two hours before and not more than two hours after the period described in division (1) of this definition.

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

(g) Bookmaking. The business of receiving or paying off bets.

(h) Chamber of commerce. 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).

(i) Charitable bingo game. Any bingo game described in divisions (1) or (2) of the definition of Abingo 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.

(j) Charitable instant bingo organization. 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.

(k) Charitable organization. Except as otherwise provided in this chapter, any tax exempt religious, educational, veteran's, fraternal, sporting, service, nonprofit medical, volunteer rescue service, volunteer firefighter's, senior citizen's, historic railroad educational, youth athletic, amateur athletic or youth athletic park organization. An organization is tax exempt if the organization is and has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3), (c)(4), (c)(8), (c)(10) or (c)(19), or if the organization is a sporting organization that is exempt from federal income taxation under IRC 501(a) and is described in IRC 501(c)(7). To qualify as a

charitable organization, an organization, except a volunteer rescue service or volunteer firefighter's organization, shall have been in continuous existence as such in this state for a period of two years immediately preceding either the making of an application for a bingo license under R.C. § 2915.08 or the conducting of any game of chance as provided in R.C. § 2915.02(D), or a substantially equivalent municipal ordinance. 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 does not have to have been in continuous existence as such in this state for a period of two years immediately preceding either the making of an application for a bingo license under R.C. § 2915.08 or the conducting of any game of chance as provided in R.C. § 2915.02(D), or a substantially equivalent municipal ordinance.

(I) Charitable purpose. The net profit of bingo, other than instant bingo, is used by, or is given, donated or otherwise transferred to, any of the following:

(1) Any organization that is described in IRC 509(a)(1), (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);

(2) A veteran's organization that is a post, chapter or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter or organization organized in the United States or any of its possessions, at least 75% 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;

(3) A fraternal organization that has been in continuous existence in this state for 15 years and that uses the net profit exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, if contributions for that use would qualify as a deductible charitable contribution under IRC 170;

(4) A volunteer firefighter's organization that uses the net profit for the purposes set forth in the definition of volunteer firefighter's organization in this section.

(m) Community action agency. Has the same meaning as in R.C. § 122.66.

(n) Conduct. To back, promote, organize, manage, carry on, sponsor or prepare for the operation of bingo or a game of chance.

(o) Deal of instant bingo tickets. A single game of instant bingo tickets all with the same serial number.

(p) Distributor. Any person who purchases or obtains bingo supplies and who does either of the following:

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

(2) Modifies, converts, adds to or removes parts from the bingo supplies to further their promotion or sale for use in this state.

(q) Educational organization. Any organization within this state that is not organized for profit, the primary purpose of which is to educate and develop the capabilities of individuals through instruction by means of operating or contributing to the support of a school, academy, college or university.

(r) Electronic bingo aid.

(1) Electronic bingo aid means an electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following:

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

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

C. It identifies a winning bingo pattern.

(2) Electronic bingo aid does not include any device into which a coin, currency, token or an equivalent is inserted to activate play.

(s) Expenses. The reasonable amount of gross profit actually expended for all of the following:

(1) The purchase or lease of bingo supplies;

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

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

(4) Audits and accounting services;

(5) Safes;

(6) Cash registers;

(7) Hiring security personnel;

(8) Advertising bingo;

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

(10) Tables and chairs;

(11) Expenses for maintaining and operating a charitable organization's facilities, including but not limited to a post home, club house, lounge, tavern or canteen and any grounds attached to the post home, club house, lounge, tavern or canteen;

(12) 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(B)(1).

(t) Fraternal organization. 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, and that has been in continuous existence in this state for a period of five years.

(u) Gambling device. Any of the following:

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

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

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

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

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

(v) Gambling offense. Any of the following:

(1) A violation of R.C. § 2915.02, § 2915.03, § 2915.04, § 2915.05, § 2915.06, § 2915.07, § 2915.08, § 2915.081, § 2915.082, § 2915.09, § 2915.091, § 2915.092, § 2915.10 or § 2915.11;

(2) A violation of an existing or former municipal ordinance or law of this or any other state or of the United States substantially equivalent to any section listed in division (1) of this definition or a violation of R.C. § 2915.06 as it existed prior to July 1, 1996;

(3) An offense under an existing or former municipal ordinance or law of this or any other state or of the United States, of which gambling is an element;

(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (1), (2) or (3) of this definition.

(w) Game flare. The board or placard that accompanies each deal of instant bingo tickets and that has printed on or affixed to it the following information for the game:

(1) The name of the game;

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

(3) The form number;

(4) The ticket count;

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

(6) The cost per play;

(7) The serial number of the game.

(x) Game of chance. 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.

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

(z) Gross annual revenues. 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 Abingo in this section.

(aa) Gross profit. Gross receipts minus the amount actually expended for the payment of prize awards.

(bb) Gross receipts. 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. AGross receipts does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide auxiliary unit or society of a charitable organization conducting bingo, provided all of the following apply:

(1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two years prior to conducting bingo.

(2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or

beverage.

(3) The food and beverages are sold at customary and reasonable prices.

(cc) Historic railroad. 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.

(dd) Historic railroad educational organization. An organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3), that owns in fee simple the tracks and the right-of-way of a historic railroad that the organization restores or maintains and on which the organization provides excursions as part of a program to promote tourism and educate visitors regarding the role of railroad transportation in Ohio history, and that received as donations from a charitable organization that holds a license to conduct bingo under this chapter or R.C. Chapter 2915 an amount equal to at least 50% of that licensed charitable organization's net proceeds from the conduct of bingo during each of the five years preceding June 30, 2003.

(ee) Instant bingo. A form of bingo that uses 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. Instant bingo includes seal cards. Instant bingo does not include any device that is activated by the insertion of a coin, currency, token or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols or characters in winning or losing combinations.

(ff) Instant bingo ticket dispenser. A mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has the following characteristics:

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

(2) It performs no gaming functions.

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

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

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

(6) It is incapable of determining whether a dispensed bingo ticket or card is a winning or non-winning ticket or card and requires a winning ticket or card to be paid by a bingo game operator.

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

(8) It is not part of an electronic network and is not interactive.

(gg) IRC or Internal Revenue Code. The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1 et seq., as now or hereafter amended.

(hh) Manufacturer. 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.

(ii) Merchandise prize. Any item of value, but shall not include any of the following:

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

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

(3) Firearms, tobacco or alcoholic beverages; or

(4) A redeemable voucher that is redeemable for any of the items listed in division (1), (2) or (3) of this definition.

(jj) Net profit. Gross profit minus expenses.

(kk) Net profit from the proceeds of the sale of instant bingo. Gross profit minus the ordinary, necessary and reasonable expense expended for the purchase of instant bingo supplies.

(ll) Nonprofit medical organization. Either of the following:

(1) Any organization that has been incorporated as a nonprofit corporation for at least

five years and that has continuously operated and will be operated exclusively to provide, or to contribute to the support of organizations or institutions organized and operated exclusively to provide hospital, medical, research or therapeutic services for the public;

(2) Any organization that is described and qualified under IRC 501(c)(3), that has been incorporated as a nonprofit corporation for at least five years, and that has continuously operated and will be operated primarily to provide, or to contribute to the support of organizations or institutions organized or operated primarily to provide hospital, medical, research or therapeutic services for the public.

(mm) Participant. Any person who plays bingo.

(nn) Person. Has the same meaning as in R.C. § 1.59 and includes any firm or any other legal entity, however organized.

(oo) Pool not conducted for profit. 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.

(pp) Punch board. A board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle when used in conjunction with instant bingo. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.

(qq) Raffle. A form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one or more winners of the raffle are determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle.

(rr) Redeemable voucher. Any ticket, token, coupon, receipt or other noncash representation of value.

(ss) Religious organization. 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.

(tt) Revoke. 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.

(uu) Scheme of chance. A slot machine, lottery, numbers game, pool conducted for profit or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine or a pool not conducted for profit.

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

(ww) Security personnel. 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.

(xx) Senior citizen's organization. Any private organization, not organized for profit, that is organized and operated exclusively to provide recreational or social services for persons who are 55 years of age or older and that is described and qualified under IRC 501(c)(3).

(yy) Service organization. Either of the following:

(1) Any organization, not organized for profit, that is organized and operated exclusively

to provide or to contribute to the support of organizations or institutions organized and operated exclusively to provide medical and therapeutic services for persons who are disabled, born with birth defects, or have any other mental or physical disabilities or those organized and operated exclusively to protect or to contribute to the support of organizations or institutions organized and operated exclusively to protect animals from inhumane treatment or to provide immediate shelter to victims of domestic violence;

(2) 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) and that is an organization, not organized for profit, that is organized and operated primarily to provide, or to contribute to the support of organizations or institutions organized and operated primarily to provide, medical and therapeutic services for persons who are disabled, born with birth defects, or have any other mental or physical disability.

(zz) Skill-based amusement machine.

(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;

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;

C. Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than $10 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 device shall not be considered a skill-based amusement machine and shall be considered a slot machine if it pays cash or one or more of the following apply:

A. The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game;

B. Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the players score;

C. The outcome of the game, or the value of the redeemable voucher or merchandise prize awarded for winning the game, can be controlled by a source other than any player playing the game;

D. The success of any player is or may be determined by a chance event that cannot be altered by player actions;

E. The ability of any player to succeed at the game is determined by game features not visible or known to the player;

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

(3) All of the following apply to any machine that is operated as described in division (1) of this definition:

A. As used in this section, game and play mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single game, play, contest, competition or tournament may be awarded redeemable vouchers or merchandise prizes based on the results of play.

B. Advance play for a single game, play, contest, competition or tournament

participation may be purchased. The cost of the contest, competition or tournament participation may be greater than a single non-contest, competition or tournament play.

C. To the extent that the machine is used in a contest, competition or tournament, that contest, competition or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of redeemable vouchers or merchandise prizes that are stated prior to the start of the contest, competition, or tournament.

(4) For purposes of division (1) of this definition, the mere presence of a device, such as a pin-setting, ball-releasing or scoring mechanism, that does not contribute to or affect the outcome of the play of the game does not make the device a skill-based amusement machine.

(aaa) Slot machine.

(1) Either of the following:

A. Any mechanical, electronic, video or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain;

B. Any mechanical, electronic, video or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct or dispense bingo or a scheme or game of chance.

(2) Slot machine does not include a skill-based amusement machine.

(bbb) Sporting organization. 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 Ohio League of Sportsmen, and that has been in continuous existence in this state for a period of three years.

(ccc) Suspend. 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.

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

(eee) Volunteer firefighter's organization. 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.

(fff) Volunteer rescue service organization. Any organization of volunteers organized to function as an emergency medical service organization, as defined in R.C. § 4765.01.

(ggg) Youth athletic organization. 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.

(hhh) Youth athletic park organization. Any organization, not organized for profit, that satisfies

both of the following:

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

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

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

(2) It uses the proceeds of bingo it conducts exclusively for the operation, maintenance, and improvement of its playing fields of the type described in division (1) of this definition.

(R.C. § 2915.01)

§ 630.02 GAMBLING IN GENERAL.

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

(1) Engage in bookmaking, or knowingly engage in conduct that facilitates bookmaking.

(2) Establish, promote or operate or knowingly engage in conduct that facilitates any game of chance conducted for profit or any scheme of chance.

(3) Knowingly procure, transmit, exchange or engage in conduct that facilitates the procurement, transmission or exchange of information for use in establishing odds or determining winners in connection with bookmaking or with any game of chance conducted for profit or any scheme of chance.

(4) Engage in betting or in playing any scheme or game of chance as a substantial

source of income or livelihood.

(5) With purpose to violate division (a)(1), (a)(2), (a)(3) or (a)(4) of this section, acquire, possess, control or operate any gambling device.

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

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

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

(1) Games of chance, if all of the following apply:

A. The games of chance are not craps for money or roulette for money.

B. The games of chance are conducted by a charitable organization that is and has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3).

C. The games of chance are conducted at festivals of the charitable organization that are conducted either for a period of four consecutive days or less and not more than twice a year, or for a period of five consecutive days not more than once a year, and are conducted on premises owned by the charitable organization for a period of no less than one year immediately preceding the

conducting of the games of chance, on premises leased from a governmental unit, or on premises that are leased from a veteran's or fraternal organization and that have been owned by the lessor veteran's or fraternal organization for a period of no less than one year immediately preceding the conducting of the games of chance. A charitable organization shall not lease premises from a veteran's or fraternal organization to conduct a festival described in this division, if the veteran's or fraternal organization already has leased the premises four times during the preceding year to charitable organizations for that purpose. If a charitable organization leases premises from a veteran's or fraternal organization to conduct a festival described in this division, the charitable organization shall not pay a rental rate for the premises per day of the festival that exceeds the rental rate per bingo session that a charitable organization may pay under R.C. § 2915.09(B)(1) or a substantially equivalent municipal ordinance when it leases premises from another charitable organization to conduct bingo games.

D. All of the money or assets received from the games of chance after deduction only of prizes paid out during the conduct of the games of chance are used by, given, donated or otherwise transferred to any organization that is described in IRC 509(a)(1), (a)(2) or (a)(3) and is either a governmental unit or an organization that is tax exempt under IRC 501(a) and described in IRC 501(c)(3).

E. The games of chance are not conducted during or within ten hours of a bingo game conducted for amusement purposes only pursuant to R.C. § 2915.12 or a substantially equivalent municipal ordinance. No person shall receive any commission, wage, salary, reward, tip, donation, gratuity or other form of compensation, directly or indirectly, for operating or assisting in the operation of

any game of chance.

(2) Any tag fishing tournament, as defined in R.C. § 1531.01, operated under a permit issued under R.C. § 1533.92.

(3) Bingo conducted by a charitable organization that holds a license issued under R.C. § 2915.08.

(e) Division (d) of this section shall not be construed to authorize the sale, lease or other temporary or permanent transfer of the right to conduct games of chance, as granted by that division, by any charitable organization that is granted that right.

(f) Whoever violates this section is guilty of gambling, a misdemeanor of the first degree. If the offender previously has been convicted of any gambling offense, gambling is a felony to be prosecuted under appropriate state law.
(R.C. § 2915.02)

§ 630.03 OPERATING A GAMBLING HOUSE.

(a) No person, being the owner or lessee, or having custody, control or supervision of premises, shall:

(1) Use or occupy the premises for gambling in violation of R.C. § 2915.02 or a substantially equivalent municipal ordinance.

(2) Recklessly permit the premises to be used or occupied for gambling in violation of R.C. § 2915.02 or a substantially equivalent municipal ordinance.

(b) Whoever violates division (a) of this section is guilty of operating a gambling house, a misdemeanor of the first degree. If the offender previously has been convicted of a gambling

offense, operating a gambling house is a felony to be prosecuted under appropriate state law.

(c) Premises used or occupied in violation of this section constitute a nuisance subject to abatement under R.C. Chapter 3767.
(R.C. § 2915.03)

§ 630.04 PUBLIC GAMING.

(a) No person, while at a hotel, restaurant, tavern, store, arena, hall or other place of public accommodation, business, amusement or resort shall make a bet or play any game of chance or scheme of chance.

(b) No person, being the owner or lessee, or having custody, control or supervision of a hotel, restaurant, tavern, store, arena, hall or other place of public accommodation, business, amusement or resort shall recklessly permit those premises to be used or occupied in violation of division (a) of this section.

(c) Divisions (a) and (b) of this section do not prohibit conduct in connection with gambling expressly permitted by law.

(d) Whoever violates this section is guilty of public gaming. Except as otherwise provided in this division, public gaming is a minor misdemeanor. If the offender previously has been convicted of any gambling offense, public gaming is a misdemeanor of the fourth degree.

(e) Premises used or occupied in violation of division (b) of this section constitute a nuisance subject to abatement under R.C. Chapter 3767.
(R.C. § 2915.04)

§ 630.05 CHEATING.

(a) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall engage in conduct designed to corrupt the outcome of any of the following:

(1) The subject of a bet.

(2) A contest of knowledge, skill or endurance that is not an athletic or sporting event.

(3) A scheme or game of chance.

(4) Bingo.

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

(1) Offer, give, solicit or accept anything of value to corrupt the outcome of an athletic or sporting event.

(2) Engage in conduct designed to corrupt the outcome of an athletic or sporting event.

(c) (1) Whoever violates division (a) of this section is guilty of cheating. Except as otherwise provided in this division, cheating is a misdemeanor of the first degree. If the potential gain from the cheating is $500 or more or if the offender previously has been convicted of any gambling offense or of any theft offense as defined in R.C. § 2913.01, cheating is a felony to be prosecuted under appropriate state law.

(2) Whoever violates division (b) of this section is guilty of corrupting sports. Corrupting sports is a felony to be prosecuted under appropriate state law.

(R.C. § 2915.05)

§ 630.06 RESPONSIBILITY OF CHARITABLE ORGANIZATION CONDUCTING BINGO GAME.

(a) No charitable organization that conducts bingo shall fail to do any of the following:

(1) Own all of the equipment used to conduct bingo or lease that equipment from a charitable organization that is licensed to conduct bingo for a rental rate that is not more than is customary and reasonable for that equipment;

(2) Except as otherwise provided in division (a)(3) of this section, use all of the gross receipts from bingo for paying prizes, for reimbursement of expenses for or for renting premises in which to conduct bingo, for reimbursement of expenses for or for purchasing or leasing bingo supplies used in conducting bingo, for reimbursement of expenses for or for hiring security personnel, for reimbursement of expenses for or for advertising bingo, or for reimbursement of other expenses or for other expenses listed in the definition for Aexpenses in R.C. § 2915.01, provided that the amount of the receipts so spent is not more than is customary and reasonable for a similar purchase, lease, hiring, advertising or expense. If the building in which bingo is conducted is owned by the charitable organization conducting bingo and the bingo conducted includes a form of bingo described in division (1) of the definition of bingo in R.C. § 2915.01, the charitable organization may deduct from the total amount of the gross receipts from each session a sum equal to the lesser of $600 or 45% of the gross receipts from the bingo described in that division as consideration for the use of the premises;

(3) Use, or give, donate or otherwise transfer, all of the net profit derived from bingo, other than instant bingo, for a charitable purpose listed in its license application and described in the definition for charitable purpose in R.C. § 2915.01, or distribute all of the net profit from the proceeds of the sale of instant bingo as stated in its license application and in accordance with R.C. § 2915.101.

(b) No charitable organization that conducts a bingo game described in division (1) of the

definition of bingo in R.C. § 2915.01 shall fail to do any of the following:

(1) Conduct the bingo game on premises that are owned by the charitable organization, on premises that are owned by another charitable organization and leased from that charitable organization for a rental rate not in excess of the lesser of $650 per bingo session or 45% of the gross receipts of the bingo session, on premises that are leased from a person other than a charitable organization for a rental rate that is not more than is customary and reasonable for premises that are similar in location, size and quality but not in excess of $450 per bingo session, or on premises that are owned by a person other than a charitable organization, that are leased from that person by another charitable organization, and that are subleased from that other charitable organization by the charitable organization for a rental rate not in excess of $450 per bingo session. If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo sessions, the lessor of the premises shall provide only the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo supplies or any other type of service or equipment. A charitable organization shall not lease or sublease premises that it owns or leases to more than one other charitable organization per calendar week for the purpose of conducting bingo sessions on the premises. A person that is not a charitable organization shall not lease premises that it owns, leases or otherwise is empowered to lease to more than one charitable organization per calendar week for conducting bingo sessions on the premises. In no case shall more than two bingo sessions be conducted on any premises in any calendar week;

(2) Display its license conspicuously at the premises where the bingo session is conducted;

(3) Conduct the bingo session in accordance with division (1) of the definition of bingo

in R.C. § 2915.01.

(c) No charitable organization that conducts a bingo game described in division (1) of the definition of bingo in R.C. § 2915.01 shall do any of the following:

(1) Pay any compensation to a bingo game operator for operating a bingo session that is conducted by the charitable organization or for preparing, selling or serving food or beverages at the site of the bingo session, permit any auxiliary unit or society of the charitable organization to pay compensation to any bingo game operator who prepares, sells or serves food or beverages at a bingo session conducted by the charitable organization, or permit any auxiliary unit or society of the charitable organization to prepare, sell or serve food or beverages at a bingo session conducted by the charitable organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell or serve the food or beverages;

(2) Pay consulting fees to any person for any services performed in relation to the bingo session;

(3) Pay concession fees to any person who provides refreshments to the participants in the bingo session;

(4) Except as otherwise provided in division (c)(4) of this section, conduct more than two bingo sessions in any seven-day period. A volunteer firefighter's organization or a volunteer rescue service organization that conducts not more than five bingo sessions in a calendar year may conduct more than two bingo sessions in a seven-day period after notifying the Attorney General when it will conduct the sessions;

(5) Pay out more than $3,500 in prizes for bingo games described in R.C. § 2915.01(S)(1) during any bingo session that is conducted by the charitable organization. Prizes does not include awards from the conduct of instant bingo;

(6) Conduct a bingo session at any time during the ten-hour period between midnight and 10:00 a.m., at any time during, or within ten hours of, a bingo game conducted for amusement only pursuant to R.C. § 2915.12 or any substantially equivalent municipal ordinance, at any premises not specified on its license, or on any day of the week or during any time period not specified on its license. This division does not prohibit the sale of instant bingo tickets beginning at 9:00 a.m. for a bingo session that begins at 10:00 a.m. If circumstances make it impractical for the charitable organization to conduct a bingo session at the premises, or on the day of the week or at the time specified on its license or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license, the charitable organization may apply in writing to the Attorney General for an amended license pursuant to R.C. § 2915.08(F). A charitable organization may apply twice in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license. If the amended license is granted, the organization may conduct bingo sessions at the premises, on the day of the week, and at the time specified on its amended license;

(7) Permit any person whom the charitable organization knows, or should have known, is under the age of 18 to work as a bingo game operator;

(8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;

(9) Permit the lessor of the premises on which the bingo session is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo supplies or any other type of service or equipment;

(10) Purchase or lease bingo supplies from any person except a distributor issued a license under R.C. § 2915.081;

(11) A. Use or permit the use of electronic bingo aids except under the following circumstances:

1. For any single participant, not more than 90 bingo faces can be played using an electronic bingo aid or aids.
2. The charitable organization shall provide a participant using an electronic bingo aid with corresponding paper bingo cards or sheets.
3. The total price of bingo faces played with an electronic bingo aid shall be equal to the total price of the same number of bingo faces played with a paper bingo card or sheet sold at the same bingo session but without an electronic bingo aid.
4. An electronic bingo aid cannot be part of an electronic network other than a network that includes only bingo aids and devices that are located on the premises at which the bingo is being conducted or be interactive with any device not located on the premises at which the bingo is being conducted.
5. An electronic bingo aid cannot be used to participate in bingo that is conducted at a location other than the location at which the bingo session is conducted and at which the electronic bingo aid is used.
6. An electronic bingo aid cannot be used to provide for the input of numbers and letters announced by a bingo caller other than the bingo caller who physically calls the numbers and letters at the location at which the bingo session is conducted and at which the electronic bingo aid is used.

B. The Attorney General may adopt rules in accordance with R.C. Chapter 119 that govern the use of electronic bingo aids. The rules may include a requirement that an electronic bingo aid be capable of being audited by the Attorney General

to verify the number of bingo cards or sheets played during each bingo session.

(12) Permit any person the charitable organization knows, or should have known, to be under 18 years of age to play bingo described in division (1) of the definition of Abingo in R.C. § 2915.01.

(d) (1) Except as otherwise provided in division (d)(3) of this section, no charitable organization shall provide to a bingo game operator, and no bingo game operator shall receive or accept, any commission, wage, salary, reward, tip, donation, gratuity or other form of compensation, directly or indirectly, regardless of the source, for conducting bingo or providing other work or labor at the site of bingo during a bingo session.

(2) Except as otherwise provided in division (d)(3) of this section, no charitable organization shall provide to a bingo game operator any commission, wage, salary, reward, tip, donation, gratuity or other form of compensation, directly or indirectly, regardless of the source, for conducting instant bingo other than at a bingo session at the site of instant bingo other than at a bingo session.

(3) Nothing in this division (d) of this section prohibits an employee of a fraternal organization, veteran's organization or sporting organization from selling instant bingo tickets or cards to the organization's members or invited guests, as long as no portion of the employee's compensation is paid from any receipts of bingo.

(e) Notwithstanding division (b)(1) of this section, a charitable organization that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to another charitable organization or other charitable organizations for the conducting of bingo sessions so that more than two bingo sessions are conducted per calendar week on the premises, and a person that is not a charitable organization and that, prior to December 6, 1977, has entered into written

agreements for the lease of premises it owns to charitable organizations for the conducting of more than two bingo sessions per calendar week on the premises, may continue to lease the premises to those charitable organizations, provided that no more than four sessions are conducted per calendar week, that the lessor organization or person has notified the Attorney General in writing of the organizations that will conduct the sessions and the days of the week and the times of the day on which the sessions will be conducted, that the initial lease entered into with each organization that will conduct the sessions was filed with the Attorney General prior to December 6, 1977, and that each organization that will conduct the sessions was issued a license to conduct bingo games by the Attorney General prior to December 6, 1977.

(f) This section does not prohibit a bingo licensed charitable organization or a game operator from giving any person an instant bingo ticket as a prize.

(g) Whoever violates division (a)(2) of this section is guilty of illegally conducting a bingo game, a felony to be prosecuted under appropriate state law. Except as otherwise provided in this division, whoever violates division (a)(1), (a)(3), (b)(1), (b)(2), (b)(3), (c)(1) to (c)(11), or (d) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of division (a)(1), (a)(3), (b)(1), (b)(2), (b)(3), (c)(1) to (c)(11), or (d) of this section, a violation of division (a)(1), (a)(3), (b)(1), (b)(2), (b)(3), (c)(1) to (c)(11), or (d) of this section is a misdemeanor of the first degree. Whoever violates division (c)(12) of this section is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (c)(12) of this section, a violation of division (c)(12) of this section is a felony to be prosecuted under appropriate state law.
(R.C. § 2915.09)

§ 630.07 MAINTENANCE OF RECORDS BY CHARITABLE ORGANIZATIONS.

(a) No charitable organization that conducts bingo or a game of chance pursuant to R.C. § 2915.02(D), or any substantially equivalent municipal ordinance, shall fail to maintain the following records for at least three years from the date on which the bingo or game of chance is conducted:

(1) An itemized list of the gross receipts of each bingo session, each game of instant bingo by serial number, each raffle, each punch board game and each game of chance, and an itemized list of the gross profits of each game of instant bingo by serial number;

(2) An itemized list of all expenses, other than prizes, that are incurred in conducting bingo or instant bingo, the name of each person to whom the expenses are paid, and a receipt for all of the expenses;

(3) A list of all prizes awarded during each bingo session, each raffle, each punch board game and each game of chance conducted by the charitable organization, the total prizes awarded from each game of instant bingo by serial number, and the name, address and Social Security number of all persons who are winners of prizes of $600 or more in value;

(4) An itemized list of the recipients of the net profit of bingo or game of chance, including the name and address of each recipient to whom the money is distributed, and if the organization uses the net profit of bingo, or the money or assets received from a game of chance, for any charitable or other purpose set forth in R.C. § 2915.01(Z), § 2915.02(D) or § 2915.101, a list of each purpose and an itemized list of each expenditure for each purpose;

(5) The number of persons who participate in any bingo session or game of chance that is conducted by the charitable organization;

(6) A list of receipts from the sale of food and beverages by the charitable organization or one of its auxiliary units or societies, if the receipts were excluded from gross receipts under R.C. § 2915.01(X);

(7) An itemized list of all expenses incurred at each bingo session, each raffle, each punch board game or each game of instant bingo conducted by the charitable organization in the sale of food and beverages by the charitable organization or by an auxiliary unit or society of the charitable organization, the name of each person to whom the expenses are paid, and a receipt for all of the expenses.

(b) A charitable organization shall keep the records that it is required to maintain pursuant to division (a) of this section at its principal place of business in this state or at its headquarters in this state and shall notify the Attorney General of the location at which those records are kept.

(c) The gross profit from each bingo session or game described in division (1) or (2) of the definition of Abingo in R.C. § 2915.01 shall be deposited into a checking account devoted exclusively to the bingo session or game. Payments for allowable expenses incurred in conducting the bingo session or game and payments to recipients of some or all of the net profit of the bingo session or game shall be made only by checks drawn on the bingo session or game account.

(d) Each charitable organization shall conduct and record an inventory of all of its bingo supplies as of the first day of November of each year.

(e) The Attorney General may adopt rules in accordance with R.C. Chapter 119 that establish standards of accounting, record keeping and reporting to ensure that gross receipts from bingo or games of chance are properly accounted for.

(f) A distributor shall maintain, for a period of three years after the date of its sale or other

provision, a record of each instance of its selling or otherwise providing to another person bingo supplies for use in this state. The record shall include all of the following for each instance:

(1) The name of the manufacturer from which the distributor purchased the bingo supplies and the date of the purchase;

(2) The name and address of the charitable organization or other distributor to which the bingo supplies were sold or otherwise provided;

(3) A description that clearly identifies the bingo supplies;

(4) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each charitable organization.

(g) A manufacturer shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies for use in this state. The record shall include all of the following for each instance:

(1) The name and address of the distributor to whom the bingo supplies were sold or otherwise provided;

(2) A description that clearly identifies the bingo supplies, including serial numbers;

(3) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each distributor.

(h) (1) The Attorney General or any law enforcement agency may do all of the following:

A. Investigate any charitable organization or any officer, agent, trustee, member or employee of the organization;

B. Examine the accounts and records of the organization;

C. Conduct inspections, audits and observations of bingo or games of chance;

D. Conduct inspections of the premises where bingo or games of chance are

conducted;

E. Take any other necessary and reasonable action to determine if a violation of any provision of this chapter or R.C. Chapter 2915 has occurred and to determine whether R.C. § 2915.11, or any substantially equivalent municipal ordinance, has been complied with.

(2) If any law enforcement agency has reasonable grounds to believe that a charitable organization or an officer, agent, trustee, member or employee of the organization has violated any provision of this chapter or R.C. Chapter 2915, the law enforcement agency may proceed by action in the proper court to enforce this chapter or R.C. Chapter 2915, provided that the law enforcement agency shall give written notice to the Attorney General when commencing an action as described in this division.

(i) No person shall destroy, alter, conceal, withhold or deny access to any accounts or records of a charitable organization that have been requested for examination, or obstruct, impede or interfere with any inspection, audit or observation of bingo or a game of chance or premises where bingo or a game of chance is conducted, or refuse to comply with any reasonable request of, or obstruct, impede or interfere with any other reasonable action undertaken by, the Attorney General or a law enforcement agency pursuant to division (h) of this section.

(j) Whoever violates division (a) or (i) of this section is guilty of a misdemeanor of the first degree.
(R.C. § 2915.10)

§ 630.08 QUALIFICATIONS OF BINGO GAME OPERATOR.

(a) No person shall be a bingo game operator unless the person is 18 years of age or older.

(b) No person who has been convicted of a felony or a gambling offense in any jurisdiction shall be a bingo game operator.

(c) Whoever violates division (a) of this section is guilty of a misdemeanor of the third degree. Whoever violates division (b) of this section is guilty of a misdemeanor of the first degree. (R.C. § 2915.11)

§ 630.09 EXEMPTION FOR BINGO GAMES CONDUCTED FOR AMUSEMENT.

(a) Sections 630.06 to 630.13 do not apply to bingo games that are conducted for the purpose of amusement only. A bingo game is conducted for the purpose of amusement only if it complies with all of the requirements specified in either division (a)(1) or (a)(2) of this section.

(1) A. The participants do not pay any money or any other thing of value, including an admission fee or any fee, for bingo cards or sheets, objects to cover the spaces, or other devices used in playing bingo, for the privilege of participating in the bingo game, or to defray any costs of the game, or pay tips or make donations during or immediately before or after the bingo game.

B. All prizes awarded during the course of the game are non-monetary, and in the form of merchandise, goods or entitlement to goods or services only, and the total value of all prizes awarded during the game is less than $100.00.

C. No commission, wages, salary, reward, tip, donation, gratuity or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game.

D. The bingo game is not conducted either during or within ten hours of any of the following:

1. A bingo session during which a charitable bingo game is conducted pursuant to R.C. §§ 2915.07 through 2915.11 or any substantially equivalent municipal ordinance.
2. A scheme or game of chance, or bingo described in division (2) of its definition in R.C. § 2915.01.

E. The number of players participating in the bingo game does not exceed 50.

(2) A. The participants do not pay money or any other thing of value as an admission fee, and no participant is charged more than $0.25 to purchase a bingo card or sheet, objects to cover the spaces or other devices used in playing bingo.

B. The total amount of money paid by all of the participants for bingo cards or sheets, objects to cover the spaces or other devices used in playing bingo does not exceed $100.00.

C. All of the money paid for bingo cards or sheets, objects to cover spaces or other devices used in playing bingo is used only to pay winners monetary and nonmonetary prizes and to provide refreshments.

D. The total value of all prizes awarded during the game does not exceed $100.00.

E. No commission, wages, salary, reward, tip, donation, gratuity or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game.

F. The bingo game is not conducted during or within ten hours of either of the following:

1. A bingo session during which a charitable bingo game is conducted pursuant to R.C. §§ 2915.07 through 2915.11 or any substantially equivalent municipal ordinance;
2. A scheme of chance or a game of chance, or bingo described in division (2) of its definition in R.C. § 2915.01.

G. All of the participants reside at the premises where the bingo game is conducted.

H. The bingo games are conducted on different days of the week and not more than twice in a calendar week.

(b) The Attorney General or any local law enforcement agency may investigate the conduct of a bingo game that purportedly is conducted for purposes of amusement only if there is reason to believe that the purported amusement bingo game does not comply with the requirements of either division (a)(1) or (a)(2) of this section. A local law enforcement agency may proceed by action in the proper court to enforce this section if the local law enforcement agency gives written notice to the Attorney General when commencing the action.
(R.C. § 2915.12)

§ 630.10 PROHIBITIONS WHERE INSTANT BINGO GAME IS CONDUCTED.

(a) No charitable organization that conducts instant bingo shall do any of the following:

(1) Fail to comply with the requirements of R.C. § 2915.09(A)(1), (A)(2) and (A)(3), or any substantially equivalent municipal ordinance;

(2) Conduct instant bingo unless either of the following apply:

A. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is,

exempt from federal income taxation under IRC 501(a), is described in IRC 501(c)(3), is a charitable organization as defined in R.C. § 2915.01, is in good standing in the state pursuant to R.C. § 2915.08, and is in compliance with R.C. Chapter 1716;

B. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under IRC 501(a), is described in IRC 501(c)(7), (c)(8), (c)(10) or (c)(19) or is a veteran's organization described in IRC 501(c)(4), and conducts instant bingo under R.C. § 2915.13.

(3) Conduct instant bingo on any day, at any time, or at any premises not specified on the organization's license issued pursuant to R.C. § 2915.08;

(4) Permit any person whom the organization knows or should have known has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator in the conduct of instant bingo;

(5) Purchase or lease supplies used to conduct instant bingo or punch board games from any person except a distributor licensed under R.C. § 2915.081;

(6) Sell or provide any instant bingo ticket or card for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare;

(7) Sell an instant bingo ticket or card to a person under 18 years of age;

(8) Fail to keep unsold instant bingo tickets or cards for less than three years;

(9) Pay any compensation to a bingo game operator for conducting instant bingo that is conducted by the organization or for preparing, selling or serving food or beverages at the site of the instant bingo game, permit any auxiliary unit or society of the organization to pay compensation to any bingo game operator who prepares, sells or serves food or beverages at an instant bingo game conducted by the organization, or

permit any auxiliary unit or society of the organization to prepare, sell or serve food or beverages at an instant bingo game conducted by the organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell or serve the food or beverages;

(10) Pay fees to any person for any services performed in relation to an instant bingo game;

(11) Pay fees to any person who provides refreshments to the participants in an instant bingo game;

(12) A. Allow instant bingo tickets or cards to be sold to bingo game operators at a premises at which the organization sells instant bingo tickets or cards or to be sold to employees of a D permit holder who are working at a premises at which instant bingo tickets or cards are sold;

B. Division (a)(12)A. of this section does not prohibit a licensed charitable organization or a bingo game operator from giving any person an instant bingo ticket as a prize.

(13) Fail to display its bingo license, and the serial numbers of the deal of instant bingo tickets or cards to be sold, conspicuously at each premises at which it sells instant bingo tickets or cards;

(14) Possess a deal of instant bingo tickets or cards that was not purchased from a distributor licensed under R.C. § 2915.081 as reflected on an invoice issued by the distributor that contains all of the information required by R.C. § 2915.10(E);

(15) Fail, once it opens a deal of instant bingo tickets or cards, to continue to sell the tickets or cards in that deal until the tickets or cards with the top two highest tiers of prizes in that deal are sold;

(16) Purchase, lease or use instant bingo ticket dispensers to sell instant bingo tickets or cards;

(17) Possess bingo supplies that were not obtained in accordance with R.C. Chapter 2915.

(b) A charitable organization may conduct instant bingo other than at a bingo session at not more than five separate locations. A charitable organization that is exempt from federal taxation under IRC 501(a) and described in IRC 501(c)(3) and that is created by a veteran's organization or a fraternal organization is not limited in the number of separate locations the charitable organization may conduct instant bingo other than at a bingo session.

(c) Pursuant to R.C. § 2915.091(C), the Attorney General may adopt rules in accordance with R.C. Chapter 119 that govern the conduct of instant bingo by charitable organizations.

(d) Whoever violates division (a) of this section or a rule adopted under division (c) of this section is guilty of illegal instant bingo conduct. Except as otherwise provided in this division, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (a) of this section or of such a rule adopted under division (c) of this section, illegal instant bingo conduct is a felony to be prosecuted under appropriate state law. (R.C. § 2915.091)

§ 630.11 RAFFLE DRAWINGS.

(a) (1) Subject to division (a)(2) of this section, a charitable organization, a public school, a chartered nonpublic school, a community school, or a veteran's organization, fraternal organization or sporting organization that is exempt from federal income taxation under IRC 501(a) and is described in IRC 501(c)(3), (c)(4), (c)(7), (c)(8), (c)(10) or (c)(19) may conduct a raffle to raise money for the organization or school

and does not need a license to conduct bingo in order to conduct a raffle drawing that is not for profit.

(2) If a charitable organization that is described in division (a)(1) of this section, but that is not also described in IRC 501(c)(3), conducts a raffle, the charitable organization shall distribute at least 50% of the net profit from the raffle to a charitable purpose described in R.C. § 2915.01(Z) or to a department or agency of the federal government, the state or any political subdivision.

(b) A chamber of commerce may conduct not more than one raffle per year to raise money for the chamber of commerce.

(c) Except as provided in division (a) or (b) of this section, no person shall conduct a raffle drawing that is for profit or a raffle drawing that is not for profit.

(d) Whoever violates division (c) of this section is guilty of illegal conduct of a raffle. Except as otherwise provided in this division, illegal conduct of a raffle is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (c) of this section, illegal conduct of a raffle is a felony to be prosecuted under appropriate state law.
(R.C. § 2915.092)

§ 630.12 INSTANT BINGO OTHER THAN AT BINGO SESSIONS.

(a) As used in this section, Aretail income from all commercial activity means the income that a person receives from the provision of goods, services or activities that are provided at the location where instant bingo other than at a bingo session is conducted, including the sale of instant bingo tickets. A religious organization that is exempt from federal income taxation under IRC 501(a) and

described in IRC 501(c)(3), at not more than one location at which it conducts its charitable programs, may include donations from its members and guests as retail income.

(b) A charitable instant bingo organization may conduct instant bingo other than at a bingo session at not more than five separate locations.

(c) (1) If a charitable instant bingo organization conducts instant bingo other than at a bingo session, the charitable instant bingo organization shall enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted to allow the owner or lessor to assist in the conduct of instant bingo other than at a bingo session, identify each location where the instant bingo other than at a bingo session is being conducted, and identify the owner or lessor of each location.

(2) A charitable instant bingo organization that conducts instant bingo other than at a bingo session is not required to enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted, provided that the owner or lessor is not assisting in the conduct of the instant bingo other than at a bingo session and provided that the conduct of the instant bingo other than at a bingo session at that location is not more than five days per calendar year and not more than ten hours per day.

(d) Except as provided in division (g) of this section, no charitable instant bingo organization shall conduct instant bingo other than at a bingo session at a location where the primary source of retail income from all commercial activity at that location is the sale of instant bingo tickets.

(e) The owner or lessor of a location that enters into a contract pursuant to division (c) of this section shall pay the full gross profit to the charitable instant bingo organization, in return for the

deal of instant bingo tickets. The owner or lessor may retain the money that the owner or lessor receives for selling the instant bingo tickets, provided, however, that after the deal has been sold, the owner or lessor shall pay to the charitable instant bingo organization the value of any unredeemed instant bingo prizes remaining in the deal of instant bingo tickets. As used in this division, Afull gross profit means the amount by which the total receipts of all instant bingo tickets, if the deal has been sold in full, exceeds the amount that would be paid out if all prizes were redeemed.

(f) A charitable instant bingo organization shall provide the Attorney General with all of the following information:

(1) That the charitable instant bingo organization has terminated a contract entered into pursuant to division (c) of this section with an owner or lessor of a location;

(2) That the charitable instant bingo organization has entered into a written contract pursuant to division (c) of this section with a new owner or lessor of a location;

(3) That the charitable instant bingo organization is aware of conduct by the owner or lessor of a location at which instant bingo is conducted that is in violation of R.C. Chapter 2915.

(g) Division (d) of this section does not apply to a volunteer firefighter's organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3), that conducts instant bingo other than at a bingo session on the premises where the organization conducts firefighter training, that has conducted instant bingo continuously for at least five years prior to July 1, 2003, and that, during each of those five years, had gross receipts of at least $1,500,000.

(R.C. § 2915.093)

(h) (1) A veteran's organization, a fraternal organization or a sporting organization authorized to conduct a bingo session pursuant to R.C. Chapter 2915 may conduct instant bingo other than at a bingo session if all of the following apply:

A. The veteran's organization, fraternal organization or sporting organization limits the sale of instant bingo to 12 hours during any day, provided that the sale does not begin earlier than 10:00 a.m. and ends not later than 2:00 a.m.

B. The veteran's organization, fraternal organization or sporting organization limits the sale of instant bingo to its own premises and to its own members and invited guests.

C. The veteran's organization, fraternal organization, or sporting organization is raising money for an organization that is described in IRC 509(a)(1), (a)(2) or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3), and that is in good standing in this state and executes a written contract with that organization as required in division (h)(2) of this section.

(2) If a veteran's organization, fraternal organization or sporting organization authorized to conduct instant bingo pursuant to division (h)(1) of this section is raising money for another organization that is described in IRC 509(a)(1), (a)(2) or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c), and that is in good standing in this state, the veteran's organization, fraternal organization, or sporting organization shall execute a written contract with the organization that is described in IRC 509(a)(1), (a)(2) or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under IRC

501(a) and described in IRC 501(c), and that is in good standing in this state in order to conduct instant bingo. That contract shall include a statement of the percentage of the net proceeds that the veteran's, fraternal or sporting organization will be distributing to the charitable organization that is described in IRC 509(a)(1), (a)(2) or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c), and that is in good standing in this state.

(3) A. If a veteran's organization, fraternal organization or sporting organization authorized to conduct instant bingo pursuant to division (h)(1) of this section has been issued a liquor permit under R.C. Chapter 4303, that permit may be subject to suspension, revocation or cancellation if the veteran's organization, fraternal organization or sporting organization violates a provision of this chapter or R.C. Chapter 2915.

B. No veteran's organization, fraternal organization or sporting organization that enters into a written contract pursuant to division (h)(2) of this section shall violate any provision of this chapter or R.C. Chapter 2915, or permit, aid or abet any other person in violating any provision of this chapter or R.C. Chapter 2915.

(4) A veteran's organization, fraternal organization or sporting organization shall give all required proceeds earned from the conduct of instant bingo to the organization with which the veteran's organization, fraternal organization or sporting organization has entered into a written contract.

(5) Whoever violates division (h) of this section is guilty of illegal instant bingo conduct. Except as otherwise provided in this division, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a

violation of division (h) of this section, illegal instant bingo conduct is a felony to be prosecuted under appropriate state law.
(R.C. § 2915.13)

§ 630.13 RESTRICTIONS ON OWNER OR LESSOR OF LOCATION AT INSTANT BINGO.

(a) No owner or lessor of a location shall assist a charitable instant bingo organization in the conduct of instant bingo other than at a bingo session at that location unless the owner or lessor has entered into a written contract, as described in R.C. § 2915.093(C), with the charitable instant bingo organization to assist in the conduct of instant bingo other than at a bingo session.

(b) The location of the lessor or owner shall be designated as a location where the charitable instant bingo organization conducts instant bingo other than at a bingo session.

(c) No owner or lessor of a location that enters into a written contract as prescribed in division (a) of this section shall violate any provision of this chapter or R.C. Chapter 2915, or permit, aid or abet any other person in violating any provision of this chapter or R.C. Chapter 2915.

(d) No owner or lessor of a location that enters into a written contract as prescribed in division (a) of this section shall violate the terms of the contract.

(e) (1) Whoever violates division (c) or (d) of this section is guilty of illegal instant bingo conduct. Except as otherwise provided in this division, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (c) or (d) of this section, illegal instant bingo conduct is a felony to be prosecuted under appropriate state law.

(2) If an owner or lessor of a location knowingly, intentionally, or recklessly violates division (c) or (d) of this section, any license that the owner or lessor holds for the retail sale of any goods on the owner's or lessor's premises that is issued by the state or a political subdivision is subject to suspension, revocation or payment of a monetary penalty at the request of the Attorney General.
(R.C. § 2915.094)

§ 630.14 SKILL-BASED AMUSEMENT MACHINES; PROHIBITED CONDUCT.

(a) No person shall give to another person any item described in division (ii)(1), (ii)(2), (ii)(3) or (ii)(4) of § 630.01 in exchange for a noncash prize, toy or novelty received as a reward for playing or operating a skill-based amusement machine or for a free or reduced-price game won on a skill-based amusement machine.

(b) Whoever violates division (a) of this section is guilty of skill-based amusement machine prohibited conduct. A violation of division (a) of this section is a misdemeanor of the first degree for each redemption of a prize that is involved in the violation. If the offender previously has been convicted of a violation of division (a) of this section, a violation of that division is a felony to be prosecuted under appropriate state law.
(R.C. § 2915.06)

CHAPTER 636: OFFENSES RELATING TO PERSONS

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§ 636.01 DEFINITIONS.

(a) For the purpose of this chapter and any other provision of these Codified Ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) Another's unborn or other person's unborn. A member of the species homo sapiens who is or was carried in the womb of another during a period that begins with fertilization and that continues unless and until live birth occurs.

(2) Unlawful termination of another's pregnancy. Causing the death of an unborn member of the species homo sapiens who is or was carried in the womb of another, as a result of injuries inflicted during the period that begins with fertilization and that continues unless and until live birth occurs.

(b) Notwithstanding division (a) of this section, in no case shall the definitions of the terms Aanother's unborn , Aother person's unborn and Aunlawful termination of another's pregnancy that are set forth in division (a) of this section be applied or construed in any of the following manners:

(1) Except as otherwise provided in division (b)(1) of this section, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as any violation of R.C. § 2903.01, § 2903.02, § 2903.03, § 2903.04, § 2903.05, § 2903.06, § 2903.08, § 2903.11, § 2903.12, § 2903.13, § 2903.14, § 2903.21 or § 2903.22, or a substantially equivalent municipal ordinance, as applicable. An abortion that does not violate the conditions described in the second immediately

preceding sentence but that does violate R.C. § 2919.12, § 2919.13(B), § 2919.151, § 2919.17 or § 2919.18, or a substantially equivalent municipal ordinance, may be punished as a violation of the section, as applicable.

(2) In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:

A. Her delivery of a stillborn baby.

B. Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying.

C. Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human.

D. Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human.

E. Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness or other psychological illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

(R.C. § 2903.09)

§ 636.02 NEGLIGENT HOMICIDE.

(a) No person shall negligently cause the death of another or the unlawful termination of another's pregnancy by means of a deadly weapon or dangerous ordnance, as defined in R.C. § 2923.11.

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

(R.C. § 2903.05)

Statutory reference:

Reckless homicide, felony offense, see R.C. § 2903.041]

§ 636.03 ASSAULT.

(a) No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn.

(b) No person shall recklessly cause serious physical harm to another or to another's unborn.

(c) Whoever violates division (a) or (b) of this section is guilty of assault. Except as provided in R.C. § 2903.13(C), assault is a misdemeanor of the first degree.

(R.C. § 2903.13)

Statutory reference:

Aggravated and felonious assault, see R.C. §§ 2903.11 and 2903.12

Aggravated vehicular assault, felony, see R.C. § 2903.08

Felony offenses: assaulting functionally impaired person, peace officer, investigator of the Bureau

of Criminal Identification and Investigation, firefighter, person performing emergency medical service, officer or employee of a public children services agency or private child placing agency;

assault at a correctional institution; assault on school officials and school bus drivers, see R.C.

§ 2903.13(C)

Permitting child abuse, felony offense, see R.C. § 2903.15

Persons who may seek relief under anti-stalking protection order; ex parte orders, see R.C. § 2903.214

Protection order as pretrial condition of release, see R.C. § 2903.213

§ 636.04 NEGLIGENT ASSAULT.

(a) No person shall negligently, by means of a deadly weapon or dangerous ordnance as defined in R.C. § 2923.11, cause physical harm to another or to another's unborn.

(b) Whoever violates this section is guilty of negligent assault, a misdemeanor of the third degree.

(R.C. § 2903.14)

§ 636.05 AGGRAVATED MENACING.

(a) No person shall knowingly cause another to believe that the offender will cause serious physical harm to the person or property of the other person, such other person's unborn, or a member of that other person's immediate family.

(b) Whoever violates this section is guilty of aggravated menacing. Except as otherwise provided in this division (b), aggravated menacing is a misdemeanor of the first degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, aggravated menacing is a felony to be prosecuted under appropriate state law or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public

children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, a felony to be prosecuted under appropriate state law.
(R.C. § 2903.21)

§ 636.06 MENACING BY STALKING.

(a) *Prohibited conduct.*

(1) A. No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person.

B. No person, through the use of any electronic method of remotely transferring information, including but not limited to any computer, computer network, computer program or computer system, shall post a message with purpose to urge or incite another to commit a violation of division (a)(1)A. of this section.

C. No person, with a sexual motivation, shall violate division (a)(1)A. or (a)(1)B. of this section.

(2) Whoever violates division (a)(1) of this section is guilty of menacing by stalking.

A. Except as otherwise provided in division (a)(2)B. of this section, menacing by stalking is a misdemeanor of the first degree.

B. Menacing by stalking is a felony, to be prosecuted under appropriate state law, if any of the following applies:

1. The offender previously has been convicted of or pleaded guilty to a violation of R.C. § 2903.211 or a violation of R.C. § 2911.211, or a substantially equivalent municipal ordinance to either of these offenses.

2. In committing the offense under division (a)(1)A., (a)(1)B. or (a)(1)C. of

this section, the offender made a threat of physical harm to or against the victim, or as a result of an offense committed under division (a)(1)B. or (a)(1)C. of this section, a third person induced by the offender's posted message made a threat of physical harm to or against the victim.

3. In committing the offense under division (a)(1)A., (a)(1)B. or (a)(1)C. of this section, the offender trespassed on the land or premises where the victim lives, is employed or attends school, or as a result of an offense committed under division (a)(1)B. or (a)(1)C. of this section, a third person induced by the offender's posted message trespassed on the land or premises where the victim lives, is employed or attends school.
4. The victim of the offense is a minor.
5. The offender has a history of violence towards the victim or any other person or a history of other violent acts towards the victim or any other person.
6. While committing the offense under division (a)(1)A. of this section or a violation of division (a)(1)C. of this section based on conduct in violation of division (a)(1)A. of this section, the offender had a deadly weapon on or about the offender's person or under the offender's control. Division (a)(2)B.6. of this section does not apply in determining the penalty for a violation of division (a)(1)B. of this section or a violation of division (a)(1)C. of this section based on conduct in violation of division (a)(1)B. of this section.
7. At the time of the commission of the offense, the offender was the subject of a protection order issued under R.C. § 2903.213 or § 2903.214, regardless of whether or not the person to be protected under the order is the victim of the offense or another person.

8. In committing the offense under division (a)(1)A., (a)(1)B. or (a)(1)C. of this section, the offender caused serious physical harm to the premises at which the victim resides, to the real property on which that premises is located, or to any personal property located on that premises, or as a result of an offense committed under division (a)(1)B. of this section or an offense committed under division (a)(1)C. of this section based on a violation of division (a)(1)B. of this section, a third person induced by the offender's posted message caused serious physical harm to that premises, that real property or any personal property on that premises.
9. Prior to committing the offense, the offender had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious harm, or other evidence of then-present dangerousness.
10. The victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties.
11. The offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties.

(3) R.C. § 2919.271 applies in relation to a defendant charged with a violation of this section.

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

A. Computer, computer network, computer program, computer system, and telecommunications device. Have the same meanings as in R.C. § 2913.01.

B. Emergency facility person. The singular of Aemergency facility personnel as defined in R.C. § 2909.04.

C. Emergency medical services person. The singular of Aemergency medical services personnel as defined in R.C. § 2133.21.

D. Mental distress. Any of the following:

1. Any mental illness or condition that involves some temporary substantial incapacity;

2. Any mental illness or condition that would normally require psychiatric treatment, psychological treatment or other mental health services, whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services.

E. Pattern of conduct. Two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents. Actions or incidents that prevent, obstruct or delay the performance by a public official, firefighter, rescuer, emergency medical services person or emergency facility person of any authorized act within the public official's, firefighter's, rescuer's, emergency medical services person's or emergency facility person's official capacity, or the posting of messages or receipt of information or data through the use of an electronic method of remotely transferring information, including but not limited to a computer, computer network, computer program, computer system or telecommunications device, may constitute a pattern of conduct.

F. Post a message. Transferring, sending, posting, publishing, disseminating or otherwise communicating, or attempting to transfer, send, post, publish, disseminate or otherwise communicate, any message or information, whether truthful or untruthful, about an individual, and whether done under one's own name, under the name of another or while impersonating another.

G. Public official. Has the same meaning as in R.C. § 2921.01.

H. Sexual motivation. Has the same meaning as in R.C. § 2971.01.

I. Third person. In relation to conduct as described in division (a)(1)B. of this section, an individual who is neither the offender nor the victim of the conduct.

(5) The prosecution does not need to prove in a prosecution under division (a) of this section that a person requested or received psychiatric treatment, psychological treatment or other mental health services in order to show that the person was caused mental distress as described in division (a)(4)D.2. of this section.

(6) A. Division (a) of this section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that it believes is or will be sent in violation of division (a) of this section.

B. Division (a)(6)A. of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of

remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is or will be sent in violation of division (a) of this section except as otherwise provided by law.

C. Division (a)(6)A. of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of division (a) of this section or who knowingly advertises the availability of material of that nature.

(R.C. § 2903.211)

(b) *Protection order.* Consult R.C. § 2903.213 for current provisions regarding protection orders, consent agreements, anti-stalking protection orders and orders issued by a court of another state.

(c) *Violating a protection order, consent agreement, anti-stalking protection order or order issued by a court of another state.*

(1) No person shall recklessly violate the terms of any of the following:

A. A protection order issued or consent agreement approved pursuant to R.C. § 2919.26 or § 3113.31;

B. A protection order issued pursuant to R.C. § 2903.213 or § 2903.214;

C. A protection order issued by a court of another state.

(2) A. Whoever violates division (c) of this section is guilty of violating a protection order.

B. Except as otherwise provided in division (c)(2)C. or (c)(2)D. of this section, violating a protection order is a misdemeanor of the first degree.

C. If the offender previously has been convicted of or pleaded guilty to a violation

of a protection order issued pursuant to R.C. § 2903.213 or § 2903.214, two or more violations of R.C. § 2903.21, § 2903.211, § 2903.22 or § 2911.211, or a substantially equivalent state law or municipal ordinance, that involved the same person who is the subject of the protection order or consent agreement, or one or more violations of this section or a substantially equivalent state law or municipal ordinance, violating a protection order is a felony to be prosecuted under appropriate state law.

D. If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony to be prosecuted under appropriate state law.

(3) It is an affirmative defense to a charge under division (c)(1)C. of this section that the protection order issued by a court of another state does not comply with the requirements specified in 18 U.S.C. 2265(b) for a protection order that must be accorded full faith a credit by a court of this state or that it is not entitled to full faith and credit under 18 U.S.C. 2265(c).

(4) As used in this section, Aprotection order issued by a court of another state means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a *pendente lite* order in a proceeding for other relief, if the court issued it in response to a complaint,

petition or motion filed by or on behalf of a person seeking protection. The term does not include an order for support or for custody of a child issued pursuant to the divorce and child custody laws of another state, except to the extent that the order

for support or for custody of a child is entitled to full faith and credit under the laws of the United States.
(R.C. § 2919.27)

§ 636.07 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.

(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.
(R.C. § 2903.22)

§ 636.08 UNLAWFUL RESTRAINT.

(a) No person, without privilege to do so, shall knowingly restrain another of the other person's liberty.

(b) No person, without privilege to do so and with a sexual motivation, shall knowingly restrain another of the other person's liberty.

(c) Whoever violates this section is guilty of unlawful restraint, a misdemeanor of the third degree.

(d) As used in this section, sexual motivation has the same meaning as in R.C. § 2971.01. (R.C. § 2905.03)

§ 636.09 CRIMINAL CHILD ENTICEMENT.

(a) No person, by any means and without privilege to do so, shall knowingly solicit, coax, entice or lure any child under 14 years of age to accompany the person in any manner, including entering into any vehicle or onto any vessel, whether or not the offender knows the age of the child, if both of the following apply:

(1) The actor does not have the express or implied permission of the parent, guardian or other legal custodian of the child in undertaking the activity.

(2) The actor is not a law enforcement officer, medic, firefighter or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer acting under the direction of, any board of education, or the actor is any such person, but at the time the actor undertakes the activity, the actor is not acting within the scope of the actor's lawful duties in that capacity.

(b) No person, with a sexual motivation, shall violate division (a) of this section.

(c) It is an affirmative defense to a charge under division (a) of this section that the actor

undertook the activity in response to a bona fide emergency situation or that the actor undertook the activity in a reasonable belief that it was necessary to preserve the health, safety or welfare of the child.

(d) Whoever violates this section is guilty of criminal child enticement, a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, a substantially equivalent state law or municipal ordinance, R.C. § 2907.02 or § 2907.03 or former R.C. § 2907.12, or R.C. § 2905.01 or § 2907.05 when the victim of that prior offense was under 17 years of age at the time of the offense, criminal child enticement is a felony to be prosecuted under appropriate state law.

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

(1) ASexual motivation. Has the same meaning as in R.C. § 2971.01.

(2) AVehicle. Has the same meaning as in R.C. § 4501.01.

(3) AVessel. Has the same meaning as in R.C. § 1547.01.

(R.C. § 2905.05)

§ 636.10 COERCION.

(a) No person, with purpose to coerce another into taking or refraining from action concerning which he or she has a legal freedom of choice, shall do any of the following:

(1) Threaten to commit any offense.

(2) Utter or threaten any slander against any person.

(3) Expose or threaten to expose any matter tending to subject any person to hatred, contempt or ridicule, or to damage his or her personal or business repute, or to

impair his or her credit.

(4) Institute or threaten criminal proceedings against any person.

(5) Take or withhold, or threaten to take or withhold official action, or cause or threaten to cause official action to be taken or withheld.

(b) Divisions (a)(4) and (a)(5) of this section shall not be construed to prohibit a prosecutor or court from doing any of the following in good faith and in the interests of justice:

(1) Offering or agreeing to grant, or granting immunity from prosecution pursuant to R.C. § 2945.44.

(2) In return for a plea of guilty to one or more offenses charged or to one or more other or lesser offenses, or in return for the testimony of the accused in a case to which he or she is not a party, offering or agreeing to dismiss, or dismissing one or more charges pending against an accused, or offering or agreeing to impose, or imposing a certain sentence or modification of sentence.

(3) Imposing probation on certain conditions, including without limitation requiring the offender to make restitution or redress to the victim of his or her offense.

(c) It is an affirmative defense to a charge under division (a)(3), (a)(4) or (a)(5) of this section that the actor's conduct was a reasonable response to the circumstances which occasioned it, and that his or her purpose was limited to:

(1) Compelling another to refrain from misconduct or to desist from further misconduct.

(2) Preventing or redressing a wrong or injustice.

(3) Preventing another from taking action for which the actor reasonably believed the other person to be disqualified.

(4) Compelling another to take action which the actor reasonably believed the other person to be under a duty to take.

(d) Whoever violates this section is guilty of coercion, a misdemeanor of the second degree.

(e) As used in this section, threat includes a direct threat and a threat by innuendo. (R.C. § 2905.12)

§ 636.11 NONSUPPORT OF DEPENDENTS.

(a) No person shall abandon, or fail to provide adequate support to:

(1) His or her spouse, as required by law;

(2) His or her legitimate or illegitimate child who is under age 18, or mentally or physically disabled child who is under age 21;

(3) His or her aged or infirm parent or adoptive parent, who from lack of ability and means is unable to provide adequately for his or her own support.

(b) No person shall abandon or fail to provide support as established by court order to another person whom, by court order or decree, the person is legally obligated to support.

(c) No person shall aid, abet, induce, cause, encourage or contribute to a child or a ward of the juvenile court becoming a dependent child, as defined in R.C. § 2151.04, or a neglected child, as defined in R.C. § 2151.03.

(d) It is an affirmative defense to a charge of failure to provide adequate support under division (a) of this section or a charge of failure to provide support established by a court order under division (b) of this section that the accused was unable to provide adequate support or the established support, but did provide the support that was within his or her ability and means.

(e) It is an affirmative defense to a charge under division (a)(3) of this section that the parent abandoned the accused, or failed to support the accused as required by law, while the accused was under age 18, or was mentally or physically disabled and under age 21.

(f) It is not a defense to a charge under division (b) of this section that the person whom a court has ordered the accused to support is being adequately supported by someone other than the accused.

(g) (1) Except as otherwise provided in this division, whoever violates division (a) or (b) of this section is guilty of nonsupport of dependents, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (a)(2) or (b) of this section or a substantially equivalent state law or municipal ordinance, or if the offender has failed to provide support under division (a)(2) or (b) of this section for a total accumulated period of 26 weeks out of 104 consecutive weeks, whether or not the 26 weeks were consecutive, then a violation of division (a)(2) or (b) of this section is a felony to be prosecuted under appropriate state law. If the offender previously has been convicted of or pleaded guilty to a felony violation of this section or a substantially equivalent state law or municipal ordinance, a violation of division (a)(2) or (b) of this section is a felony to be prosecuted under appropriate state law. If the offender is guilty of nonsupport of dependents by reason of failing to provide support to his or her child as required by a child support order issued on or after April 15, 1985, pursuant to R.C. § 2151.23, § 2151.231, § 2151.232, § 2151.33, § 3105.21, § 3109.05, § 3111.13, § 3113.04, § 3113.31 or § 3115.31, the court, in addition to any other sentence imposed, shall assess all court costs arising out of the charge against the person and require the person to pay any reasonable attorney's fees of any adverse party other than the

state, as determined by the court, that arose in relation to the charge.

(2) Whoever violates division (c) of this section is guilty of contributing to the nonsupport of dependents, a misdemeanor of the first degree. Each day of a violation of division (c) of this section is a separate offense.

(R.C. § 2919.21)

§ 636.12 ENDANGERING CHILDREN.

(a) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under 18 years of age or a mentally or physically disabled child under 21 years of age, shall create a substantial risk to the health or safety of the child by violating a duty of care, protection or support. It is not a violation of a duty of care, protection or support under this division when the parent, guardian, custodian or person having custody or control of a child treats the physical or mental illness or disability of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

(b) No person shall do any of the following to a child under 18 years of age or a mentally or physically disabled child under 21 years of age:

(1) Abuse the child.

(2) Torture or cruelly abuse the child.

(3) Administer corporal punishment or other physical disciplinary measure, or physically restrain the child in a cruel manner or for a prolonged period, which punishment, discipline or restraint is excessive under the circumstances and creates a substantial risk of serious physical harm to the child.

(4) Repeatedly administer unwarranted disciplinary measures to a child when there is a substantial risk that this conduct, if continued, will seriously impair or retard the

child's mental health or development.

(5) Entice, coerce, permit, encourage, compel, hire, employ, use or allow the child to act, model or in any other way participate in, or be photographed for, the production, presentation, dissemination or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter or is nudity-oriented matter.

(6) Allow the child to be on the same parcel of real property and within 100 feet of, or, in the case of more than one housing unit on the same parcel of real property, in the same housing unit and within 100 feet of, any act in violation of R.C. § 2925.04 or § 2925.041 when the person knows that the act is occurring, whether or not any person is prosecuted for or convicted of the violation of R.C. § 2925.04 or § 2925.041 that is the basis of the violation of this division.

(c) (1) No person shall operate a vehicle, as defined by R.C. § 4511.01, within the municipality and in violation of R.C. § 4511.19(A), or a substantially equivalent municipal ordinance, when one or more children under 18 years of age are in the vehicle. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of this division and a violation of R.C. § 4511.19(A), or a substantially equivalent municipal ordinance, that constitutes the basis of the charge of the violation of this division. For purposes of R.C. §§ 4511.191 to 4511.197 and all related provisions of law, a person arrested for a violation of this division shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

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

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

B. Vehicle. Has the same meaning as in R.C. § 4511.01.

(d) (1) Division (b)(5) of this section does not apply to any material or performance that is produced, presented or disseminated for a bona fide medical, scientific, educational, religious, governmental, judicial or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursing bona fide studies for research, librarian, member of the clergy, prosecutor, judge or other person having a proper interest in the material or performance.

(2) Mistake of age is not a defense to a charge under division (b)(5) of this section.

(3) In a prosecution under division (b)(5) of this section, the trier of fact may infer that an actor, model or participant in the material or performance involved is a juvenile if the

material or performance, through its title, text, visual representation or otherwise, represents or depicts the actor, model or participant as a juvenile.

(4) For the purpose of this division and division (b)(5) of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A. Material, performance, obscene and sexual activity. Have the same meanings as in R.C. § 2907.01.

B. Nudity-oriented matter. Any material or performance that shows a minor in a state of nudity and that, taken as a whole by the average person applying contemporary community standards, appeals to the prurient interest.

C. Sexually oriented matter. Any material or performance that shows a minor

participating or engaging in sexual activity, masturbation or bestiality.

(e) Whoever violates this section is guilty of endangering children.

(1) If the offender violates division (a) or (b)(1) of this section, endangering children is one of the following:

A. Except as otherwise provided in division (e)(1)B., (e)(1)C. or (e)(1)D., a misdemeanor of the first degree.

B. If the offender previously has been convicted of an offense under this section or a substantially equivalent state law or municipal ordinance, or of any offense involving neglect, abandonment or contributing to the delinquency of or physical abuse of a child, except as otherwise provided in division (e)(1)C. or (e)(1)D. of this section, endangering children is a felony to be prosecuted under appropriate state law.

C. If the violation is a violation of division (a) of this section and results in serious physical harm to the child involved, endangering children is a felony to be prosecuted under appropriate state law.

D. If the violation is a violation of division (b)(1) of this section and results in serious physical harm to the child involved, endangering children is a felony to be prosecuted under appropriate state law.

(2) If the offender violates division (b)(2), (b)(3), (b)(4), (b)(5) or (b)(6) of this section, endangering children is a felony to be prosecuted under appropriate state law.

(3) If the offender violates division (c) of this section, the offender shall be punished as follows:

A. Except as provided in (e)(3)B. or (e)(3)C., endangering children in violation of division (c) of this section is a misdemeanor of the first degree.

B. If the violation results in serious physical harm to the child or if the offender previously has been convicted of a violation of this section or a substantially equivalent state law or municipal ordinance, or of any offense involving neglect, abandonment or contributing to the delinquency of or physical abuse of a child, except as otherwise provided in division (e)(3)C. of this section, endangering children in violation of division (c) of this section is a felony to be prosecuted under appropriate state law.

C. If the violation results in serious physical harm to the child and if the offender previously has been convicted of a violation of this section, R.C. § 2903.06, § 2903.08, § 2919.22(C) or former R.C. § 2903.07 as it existed prior to March 23, 2000, or R.C. § 2903.04, in a case in which the offender was subject to the sanctions described in division (D) of that section, endangering children in violation of division (c) of this section is a felony to be prosecuted under appropriate state law.

D. In addition to any term of imprisonment, fine or other sentence, penalty or sanction it imposes upon the offender pursuant to divisions (e)(3)A., (e)(3)B. or (e)(3)C. of this section or pursuant to any other provision of law and in addition to any suspension of the offender's driver's license or commercial driver's license or permit or nonresident operating privilege under R.C. Chapter 4506, Chapter 4509, Chapter 4510 or Chapter 4511, or any other provision of law, the court also may impose upon the offender a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(7).

E. In addition to any term of imprisonment, fine, or other sentence, penalty or sanction imposed upon the offender pursuant to division (e)(3)A., (e)(3)B., (e)(3)C. or (e)(3)D. of this section or pursuant to any other provision of law

for the violation of division (c) of this section, if as a part of the same trial or proceeding the offender also is convicted of or pleads guilty to a separate charge charging the violation of R.C. § 4511.19(A), or a substantially equivalent municipal ordinance, that was the basis of the charge of the violation of division (c) of this section, the offender also shall be sentenced in accordance with R.C. § 4511.19, or a substantially equivalent municipal ordinance, for that violation of R.C. § 4511.19(A) or a substantially equivalent municipal ordinance.

(f) (1) If a person violates division (c) of this section and if, at the time of the violation, there were two or more children under 18 years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of division (c) of this section for each of the children, but the court may sentence the offender for only one of the violations.

(2) A. If a person is convicted of or pleads guilty to a violation of division (c) of this section but the person is not also convicted of and does not also plead guilty to a separate charge of violating R.C. § 4511.19(A), or a substantially equivalent municipal ordinance, that was the basis of the charge of the violation of division (c) of this section, both the following apply:

1. For purposes of the provisions of R.C. § 4511.19, or a substantially equivalent municipal ordinance, that set forth the penalties and sanctions for a violation of R.C. § 4511.19(A), or a substantially equivalent municipal ordinance, the conviction of or plea of guilty to the violation of division (c) of this section shall not constitute a violation of R.C. § 4511.19(A), or a substantially equivalent municipal ordinance.
2. For purposes of the provisions of law that refers to a conviction of or plea of guilty to a violation of R.C. § 4511.19(A), or a substantially equivalent

municipal ordinance, and that is not described in division (f)(2)A.1. of this section, the conviction of or plea of guilty to the violation of division (c) of this section shall constitute a conviction or plea of guilty to a violation of R.C. § 4511.19(A), or a substantially equivalent municipal ordinance.

B. If a person is convicted of or pleads guilty to a violation of division (c) of this section and the person also is convicted of or pleads guilty to a separate charge of violating R.C. § 4511.19(A), or a substantially equivalent municipal ordinance, that was the basis of the charge of the violation of division (c) of this section, the conviction of or plea of guilty to the violation of division (c) of this section shall not constitute, for the purposes of any provision of law that refers to a conviction of or a plea of guilty to a violation of R.C. § 4511.19(A) or a substantially equivalent municipal ordinance, a conviction of or a plea of guilty to a violation of R.C. § 4511.19(A) or a substantially equivalent municipal ordinance.

(R.C. § 2919.22(A) - (E), (H))

Statutory reference:

Community service, requirements, see R.C. § 2919.22(F)

License suspension, requirements, see R.C. § 2919.22(G)

Permitting child abuse, felony offense, see R.C. § 2903.15

§ 636.13 INTERFERENCE WITH CUSTODY.

(a) No person, knowing that he or she is without privilege to do so or being reckless in that regard, shall entice, take, keep or harbor a person identified in division (a)(1), (a)(2) or (a)(3) of this section from the parent, guardian or custodian of the person identified in division (a)(1), (a)(2) or (a)(3) of this section:

(1) A child under the age of 18, or a mentally or physically disabled child under the age of 21;

(2) A person committed by law to an institution for delinquent, unruly, neglected, abused or dependent children;

(3) A person committed by law to an institution for the mentally ill or mentally disabled.

(b) No person shall aid, abet, induce, cause or encourage a child or a ward of the juvenile court who has been committed to the custody of any person, department or public or private institution to leave the custody of that person, department or institution without legal consent.

(c) It is an affirmative defense to a charge of enticing or taking under division (a)(1) of this section that the actor reasonably believed that his or her conduct was necessary to preserve the child's health or safety. It is an affirmative defense to a charge of keeping or harboring under division (a) of this section that the actor in good faith gave notice to law enforcement or judicial authorities within a reasonable time after the child or committed person came under his or her shelter, protection, or influence.

(d) Whoever violates this section is guilty of interference with custody.

(1) Except as otherwise provided in this subdivision, a violation of division (a)(1) above is a misdemeanor of the first degree. If the child who is the subject of a violation of division (a)(1) is removed from the state or if the offender previously has been convicted of an offense under this section or a substantially equivalent state law or municipal ordinance, a violation of division (a)(1) of this section is a felony to be prosecuted under appropriate state law. If the child who is the subject of a violation of division (a)(1) suffers physical harm as a result of the violation, a violation of division (a)(1) of this section is a felony to be prosecuted under appropriate state

law.

(2) A violation of division (a)(2) or (a)(3) of this section is a misdemeanor of the third degree.

(3) A violation of division (b) of this section is a misdemeanor of the first degree. Each day of a violation of division (b) is a separate offense.

(R.C. § 2919.23)

§ 636.14 CONTRIBUTING TO THE UNRULINESS OR DELINQUENCY OF A CHILD.

(a) No person, including a parent, guardian or other custodian of a child, shall do any of the following:

(1) Aid, abet, induce, cause, encourage or contribute to a child or a ward of the juvenile court becoming an unruly child, as defined in R.C. § 2151.022, or a delinquent child, as defined in R.C. § 2152.02;

(2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child, as defined in R.C. § 2151.022, or a delinquent child, as defined in R.C. § 2152.02;

(3) If the person is the parent, guardian or custodian of a child who has the duties under R.C. Chapters 2152 and 2950 to register, register a new residence address, and periodically verify a residence address, and, if applicable, to send a notice of intent to reside, and if the child is not emancipated, as defined in R.C. § 2919.121, fail to ensure that the child complies with those duties under R.C. Chapters 2152 and 2950.

(b) Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of a violation of this section is a separate offense.
(R.C. § 2919.24)

§ 636.15 THREATENING OR HARASSING TELECOMMUNICATIONS.

(a) (1) No person shall, while communicating with any other person over a telephone, threaten to do bodily harm or use or address to that other person any words or language of a lewd, lascivious or indecent character, nature or connotation for the sole purpose of annoying the other person; nor shall any person telephone any other person repeatedly or cause any person to be telephoned repeatedly for the sole purpose of harassing or molesting the other person or his or her family. Any use, communication or act prohibited by this division (a)(1) may be deemed to have occurred or to have been committed at either the place at which the telephone call was made or was received.
(R.C. § 4931.31)

(2) Whoever violates division (a)(1) of this section is guilty of a misdemeanor of the third degree.
(R.C. § 4931.99(B))

(b) No person shall knowingly make or cause to be made a telecommunication, or knowingly permit a telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:

(1) Fails to identify the caller to the recipient of the telecommunication and makes the telecommunication with purpose to harass or abuse any person at the premises to

which the telecommunication is made, whether or not actual communication takes place between the caller and a recipient.

(2) Describes, suggests, requests or proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made.

(3) During the telecommunication, violates R.C. § 2903.21 or a substantially equivalent municipal ordinance.

(4) Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family or any other person who resides at the premises to which the telecommunication is made owns, leases, resides or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged.

(5) Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication to those premises or to any persons at those premises.

(c) No person shall make or cause to be made a telecommunication or permit a telecommunication to be made from a telecommunications device under the person's control, with purpose to abuse, threaten or harass another person.

(d) (1) Whoever violates divisions (b) or (c) of this section is guilty of telecommunications harassment.

(2) A violation of division (b)(1), (b)(2), (b)(3) or (b)(5) or (c) of this section is a misdemeanor of the first degree on a first offense and a felony on each subsequent offense, which shall be prosecuted under appropriate state law.

(3) Except as otherwise provided in this division (d)(3), a violation of division (b)(4) of this section is a misdemeanor of the first degree on a first offense and a felony on each subsequent offense, to be prosecuted under appropriate state law. If a violation of division (b)(4) of this section results in economic harm of $500 or more, telecommunications harassment is a felony to be prosecuted under appropriate state law.

(e) No cause of action may be assessed in any court of this municipality against any provider of a telecommunications service or information service, or against any officer, employee or agent of a telecommunications service or information service, for any injury, death or loss to person or property that allegedly arises out of the provider's, officer's, employee's or agent's provision of information, facilities or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section. A provider of a telecommunications service or information service, or an officer, employee or agent of a telecommunications service or information service, is immune from any civil or criminal liability for injury, death or loss to person or property that allegedly arises out of the provider's, officer's, employee's or agent's provision of information, facilities or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section.

(f) For the purpose of divisions (b) through (e) of this section, the following definitions shall

apply unless the context clearly indicates or requires a different meaning.

(1) Caller. The person described in division (b) of this section who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person's control.

(2) Economic harm. All direct, incidental and consequential pecuniary harm suffered by a victim as a result of the criminal conduct. The term includes but is not limited to all of the following:

A. All wages, salaries or other compensation lost as a result of the criminal conduct;

B. The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;

C. The overhead costs incurred from the time that a business is shut down as a result of the criminal conduct;

D. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

(3) Sexual activity. Has the same meaning as in R.C. § 2907.01.

(4) Telecommunication and telecommunications device. Have the same meanings as in R.C. § 2913.01.

(g) Nothing in this section prohibits a person from making a telecommunication to a debtor that is in compliance with the AFair Debt Collection Practices Act , 15 U.S.C. 1692, as amended, or the ATelephone Consumer Protection Act , 47 U.S.C. 227, as amended.
(R.C. § 2917.21)

§ 636.16 PLACING HARMFUL SUBSTANCE OR OBJECTS IN FOOD OR CONFECTION.

(a) No person shall do either of the following, knowing or having reasonable cause to believe that any person may suffer physical harm or be seriously inconvenienced or annoyed thereby:

(1) Place a pin, razor blade, glass, laxative, drug of abuse or other harmful or hazardous object or substance in any food or confection.

(2) Furnish to any person any food or confection which has been adulterated in violation of division (a)(1) of this section.

(R.C. § 3716.11)

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.
(R.C. § 3716.99(C))

§ 636.17 DOMESTIC VIOLENCE.

(a) *Prohibited conduct.*

(1) As used in this section:

A. Family or household member. Any of the following:

1. Any of the following who is residing or has resided with the offender:

a. A spouse, a person living as a spouse as defined below, or a former spouse of the offender;

b. A parent or a child of the offender, or another person related by consanguinity or affinity to the offender;

c. A parent or a child of a spouse, person living as a spouse, or former spouse of the offender, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the offender.

2. The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.

B. Person living as a spouse. A person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question.

(2) No person shall knowingly cause or attempt to cause physical harm to a family or household member.

(3) No person shall recklessly cause serious physical harm to a family or household member.

(4) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

(5) A. Whoever violates this section is guilty of domestic violence.

B. Except as otherwise provided in division (a)(5)C. or (a)(5)D. of this section, a violation of division (a)(4) is a misdemeanor of the fourth degree and a violation of division (a)(2) or (a)(3) is a misdemeanor of the first degree.

C. Except as otherwise provided in division (a)(5)D. of this section, if the offender previously has pleaded guilty to or been convicted of domestic violence, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially equivalent to domestic violence, a violation of R.C. § 2903.14, § 2909.06, § 2909.07, § 2911.12, § 2911.211 or § 2919.22 if the victim of the violation was a family or household member at the time of the violation, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially equivalent to any of those sections if the victim of the violation was a family or

household member at the time of the commission of the violation, or any offense of violence if the victim of the offense was a family or household member at the time of the commission of the offense, a violation of division (a)(2) or (a)(3) is a felony to be prosecuted under appropriate state law. A violation of division (a)(4) is a misdemeanor of the second degree.

D. If the offender previously has pleaded guilty to or been convicted of two or more offenses of domestic violence or two or more violations or offenses of the type described in division (a)(5)C. of this section involving a person who was a family or household member at the time of the violations or offenses, a violation of division (a)(2) or (a)(3) of this section is a felony to be prosecuted under appropriate state law. A violation of division (a)(4) of this section is a misdemeanor of the first degree.

(6) Notwithstanding any provision of law to the contrary, no court or unit of state or local government shall charge any fee, cost, deposit or money in connection with the filing of charges against a person alleging that the person violated this section or a municipal ordinance substantially equivalent to this section or in connection with the prosecution of any charges so filed.

(R.C. § 2919.25)

(b) *Temporary protection order.* Consult R.C. § 2919.26 for current provisions regarding protection orders.

(c) *Violating a protection order, consent agreement, anti-stalking protection order or order issued by a court of another state.* See § 636.06(c) for current provisions.

§ 636.18 SAFETY OF CROWDS ATTENDING LIVE ENTERTAINMENT PERFORMANCES.

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

(1) Concert. A musical performance of which the primary component is a presentation by persons singing or playing musical instruments, that is intended by its sponsors mainly, but not necessarily exclusively, for the listening enjoyment of the audience, and that is held in a facility. A Aconcert does not include any performance in which music is a part of the presentation and the primary component of which is acting, dancing, a motion picture, a demonstration of skills or talent other than singing or playing an instrument, an athletic event, an exhibition or a speech.

(2) Facility. Any structure that has a roof or partial roof and that has walls that wholly surround the area on all sides, including but not limited to a stadium, hall, arena, armory, auditorium, ballroom, exhibition hall, convention center or music hall.

(3) Live entertainment performance. Any live speech; any live musical performance, including a concert; any live dramatic performance; any live variety show; and any other live performance with respect to which the primary intent of the audience can be construed to be viewing the performers. A live entertainment performance does not include any form of entertainment with respect to which the person purchasing a ticket routinely participates in amusements as well as views performers.

(4) Person. Includes, in addition to an individual or entity specified in R.C. § 1.59(C), any governmental entity.

(5) Restricted entertainment area. Any wholly or partially enclosed area, whether indoors or outdoors, that has limited access through established entrances or established turnstiles or similar devices.

(b) (1) No person shall sell, offer to sell, or offer in return for a donation, any ticket that is not numbered and that does not correspond to a specific seat for admission to either

of the following:

A. A live entertainment performance that is not exempted under division (d) of this section, that is held in a restricted entertainment area, and for which more than 8,000 tickets are offered to the public;

B. A concert that is not exempted under division (d) of this section and for which more than 3,000 tickets are offered to the public.

(2) No person shall advertise any live entertainment performance as described in division (b)(1)A. of this section or any concert as described in division (b)(1)B. of this section, unless the advertisement contains the words Reserved Seats Only.

(c) Unless exempted by division (d)(1) of this section, no person who owns or operates any restricted entertainment area shall fail to open, maintain and properly staff at least the number of entrances designated under division (e) of this section for a minimum of 90 minutes prior to the scheduled start of any live entertainment performance that is held in the restricted entertainment area and for which more than 3,000 tickets are sold, offered for sale or offered in return for a donation.

(d) (1) A live entertainment performance, other than a concert, is exempted from the provisions of divisions (b) and (c) of this section if both of the following apply:

A. The restricted entertainment area in which the performance is held has at least eight entrances or, if both entrances and separate admission turnstiles or similar devices are used, has at least eight turnstiles or similar devices.

B. The eight entrances or, if applicable, the eight turnstiles or similar devices, are opened, maintained and properly staffed at least one hour prior to the scheduled start of the performance.

(2) A. 1. The officer responsible for public safety in the municipality may, upon application of the sponsor of a concert covered by division (b) of this section, exempt the concert from the provisions of that division if the officer

finds that the health, safety and welfare of the participants and spectators would not be substantially affected by failure to comply with the provisions of that division. In determining whether to grant an exemption, the officer shall consider the following factors:

a. The size and design of the facility in which the concert is scheduled;

b. The size, age and anticipated conduct of the crowd expected to attend the concert;

c. The ability of the sponsor to manage and control the expected crowd.

2. If the sponsor of any concert desires to obtain an exemption under this division, the sponsor shall apply to the appropriate official on a form prescribed by that official. The official shall issue an order that grants or denies the exemption within five days after receipt of the application. The sponsor may appeal any order that denies an exemption to the Court of Common Pleas of the county in which the facility is located.

B. If an official grants an exemption under division (d)(2)A. of this section, the official shall designate an on-duty law enforcement officer to be present at the concert. The designated officer has authority to issue orders to all security personnel at the concert to protect the health, safety and welfare of the participants and spectators.

(3) Notwithstanding division (d)(2) of this section, in the case of a concert held in a facility located on the campus of an educational institution covered by R.C. § 3345.04, a state university law enforcement officer appointed pursuant to R.C. §§ 3345.04 and 3345.21 shall do both of the following:

A. Exercise the authority to grant exemptions provided by division (d)(2)A. of this section in lieu of an official designated in that division;

B. If the officer grants an exemption under division (d)(3)A. of this section,

designate an on-duty state university law enforcement officer to be present at the concert. The designated officer has authority to issue orders to all security personnel at the concert to protect the health, safety and welfare of the participants and spectators.

(e) (1) Unless a live entertainment performance is exempted by division (d)(1) of this section, the officer responsible for public safety within the municipality shall designate, for purposes of division (c) of this section, the minimum number of entrances required to be opened, maintained and staffed at each live entertainment performance so as to permit crowd control and reduce congestion at the entrances. The designation shall be based on such factors as the size and nature of the crowd expected to attend the live entertainment performance, the length of time prior to the live entertainment performance that crowds are expected to congregate at the entrances and the amount of security provided at the restricted entertainment area.

(2) Notwithstanding division (e)(1) of this section, a state university law enforcement officer appointed pursuant to R.C. §§ 3345.04 and 3345.21 shall designate the number of entrances required to be opened, maintained and staffed in the case of a live entertainment performance that is held at a restricted entertainment area located on the campus of an educational institution covered by R.C. § 3345.04.

(f) No person shall enter into any contract for a live entertainment performance that does not permit or require compliance with this section.

(g) (1) This section does not apply to a live entertainment performance held in a restricted entertainment area if one admission ticket entitles the holder to view or participate in three or more different games, rides, activities or live entertainment performances occurring simultaneously at different sites within the restricted entertainment area and

if the initial admittance entrance to the restricted entertainment area, for which the ticket is required, is separate from the entrance to any specific live entertainment performance and an additional ticket is not required for admission to the particular live entertainment performance.

(2) This section does not apply to a symphony orchestra performance, a ballet performance, horse races, dances or fairs.

(h) This section does not prohibit the Council from imposing additional requirements, not in conflict with the section, for the promotion or holding of live entertainment performances.

(i) Whoever violates division (b), (c) or (f) of this section is guilty of a misdemeanor of the first degree. If any individual suffers physical harm to his or her person as a result of a violation of this section, the sentencing court shall consider this factor in favor of imposing a term of imprisonment upon the offender.
(R.C. § 2917.40)

§ 636.19 HAZING.

(a) As used in this section, Ahazing means doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person.

(b) (1) No person shall recklessly participate in the hazing of another.

(2) No administrator, employee or faculty member of any primary, secondary or post-secondary school or of any other educational institution, public or private, shall recklessly permit the hazing of any person.

(c) Whoever violates this section is guilty of hazing, a misdemeanor of the fourth degree. (R.C. § 2903.31)

Statutory reference:

Civil liability for hazing, see R.C. § 2307.44

§ 636.20 ILLEGAL DISTRIBUTION OF CIGARETTES OR OTHER TOBACCO PRODUCTS; TRANSACTION SCANS.

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

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

A. Child. Has the same meaning as in R.C. § 2151.011.

B. Cigarette. Includes clove cigarettes and hand-rolled cigarettes.

C. Distribute. To furnish, give or provide cigarettes, other tobacco products or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products or papers used to roll cigarettes.

D. Proof of age. 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.

E. 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, or any papers used to roll cigarettes, no agent, employee or representative of a manufacturer, producer, distributor, wholesaler or retailer of cigarettes, other tobacco products or papers used to roll cigarettes, and no other person shall do any of the following:

A. Give, sell or otherwise distribute cigarettes, other tobacco products or papers

used to roll cigarettes to any child;

B. Give away, sell or distribute cigarettes, other tobacco products or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a sign stating that giving, selling or otherwise distributing cigarettes, other tobacco products or papers used to roll cigarettes to a person under 18 years of age is prohibited by law;

C. Knowingly furnish any false information regarding the name, age or other identification of any child with purpose to obtain cigarettes, other tobacco products or papers used to roll cigarettes for that child;

D. Manufacture, sell or distribute in this state any pack or other container of cigarettes containing fewer than 20 cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco;

E. Sell cigarettes in a smaller quantity than that placed in the pack or other container by the manufacturer.

(3) No person shall sell or offer to sell cigarettes or other tobacco products by or from a vending machine except in the following locations:

A. An area within a factory, business, office or other place not open to the general public;

B. An area to which children are not generally permitted access;

C. Any other place not identified in division (a)(3)A. or (a)(3)B. of this section, upon all of the following conditions:

1. The vending machine is located within the immediate vicinity, plain view and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes and other tobacco product purchases from the vending machine will be readily observed by the person who owns or operates the place, or an employee of that person. For the purpose of

this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway or outer waiting area shall not be considered located within the immediate vicinity, plain view and control of the person who owns or operates the place, or an employee of that person.

2. The vending machine is inaccessible to the public when the place is closed.

(4) The following are affirmative defenses to a charge under division (a)(2)A. of this section:

A. The child was accompanied by a parent, spouse who is 18 years of age or older, or legal guardian of the child.

B. The person who gave, sold or distributed cigarettes, other tobacco products or papers used to roll cigarettes to a child under division (a)(2)A. of this section is a parent, spouse who is 18 years of age or older, or legal guardian of the child.

(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 child cigarettes, other tobacco products or papers used to roll cigarettes while the child is participating in a research protocol if all of the following apply:

A. The parent, guardian or legal custodian of the child has consented in writing to the child participating in the research protocol.

B. An institutional human subject's protection review board, or an equivalent entity, has approved of the research protocol.

C. The child is participating in the research protocol at the facility or location specified in the research protocol.

(6) A. Whoever violates division (a)(2)A., (a)(2)B., (a)(2)D. or (a)(2)E. or (a)(3) of this section is guilty of illegal distribution of cigarettes or other tobacco

products, a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of division (a)(2)A., (a)(2)B., (a)(2)D., (a)(2)E. or (a)(3) of this section or a substantially equivalent state law or municipal ordinance, illegal distribution of cigarettes or other tobacco products is a misdemeanor of the third degree.

B. Whoever violates division (a)(2)C. of this section is guilty of permitting children to use cigarettes or other tobacco products, a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of division (a)(2)C. or a substantially equivalent state law or municipal ordinance, permitting children to use cigarettes or other tobacco products is a misdemeanor of the third degree.

(7) Any cigarettes, other tobacco products or papers used to roll cigarettes that are given, sold or otherwise distributed to a child in violation of this division (a) and that are used, possessed, purchased or received by a child in violation of R.C. § 2151.87 are subject to seizure and forfeiture as contraband under R.C. Chapter 2981. (R.C. § 2927.02)

(b) *Tobacco product 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.

A. Card holder. Any person who presents a driver's or commercial driver's license or an identification card to a seller, or an agent or employee of a seller, to purchase or receive cigarettes or other tobacco products from a seller, agent or employee.

B. Identification card. An identification card issued under R.C. §§ 4507.50 to 4507.52.

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

D. Transaction scan. The process by which a seller or an agent or employee of a seller checks, by means of a transaction scan device, the validity of a driver's or commercial driver's license or an identification card that is presented as a condition for purchasing or receiving cigarettes or other tobacco products.

E. Transaction scan device. Any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver's or commercial driver's license or an identification card.

(2) A. A seller or an agent or employee of a seller may perform a transaction scan by means of a transaction scan device to check the validity of a driver's or commercial driver's license or identification card presented by a card holder as a condition for selling, giving away or otherwise distributing to the card holder cigarettes or other tobacco products.

B. If the information deciphered by the transaction scan performed under division (b)(2)A. of this section fails to match the information printed on the driver's or commercial driver's license or identification card presented by the card holder, or if the transaction scan indicates that the information so printed is false or fraudulent, neither the seller nor any agent or employee of the seller shall sell, give away or otherwise distribute any cigarettes or other tobacco products to the card holder.

C. Division (b)(2)A. of this section does not preclude a seller or an agent or employee of a seller from using a transaction scan device to check the validity of a document other than a driver's or commercial driver's license or

identification card, if the document includes a bar code or magnetic strip that may be scanned by the device, as a condition for selling, giving away or otherwise distributing cigarettes or other tobacco products 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 or other tobacco products.

(6) Whoever violates division (b)(2)B. or (b)(4) of this section is guilty of engaging in an illegal tobacco product transaction scan, and the court may impose upon the offender a civil penalty of up to $1,000 for each violation. The Clerk of the Court shall pay each collected civil penalty to the County Treasurer for deposit into the County Treasury.

(R.C. § 2927.021)

(c) *Affirmative defenses.*

(1) A seller or an agent or employee of a seller may not be found guilty of a charge of a violation of division (a) of this section in which the age of the purchaser or other recipient of cigarettes or other tobacco products 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 or other tobacco products presented a driver's or commercial driver's license or an identification card.

B. A transaction scan of the driver's or commercial driver's license or identification card that the card holder presented indicated that the license or card was valid.

C. The cigarettes or other tobacco products were sold, given away or otherwise

distributed to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.

(2) In determining whether a seller or an agent or employee of a seller has proven the affirmative defense provided by division (c)(1) of this section, the trier of fact in the action for the alleged violation of division (a) of this section shall consider any written policy that the seller has adopted and implemented and that is intended to prevent violations of division (a) of this section. For purposes of division (c)(1)C. of this section, the trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a seller or an agent or employee of a seller to exercise reasonable diligence to determine, and that the use of a transaction scan device does not excuse a seller or an agent or employee of a seller from exercising reasonable diligence to determine, the following:

A. Whether a person to whom the seller or agent or employee of a seller sells, gives away or otherwise distributes cigarettes or other tobacco products 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 (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. (R.C. § 2927.022)

(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 IRC § 5702;

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.

(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 common carrier, contract 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 common carrier, contract 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 for each violation of division (d)(3)A., (d)(3)B. or (d)(4) of this section.

(R.C. § 2927.023)

§ 636.21 ETHNIC INTIMIDATION.

(a) No person shall violate R.C. § 2903.21, § 2903.22, § 2909.06 or § 2909.07, or R.C. § 2917.21(A)(3), (A)(4) or (A)(5), or any substantially equivalent municipal ordinance to any of these sections, by reason of the race, color, religion or national origin of another person or group of persons.

(b) Whoever violates this section is guilty of ethnic intimidation. Ethnic intimidation is an offense of the next higher degree than the offense the commission of which is a necessary element of ethnic intimidation. In the case of an offense that is a misdemeanor of the first degree, ethnic intimidation is a felony to be prosecuted under appropriate state law.

(R.C. § 2927.12)

§ 636.22 INTIMIDATION IN CONNECTION WITH HOUSING.

(a) No person, whether or not acting under color of law, shall by force or threat of force willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with any of the following:

(1) Any person because of race, color, religion, sex, familial status, as defined in R.C. § 4112.01, national origin, military status as defined in that section, disability as defined in that section, or ancestry and because that person is or has been selling, purchasing, renting, financing, occupying, contracting or negotiating for the sale, purchase, rental, financing or occupation of any housing accommodations, or applying for or participating in any service, organization or facility relating to the business of selling or renting housing accommodations.

(2) Any person because that person is or has been doing, or in order to intimidate that person or any other person or any class of persons from doing either of the following:

A. Participating, without discrimination on account of race, color, religion, sex, familial status, as defined in R.C. § 4112.01, national origin, military status as defined in that section, disability as defined in that section, or ancestry, in any of the activities, services, organizations, or facilities described in division (a)(1) of this section;

B. Affording another person or class of persons opportunity or protection so to participate.

(3) Any person because that person is or has been, or in order to discourage that person or any other person from, lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, familial status as defined in R.C. § 4112.01, national origin, military status as defined in that section, disability as defined in that section, or ancestry, in any of the activities, services, organizations or facilities described in division (a)(1) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate.

(b) Whoever violates division (a) of this section is guilty of a misdemeanor of the first degree. (R.C. § 2927.03)

§ 636.23 FAILING TO PROVIDE FOR A FUNCTIONALLY IMPAIRED PERSON.

(a) No caretaker shall knowingly fail to provide a functionally impaired person under his or her care with any treatment, care, goods or service that is necessary to maintain the health of safety of the functionally impaired person when this failure results in physical harm or serious physical harm to the functionally impaired person.

(b) No caretaker shall recklessly fail to provide a functionally impaired person under his or her care with any treatment, care, goods or service that is necessary to maintain the health of safety of the functionally impaired person when this failure results in serious physical harm to the functionally impaired person.

(c) (1) Whoever violates division (a) of this section is guilty of knowingly failing to provide for a functionally impaired person, a misdemeanor of the first degree. If the functionally impaired person under the offender's care suffers serious physical harm as a result of the violation of this section, a violation of division (a) of this section is a felony to be prosecuted under appropriate state law.

(2) Whoever violates division (b) of this section is guilty of recklessly failing to provide for a functionally impaired person, a misdemeanor of the second degree. If the functionally impaired person under the offender's care suffers serious physical harm as a result of the violation of this section, a violation of division (b) of this section is a felony to be prosecuted under appropriate state law.

(R.C. § 2903.16)

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

(1) Caretaker. A person who assumes the duty to provide for the care and protection of a functionally impaired person on a voluntary basis, by contract, through receipt of payment for care and protection, as a result of a family relationship, or by order of a court of competent jurisdiction. Caretaker does not include a person who owns, operates or administers, or who is an agent or employee of, a care facility, as defined in R.C. § 2903.33.

(2) Functionally impaired person. Any person who has a physical or mental impairment that prevents the person from providing for his or her own care or protection or whose infirmities caused by aging prevent the person from providing for his or her own care or protection.

(R.C. § 2903.10)

§ 636.24 FAILURE TO PERFORM VIABILITY TESTING.

(a) (1) Except as provided in division (a)(3) of this section, no physician shall perform or induce or attempt to perform or induce an abortion upon a pregnant woman after the beginning of her twenty-second week of pregnancy unless, prior to the performance or inducement of the abortion or the attempt to perform or induce the abortion, the physician determines, in good faith and in the exercise of reasonable medical judgment, that the unborn human is not viable, and the physician makes that determination after performing a medical examination of the pregnant woman and after performing or causing the performing of gestational age, weight, lung maturity or other tests of the unborn human that a reasonable physician making a determination

as to whether an unborn human is or is not viable would perform or cause to be performed.

(2) Except as provided in division (a)(3) of this section, no physician shall perform or induce or attempt to perform or induce an abortion upon a pregnant woman after the beginning of her twenty-second week of pregnancy without first entering the determination described in division (a)(1) of this section and the associated findings of the medical examination and tests described in that division in the medical record of the pregnant woman.

(3) Divisions (a)(1) and (a)(2) of this section do not prohibit a physician from performing or inducing or attempting to perform or induce an abortion upon a pregnant woman after the beginning of her twenty-second week of pregnancy without making the determination described in division (a)(1) of this section or without making the entry described in divisions (a)(2) of this section if a medical emergency exists.

(b) Whoever violates this section is guilty of failure to perform viability testing, a misdemeanor of the fourth degree.

(R.C. § 2919.18)

CHAPTER 642: OFFENSES RELATING TO PROPERTY

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§ 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.

(a) Anhydrous ammonia. A compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the manner described below. Anhydrous ammonia is one part nitrogen to three parts hydrogen (NH_3). Anhydrous ammonia by weight is 14 parts nitrogen to three parts hydrogen, which is approximately 82% nitrogen to 18% hydrogen.

(b) Assistance dog. Has the same meaning as in R.C. § 955.011.

(c) Cable television service. Any services provided by or through the facilities of any cable television system or other similar closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.

(d) Coin machine. Any mechanical or electronic device designed to do both of the following:

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

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

(e) Computer. An electronic device that performs logical, arithmetic and memory functions by the manipulation of electronic or magnetic impulses. Computer includes but is not limited to all input, output, processing, storage, computer program or communication facilities that are connected, or related, in a computer system or network to an electronic device of that nature.

(f) Computer contaminant. A computer program that is designed to modify, damage, destroy, disable, deny or degrade access to, allow unauthorized access to, functionally impair, record or transmit information within a computer, computer system, or computer network without the express or implied consent of the owner or other person authorized to give consent and that is of a type or kind described in divisions (1) through (4) of this definition or of a type or kind similar to a type or kind described in divisions (1) through (4) of this definition:

(1) A group of computer programs commonly known as viruses and worms that are self-replicating or self-propagating and that are designed to contaminate other computer programs, compromise computer security, consume computer resources, modify, destroy, record or transmit data, or disrupt the normal operation of the computer, computer system or computer network;

(2) A group of computer programs commonly known as Trojans or Trojan horses that are not self-replicating or self-propagating and that are designed to compromise computer security, consume computer resources, modify, destroy, record or transmit data, or disrupt the normal operation of the computer, computer system or computer network;

(3) A group of computer programs commonly known as zombies that are designed to use a computer without the knowledge and consent of the owner, or other person authorized to give consent, and that are designed to send large quantities of data to a targeted computer network for the purpose of degrading the targeted computer's or network's performance, or denying access through the network to the targeted computer or network, resulting in what is commonly known as Adenial of service or Adistributed denial of service attacks;

(4) A group of computer programs commonly known as trap doors , back doors , or root kits that are designed to bypass standard authentication software and that are

designed to allow access or use of a computer without the knowledge or consent of the owner, or other person authorized to give consent.

(g) Computer hacking.

(1) Computer hacking means any of the following:

A. Gaining access or attempting to gain access to all or part of a computer, computer system or a computer network without express or implied authorization with the intent to defraud or with intent to commit a crime;

B. Misusing computer or network services, including but not limited to mail transfer programs, file transfer programs, proxy servers and web servers, by performing functions not authorized by the owner of the computer, computer system, or computer network or other person authorized to give consent. As used in this division, misuse of computer and network services includes but is not limited to the unauthorized use of any of the following:

1. Mail transfer programs to send mail to persons other than the authorized users of that computer or computer network;
2. File transfer program services or proxy servers to access other computers, computer systems or computer networks;
3. Web servers to redirect users to other web pages or web servers.

C. 1. Subject to division (1)C.2. of this definition, using a group of computer programs commonly known as Aport scanners or Aprobes to intentionally access any computer, computer system or computer network without the permission of the owner of the computer, computer system or computer network or other person authorized to give consent. The group of computer programs referred to in this division includes but is not limited to those computer programs that use a computer network to access a computer, computer system or another computer network to determine any of the

following: the presence or types of computers or computer systems on a network; the computer network's facilities and capabilities; the availability of computer or network services; the presence or versions of computer software including but not limited to operating systems, computer services or computer contaminants; the presence of a known computer software deficiency that can be used to gain unauthorized access to a computer, computer system or computer network; or any other information about a computer, computer system or computer network not necessary for the normal and lawful operation of the computer initiating the access.

2. The group of computer programs referred to in division (1)C.1. of this definition does not include standard computer software used for the normal operation, administration, management and test of a computer, computer system or computer network, including but not limited to domain name services, mail transfer services and other operating system services, computer programs commonly called "ping", "tcpdump", and "traceroute" and other network monitoring and management computer software, and computer programs commonly known as "nslookup" and "whois" and other systems administration computer software.

D. The intentional use of a computer, computer system or a computer network in a manner that exceeds any right or permission granted by the owner of the computer, computer system or computer network or other person authorized to give consent.

(2) Computer hacking does not include the introduction of a computer contaminant, as defined in this section, into a computer, computer system, computer program or computer network.

(h) Computer network. A set of related and remotely-connected computers and

communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.

(i) Computer program. An ordered set of data representing coded instructions or statements that, when executed by a computer, causes the computer to process data.

(j) 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.

(k) Computer software. Computer programs, procedures and other documentation associated with the operation of a computer system.

(l) Computer system. A computer and related devices, whether connected or unconnected, including but not limited to data input, output and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.

(m) Counterfeit telecommunications device. A telecommunications device that, alone or with another telecommunications device, has been altered, constructed, manufactured or programmed to acquire, intercept, receive or otherwise facilitate the use of a telecommunications service or information service without the authority or consent of the provider of the telecommunications service or information service. The phrase includes but is not limited to a clone telephone, clone microchip, tumbler telephone or tumbler microchip; a wireless scanning device capable of acquiring, intercepting, receiving or otherwise facilitating the use of telecommunications service or information service without immediate detection; or a device, equipment, hardware or software designed for, or capable of, altering or changing the electronic serial number in a wireless telephone.

(n) 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.

(o) 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.

(p) Dangerous drug. Has the same meaning as in R.C. § 4729.01.

(q) Data. A representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system or computer network.

(r) Deception. To knowingly deceive another or cause another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act or omission that creates, confirms or perpetuates a false impression in another, including a false impression as to law, value, state of mind or other objective or subjective fact.

(s) Defraud. To knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.

(t) Deprive. To do any of the following:

(1) To withhold property of another permanently, or for a period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;

(2) To dispose of property so as to make it unlikely that the owner will recover it;

(3) To accept, use or appropriate money, property or services, with purpose not to give proper consideration in return for the money, property or services, and without reasonable justification or excuse for not giving proper consideration.

(u) Disabled adult. A person who is 18 years of age or older and has some impairment of body or mind that makes the person unable to work at any substantially remunerative

employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least 12 months without any present indication of recovery from the impairment, or who is 18 years of age or older and has been certified as permanently and totally disabled by an agency of this state or the United States that has the function of so classifying persons.

(v) Drug abuse offense. Has the same meaning as in R.C. § 2925.01.

(w) Elderly person. A person who is 65 years of age or older.

(x) Electronic fund transfer. Has the same meaning as in 92 Stat. 3728, 15 U.S.C. 1693a, as amended.

(y) Emergency personnel. Any of the following persons:

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

(2) A member of a fire department or other firefighting agency of a municipal corporation, township, township fire district, joint fire district, other political subdivision or combination of political subdivisions;

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

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

(5) An emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance operator or other member of an emergency medical service that is owned of operated by a political subdivision or a private entity;

(6) The State Fire Marshal, the Chief Deputy State Fire Marshal or an assistant state fire marshal;

(7) A fire prevention officer of a political subdivision or an arson, fire or similar investigator of a political subdivision.

(z) Federally-licensed firearms dealer. Has the same meaning as in R.C. § 5502.63.

(aa) Firearm and dangerous ordnance. Have the same meaning as in R.C. § 2923.11.

(bb) Forge. To fabricate or create, in whole or in part and by any means, any spurious writing, or to make, execute, alter, complete, reproduce or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.

(cc) Gain access. To approach, instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or computer network, or any cable service or cable system both as defined in R.C. § 2913.04.

(dd) Information service.

(1) Subject to division (2) of this definition, the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing or making available information via telecommunications, including but not limited to electronic publishing.

(2) Information service does not include any use of a capability of a type described in division (1) of this definition for the management, control or operation of a telecommunications system or the management of a telecommunications service.

(ee) Internet. Has the same meaning as in R.C. § 341.42.

(ff) Motor vehicle. Has the same meaning as in R.C. § 4501.01.

(gg) Occupied structure. Any house, building, outbuilding, watercraft, aircraft, railroad car, truck, trailer, tent or other structure, vehicle or shelter, or any portion thereof, to which any of the following applies:

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

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

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

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

(hh) Owner. Unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license or interest is unlawful.

(ii) Police dog or horse. Has the same meaning as in R.C. § 2921.321.

(jj) Political subdivision. Has the same meaning as in R.C. § 2744.01.

(kk) Rented property. Personal property in which the right of possession and use of the property is for a short and possibly indeterminate term in return for consideration; the rentee generally controls the duration of possession of the property within any applicable minimum or maximum term; and the amount of consideration is generally determined by the duration of possession of the property.

(ll) Services. Includes labor, personal services, professional services, public utility services including wireless service as defined in R.C. § 4931.40(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.

(mm) Slug. An object that, by virtue of its size, shape, composition or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill or token made for that purpose.

(nn) State. Has the same meaning as in R.C. § 2744.01.

(oo) Telecommunication. The origination, emission, dissemination, transmission or reception of data, images, signals, sounds or other intelligence or equivalence or intelligence of any nature over any communications system by any method, including but not limited to a fiber optic, electronic, magnetic, optical, digital or analog method.

(pp) Telecommunications device. Any instrument, equipment, machine or other device that facilitates telecommunication, including but not limited to a computer, computer network,

computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem or device that enables the use of a modem.

(qq) Telecommunications service. The providing, allowing, facilitating or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.

(rr) Theft offense. Any of the following:

(1) 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, § 2913.11, § 2913.21, § 2913.31, § 2913.32, § 2913.33, § 2913.34, § 2913.40, § 2913.42, § 2913.43, § 2913.44, § 2913.45, § 2913.47, former R.C. § 2913.47 or § 2913.48, or R.C. § 2913.51, § 2915.05 or § 2921.41;

(2) A violation of an existing or former municipal ordinance or law of this or any other state or of the United States substantially equivalent to any section listed in division (1) of this definition, or a violation of R.C. § 2913.41, § 2913.81 or § 2915.06 as it existed prior to July 1, 1996;

(3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit or fraud;

(4) A conspiracy to commit, attempt to commit, or complicity in committing any offense under division (1), (2) or (3) of this definition.

(ss) Utter. To issue, publish, transfer, use, put or send into circulation, deliver or display.

(tt) Writing. Any computer software, document, letter, memorandum, note, paper, plate, data, film or other thing having in or upon it any written, type-written or printed matter, and any token, stamp, seal, credit card, badge, trademark, label or other symbol of value, right, privilege, license or identification.

(R.C. §§ 2909.01, 2913.01)

§ 642.02 POSSESSION OF MUNICIPAL PROPERTY.

(a) No person shall, without being authorized, have in his or her control or possession any equipment, tools, implements or other property belonging to the municipality.
(R.C. § 5589.12)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(R.C. § 5589.99(B))

§ 642.03 UNAUTHORIZED USE OF PROPERTY.

(a) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent.

(b) No person, in any manner and by any means, including but not limited to computer hacking, shall knowingly gain access to, attempt to gain access to, or cause access to be gained to any computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service or information service without the consent of, or beyond the scope of the express or implied consent of, the owner of the computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service or information service or other person authorized to give consent.

(c) No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the law enforcement automated

database system created pursuant to R.C. § 5503.10 without the consent of, or beyond the scope of the express or implied consent of, the chair of the Law Enforcement Automated Data System Steering Committee.

(d) The affirmative defenses contained in R.C. § 2913.03(C) are affirmative defenses to a charge under this section.

(e) Whoever violates division (a) of this section is guilty of unauthorized use of property. Except as otherwise provided in this division, unauthorized use of property is a misdemeanor of the fourth degree.

(1) If unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, unauthorized use of property is whichever of the following is applicable:

A. Except as otherwise provided below, unauthorized use of property is a misdemeanor of the first degree.

B. If the value of the property or services or the loss to the victim is $500 or more, it is a felony to be prosecuted under appropriate state law.

(2) If the victim of the offense is an elderly person or disabled adult, unauthorized use of property is a felony to be prosecuted under appropriate state law.

(f) Whoever violates division (b) of this section is guilty of unauthorized use of computer, cable or telecommunication property, a felony to be prosecuted under appropriate state law.

(g) Whoever violates division (c) of this section is guilty of unauthorized use of the law enforcement automated database system, a felony to be prosecuted under appropriate state law.

(h) For the purpose of this section, the following definitions shall apply unless the context

clearly indicates or requires a different meaning.

(1) Cable operator. Any person or group of persons that does either of the following:

A. Provides cable service over a cable system and directly through one or more affiliates owns a significant interest in that cable system;

B. Otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.

(2) Cable service. Any of the following:

A. The one-way transmission to subscribers of video programming or of information that a cable operator makes available to all subscribers generally;

B. Subscriber interaction, if any, that is required for the selection or use of video programming or of information that a cable operator makes available to all subscribers generally, both as described in division (f)(2)A. above;

C. Any cable television service.

(3) Cable system. Any facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community. Cable system does not include any of the following:

A. Any facility that serves only to retransmit the television signals of one or more television broadcast stations;

B. Any facility that serves subscribers without using any public right-of-way;

C. Any facility of a common carrier that, under 47 U.S.C. 522(7)(c), is excluded from the term Acable system as defined in 47 U.S.C. 522(7);

D. Any open video system that complies with 47 U.S.C. 573;

E. Any facility of any electric utility used solely for operating its electric utility system.

(R.C. § 2913.04)

Statutory reference:

Telecommunications: fraud and unlawful use of a device, felony offenses, see R.C. §§ 2913.05 and

2913.06

§ 642.04 INJURING VINES, BUSHES, TREES OR CROPS.

(a) No person, without privilege to do so, shall recklessly cut down, destroy, girdle or otherwise injure a vine, bush, shrub, sapling, tree or crop standing or growing on the land of another or upon public land.

(b) In addition to the penalty provided in division (c) of this section, whoever violates this section is liable in treble damages for the injury caused.
(R.C. § 901.51)

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
(R.C. § 901.99(A))

§ 642.05 DESECRATION.

(a) No person, without privilege to do so, shall purposely deface, damage, pollute or otherwise physically mistreat any of the following:

(1) Any public monument;

(2) Any historical or commemorative marker, or any structure, Indian mound or earthwork, cemetery, thing or site of great historical or archeological interest;

(3) A place of worship, its furnishings or religious artifacts or sacred texts within the place of worship or within the grounds upon which the place of worship is located;

(4) A work of art or museum piece;

(5) Any other object of reverence or sacred devotion.

(b) As used in this section, cemetery means any place of burial and includes burial sites that contain American Indian burial objects placed with or containing American Indian human remains.

(c) Whoever violates this section is guilty of desecration. A violation of division (a)(1), (a)(2), (a)(4) or (a)(5) of this section is a misdemeanor of the second degree. A violation of division (a)(3) of this section is a felony to be prosecuted under appropriate state law.
(R.C. § 2927.11)

§ 642.06 ARSON.

(a) No person, by means of fire or explosion, shall knowingly cause or create a substantial risk of physical harm to any property of another without the other person's consent.

(b) Whoever violates this section is guilty of arson. Except as otherwise provided in this division, violation of this section is a misdemeanor of the first degree. If the value of the property or the amount of physical harm involved is $500 or more, then the violation is a felony to be prosecuted under appropriate state law.
(R.C. § 2909.03)

Statutory reference:

Aggravated arson, felony provisions, see R.C. § 2909.02

Arson, felony provisions generally, see R.C. § 2909.03

Convicted arsonist to make restitution to public agency, see R.C. § 2929.28

§ 642.07 DETERMINING PROPERTY VALUE IN ARSON.

(a) The following criteria shall be used in determining the value of property or amount of physical harm involved in a violation of § 642.06:

(1) If the property is an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort, or money, the value of the property or the amount of physical harm involved is the amount that would compensate the owner for its loss.

(2) If the property is not covered under division (a)(1) of this section, and the physical harm is such that the property can be restored substantially to its former condition, the amount of physical harm involved is the reasonable cost of restoring the property.

(3) If the property is not covered under division (a)(1) of this section, and the physical harm is such that the property cannot be restored substantially to its former condition, the value of the property, in the case of personal property, is the cost of replacing the property with new property of like kind and quality, and in the case of real property or real property fixtures, is the difference in the fair market value of the property immediately before and immediately after the offense.

(b) As used in this section, fair market value has the same meaning as in R.C. § 2913.61.

(c) Prima facie evidence of the value of property, as provided in R.C. § 2913.61(D), may be used to establish the value of property pursuant to this section.
(R.C. § 2909.11(B) - (D))

§ 642.08 CRIMINAL DAMAGING OR ENDANGERING; VEHICULAR VANDALISM.

(a) *Criminal damaging or endangering.*

(1) No person shall cause or create a substantial risk of physical harm to any property of another without the other person's consent:

A. Knowingly, by any means; or

B. Recklessly, by means of fire, explosion, flood, poison gas, poison, radioactive material, caustic or corrosive material, or other inherently dangerous agency or substance.

(2) Whoever violates this division (a) is guilty of criminal damaging or endangering, a misdemeanor of the second degree. If violation of this division (a) creates a risk of physical harm to any person, criminal damaging or endangering is a misdemeanor of the first degree. If the property involved in a violation of this division (a) is an aircraft, an aircraft engine, propeller, appliance, spare part or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation creates a risk of physical harm to any person, criminal damaging or endangering is a felony to be prosecuted under appropriate state law. If the property involved in a violation of this division (a) is an aircraft, an aircraft engine, propeller, appliance, spare part or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation creates a substantial risk of physical harm to any person or if the property involved in a violation of this division (a) is an occupied aircraft, criminal damaging or endangering is a felony to be prosecuted under appropriate state law.
(R.C. § 2909.06)

(b) *Vehicular vandalism.*

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

A. Alley, street, and vehicle. Have the same meanings as in R.C. § 4511.01.

B. Highway. Any highway as defined in R.C. § 4511.01 or any lane, road, street, alley, bridge or overpass.

C. Vessel and waters in this state. Have the same meanings as in R.C. § 1547.01.

(2) No person shall knowingly, and by any means, drop or throw any object at, onto or in the path of any of the following:

A. Any vehicle on a highway;

B. Any boat or vessel on any of the waters in this state.

(3) Whoever violates this division (b) is guilty of vehicular vandalism. Except as otherwise provided in this division (b)(3), vehicular vandalism is a misdemeanor of the first degree. If the violation of this division (b) creates a substantial risk of physical harm to any person or the violation of this division (b) causes serious physical harm to property, vehicular vandalism is a felony to be prosecuted under appropriate state law. If the violation of this division (b) causes physical harm to any person or serious physical harm to any person, vehicular vandalism is a felony to be prosecuted under appropriate state law.

(R.C. § 2909.09)

Statutory reference:

Disrupting public services, felony offense, see R.C. § 2909.04

Railroad grade crossing device vandalism, see R.C. § 2909.101

Railroad vandalism, see R.C. § 2909.10

Vandalism, felony offense, see R.C. § 2909.05

§ 642.09 CRIMINAL MISCHIEF.

(a) No person shall:

(1) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with the property of another;

(2) With purpose to interfere with the use or enjoyment of property of another, employ a tear gas device, stink bomb, smoke generator or other device releasing a substance that is harmful or offensive to persons exposed, or that tends to cause public alarm;

(3) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with a bench mark, triangulation station, boundary marker or other survey station, monument or marker;

(4) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;

(5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure, or personal property that is on that land;

(6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software or computer program, knowingly do any of the following:

A. In any manner or by any means, including but not limited to computer hacking, alter, damage, destroy or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software or computer program;

B. Introduce a computer contaminant into a computer, computer system, computer network, computer software or computer program.

(b) As used in this section, Asafety device means any fire extinguisher, fire hose or fire axe, or any fire escape, emergency exit or emergency escape equipment, or any life line, life-saving ring, life preserver, or life boat or raft, or any alarm, light, flare, signal, sign or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal or gate, or any first aid or survival equipment, or any other device, apparatus or equipment intended for protecting or preserving the safety of persons or property.

(c) Whoever violates this section is guilty of criminal mischief, and shall be punished as provided in division (c)(1) or (c)(2) of this section.

(1) Except as otherwise provided in this division, criminal mischief committed in violation of division (a)(1), (a)(2), (a)(3), (a)(4) or (a)(5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this division, if the violation of division (a)(1), (a)(2), (a)(3), (a)(4) or (a)(5) of this section creates a risk of physical harm to any person, criminal mischief committed in violation of division (a)(1), (a)(2), (a)(3), (a)(4) or (a)(5) of this section is a misdemeanor of the first degree. If the property involved in the violation of division (a)(1), (a)(2), (a)(3), (a)(4) or (a)(5) of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft and if the violation creates any risk of physical harm to any person, or if the aircraft in question is an occupied aircraft, criminal mischief committed in violation of division (a)(1), (a)(2), (a)(3), (a)(4) or (a)(5) of this section is a felony to be prosecuted under appropriate state law.

(2) Except as otherwise provided in this division, criminal mischief committed in violation

of division (a)(6) of this section is a misdemeanor of the first degree. If the value of the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (a)(6) of this section or the loss to the victim resulting from the violation is $1,000 or more, or if the computer, computer system, computer network, computer software, computer program or data involved in the violation of division (a)(6) is used or intended to be used in the operation of an aircraft and the violation creates any risk of physical harm to any person, or if the aircraft in question is an occupied aircraft, criminal mischief committed in violation of division (a)(6) of this section is a felony to be prosecuted under appropriate state law.
(R.C. § 2909.07)

§ 642.10 CRIMINAL TRESPASS.

(a) No person, without privilege to do so, shall do any of the following:

(1) Knowingly enter or remain on the land or premises of another;

(2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;

(3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;

(4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to

do so by the owner or occupant, or the agent or servant of either.

(b) It is no defense to a charge under this section that the land or premises involved was owned, controlled, or in custody of a public agency.

(c) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved, when the authorization was secured by deception.

(d) Whoever violates division (a) of this section is guilty of criminal trespass, a misdemeanor of the fourth degree.

(e) As used in this section, land or premises includes any land, building, structure or place belonging to, controlled by or in custody of another, and any separate enclosure or room, or portion thereof.
(R.C. § 2911.21)

(f) *Criminal trespass on a place of public amusement.*

(1) As used in this division (f), Aplace of public amusement means a stadium, theater or other facility, whether licensed or not, at which a live performance, sporting event or other activity takes place for entertainment of the public and to which access is made available to the public, regardless of whether admission is charged.

(2) No person, without privilege to do so, shall knowingly enter or remain on any restricted portion of a place of public amusement and, as a result of that conduct, interrupt or cause the delay of the live performance, sporting event, or other activity taking place at the place of public amusement after a printed written notice has been given as provided in division (f)(4)A. of this section that the general public is

restricted from access to that restricted portion of the place of public amusement. A restricted portion of a place of public amusement may include but is not limited to a playing field, an athletic surface or a stage located at the place of public amusement.

(3) An owner or lessee of a place of public amusement, an agent of the owner or lessee, or a performer or participant at a place of public amusement may use reasonable force to restrain and remove a person from a restricted portion of the place of public amusement if the person enters or remains on the restricted portion of the place of public amusement and, as a result of that conduct, interrupts or causes the delay of the live performance, sporting event or other activity taking place at the place of public amusement. This division does not provide immunity from criminal liability for any use of force beyond reasonable force by an owner or lessee of a place of public amusement, an agent of either the owner or lessee, or a performer or participant at a place of public amusement.

(4) A. Notice has been given that the general public is restricted from access to a portion of a place of public amusement if a printed written notice of the restricted access has been conspicuously posted or exhibited at the entrance to that portion of the place of public amusement. If a printed written notice is posted or exhibited as described in this division regarding a portion of a place of public amusement, in addition to that posting or exhibition, notice that the general public is restricted from access to that portion of the place of public amusement also may be given, but is not required to be given, by either of the following means:

1. By notifying the person personally, either orally or in writing, that access to that portion of the place of public amusement is restricted;
2. By broadcasting over the public address system of the place of public amusement an oral warning that access to that portion of the place of

public amusement is restricted.

B. If notice that the general public is restricted from access to a portion of a place of public amusement is provided by the posting or exhibition of a printed written notice as described in division (f)(4)A. of this section, the municipality, in a criminal prosecution for a violation of division (f)(2) of this section, is not required to prove that the defendant received actual notice that the general public is restricted from access to a portion of a place of public amusement.

(5) A. Whoever violates division (f)(2) of this section is guilty of criminal trespass on a place of public amusement, a misdemeanor of the first degree.

B. In addition to any jail term, fine or other sentence, penalty or sanction it imposes upon the offender pursuant to division (f)(5)A. of this section, a court may require an offender who violates this section to perform not less than 30 and not more than 120 hours of supervised community service work.

(R.C. § 2911.23)

§ 642.11 AGGRAVATED TRESPASS.

(a) No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to him or her.

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

(R.C. § 2911.211)

§ 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. Chapter 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 police dog or horse or the assistance dog that was the subject of the violation or resulted in serious physical harm to that dog or horse 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. Chapter 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.

(1) Assistance dog, blind and mobility impaired person. Have the same meaning as in R.C. § 955.011.

(2) Physical harm. Any injury, illness or other psychological impairment, regardless of its

gravity or duration.

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

(4) Serious physical harm. Any of the following:

A. Any physical harm that carries a substantial risk of death.

B. Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming.

C. Any physical harm that causes acute pain of a duration that results in substantial suffering.

(R.C. § 2921.321)

CHAPTER 648: PEACE DISTURBANCES

648.01 Riot
648.02 Failure to disperse
648.03 Justifiable use of force to suppress riot
648.04 Disorderly conduct
648.05 Disturbing a lawful meeting
648.06 Misconduct at an emergency
648.07 Inducing panic
648.08 Making false alarms
648.09 Inciting to violence

Cross-reference:

Arson, see § 642.06

Assault, see §§ 636.03, 636.04

Barking or howling dogs, see § 618.07

Deadly force defined, see § 606.01

Definitions generally, see § 606.01

Desecration, see § 642.05

Detention of shoplifters and those committing motion picture piracy; protection of institutional property, see § 654.17

Fireworks, see § 678.12

Force defined, see § 606.01

Interfering with civil rights, see § 654.13

Liquor sale to intoxicated person, see § 612.03

Menacing, see §§ 636.05 et seq.

Noisy mufflers, see § 438.22

Peeling; cracking exhaust noises, see § 432.38

Pointing and discharging firearms and other weapons, see § 678.10

Resisting arrest, see § 654.08

Sirens, whistles and bells on motor vehicles, see § 438.21

Trespass, see §§ 642.10, 642.11

Statutory reference:

Cordoning off riot areas; prohibiting sales of firearms and explosives, see R.C. § 3761.16

Power to regulate peace disturbances, see R.C. § 715.49

Riot and civil disorder assistance by State Highway Patrol, see R.C. § 5503.02

Suspension of beer and liquor sales during emergency, see R.C. § 4301.251

§ 648.01 RIOT.

(a) No person shall participate with four or more others in a course of disorderly conduct in violation of R.C. § 2917.11 or a substantially equivalent municipal ordinance:

(1) With purpose to commit or facilitate the commission of a misdemeanor, other than disorderly conduct;

(2) With purpose to intimidate a public official or employee into taking or refraining from official action, or with purpose to hinder, impede or obstruct a function of government;

(3) With purpose to hinder, impede or obstruct the orderly process of administration or instruction at an educational institution, or to interfere with or disrupt lawful activities carried on at the institution.

(b) No person shall participate with four or more others with purpose to do an act with unlawful force or violence, even though the act might otherwise be lawful.

(c) Whoever violates this section is guilty of riot, a misdemeanor of the first degree.
(R.C. § 2917.03)

(d) For the purposes of prosecuting violations of this section, the prosecution is not required to allege or prove that the offender expressly agreed with four or more others to commit any act that constitutes a violation this section prior to or while committing those acts.
(R.C. § 2917.031)

Statutory reference:

Aggravated riot, felony provisions, see R.C. § 2917.02

§ 648.02 FAILURE TO DISPERSE.

(a) Where five or more persons are participating in a course of disorderly conduct in violation of R.C. § 2917.11 or a substantially equivalent municipal ordinance, and there are other persons in the vicinity whose presence creates the likelihood of physical harm to persons or property or of serious public inconvenience, annoyance or alarm, a law enforcement officer or other public official may order the participants and the other persons to disperse. No person shall knowingly fail to obey the order.

(b) Nothing in this section requires persons to disperse who are peaceably assembled for a lawful purpose.

(c) (1) Whoever violates this section is guilty of failure to disperse.

(2) Except as otherwise provided in division (c)(3) of this section, failure to disperse is a minor misdemeanor.

(3) Failure to disperse is a misdemeanor of the fourth degree if the failure to obey the order described in division (a) of this section creates the likelihood of physical harm to persons or is committed at the scene of a fire, accident, disaster, riot or emergency of any kind.

(R.C. § 2917.04)

§ 648.03 JUSTIFIABLE USE OF FORCE TO SUPPRESS RIOT.

A law enforcement officer or firefighter engaged in suppressing a riot or in protecting persons or property during a riot:

(a) Is justified in using force, other than deadly force, when and to the extent he or she has probable cause to believe such force is necessary to disperse or apprehend rioters;

(b) Is justified in using force, including deadly force, when and to the extent he or she has probable cause to believe such force is necessary to disperse or apprehend rioters whose conduct is creating a substantial risk of serious physical harm to persons.
(R.C. § 2917.05)

§ 648.04 DISORDERLY CONDUCT.

(a) No person shall recklessly cause inconvenience, annoyance or alarm to another, by doing any of the following:

(1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;

(2) Making unreasonable noise or an offensively coarse utterance, gesture or display, or communicating unwarranted and grossly abusive language to any person;

(3) Insulting, taunting or challenging another, under circumstances in which that conduct is likely to provoke a violent response;

(4) Hindering or preventing the movement of persons on a public street, road, highway or right-of-way, or to, from, within or upon public or private property, so as to interfere with the rights of others, and by any act that serves no lawful and reasonable purpose of the offender;

(5) Creating a condition that is physically offensive to persons or that presents a risk of physical harm to persons or property, by any act that serves no lawful and reasonable purpose of the offender.

(b) No person while voluntarily intoxicated shall do either of the following:

(1) In a public place or in the presence of two or more persons, engage in conduct likely to be offensive or to cause inconvenience, annoyance or alarm to persons of ordinary

sensibilities, which conduct the offender, if he or she were not intoxicated, should know is likely to have that effect on others;

(2) Engage in conduct or create a condition that presents a risk of physical harm to himself, herself or another, or to the property of another.

(c) Violation of any statute or ordinance of which an element is operating a motor vehicle, locomotive, watercraft, aircraft or other vehicle while under the influence of alcohol or any drug of abuse is not a violation of division (b) of this section.

(d) If a person appears to an ordinary observer to be intoxicated, it is probable cause to believe that the person is voluntarily intoxicated for purposes of division (b) of this section.

(e) Whoever violates this section is guilty of disorderly conduct.

(1) Except as otherwise provided in division (e)(2) of this section, disorderly conduct is a minor misdemeanor.

(2) Disorderly conduct is a misdemeanor of the fourth degree if any of the following applies:

A. The offender persists in disorderly conduct after reasonable warning or request to desist.

B. The offense is committed in the vicinity of a school or in a school safety zone.

C. The offense is committed in the presence of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person or other authorized person who is engaged in the person's duties at the scene of a fire, accident, disaster, riot or emergency of any kind.

D. The offense is committed in the presence of any emergency facility person who is engaged in the person's duties in an emergency facility.

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

(1) Committed in the vicinity of a school. Has the same meaning as in R.C. § 2925.01.

(2) Emergency facility. Has the same meaning as in R.C. § 2909.04.

(3) Emergency facility person. The singular of emergency facility personnel as defined in R.C. § 2909.04.

(4) Emergency medical services person. The singular of emergency medical services personnel as defined in R.C. § 2133.21.

(R.C. § 2917.11)

§ 648.05 DISTURBING A LAWFUL MEETING.

(a) No person, with purpose to prevent or disrupt a lawful meeting, procession or gathering, shall do either of the following:

(1) Do any act which obstructs or interferes with the due conduct of the meeting, procession or gathering.

(2) Make any utterance, gesture or display which outrages the sensibilities of the group.

(b) Whoever violates this section is guilty of disturbing a lawful meeting, a misdemeanor of the fourth degree.

(R.C. § 2917.12)

§ 648.06 MISCONDUCT AT AN EMERGENCY.

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

(1) Hamper the lawful operations of any law enforcement officer, firefighter, rescuer,

medical person, emergency medical services person or other authorized person engaged in the person's duties at the scene of a fire, accident, disaster, riot or emergency of any kind;

(2) Hamper the lawful activities of any emergency facility person who is engaged in the person's duties in an emergency facility;

(3) Fail to obey the lawful order of any law enforcement officer engaged in the law enforcement officer's duties at the scene of or in connection with a fire, accident, disaster, riot or emergency of any kind.

(b) Nothing in this section shall be construed to limit access or deny information to any news media representative in the lawful exercise of the news media representative's duties.

(c) Whoever violates this section is guilty of misconduct at an emergency. Except as otherwise provided in this division, misconduct at an emergency is a misdemeanor of the fourth degree. If violation of this section creates a risk of physical harm to persons or property, misconduct at an emergency is a misdemeanor of the first degree.

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

(1) Emergency facility. Has the same meaning as in R.C. § 2909.04.

(2) Emergency facility person. The singular of emergency facility personnel as defined in R.C. § 2909.04.

(3) Emergency medical services person. The singular of emergency medical services personnel as defined in R.C. § 2133.21.

(R.C. § 2917.13)

§ 648.07 INDUCING PANIC.

(a) No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:

(1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that the report or warning is false.

(2) Threatening to commit any offense of violence.

(3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

(b) Division (a)(1) of this section does not apply to any person conducting an authorized fire or emergency drill.

(c) (1) Whoever violates this section is guilty of inducing panic.

(2) Except as otherwise provided in division (c)(3), inducing panic is a misdemeanor of the first degree.

(3) If a violation of this section results in physical harm to any person, inducing panic is a felony to be prosecuted under appropriate state law. If a violation of this section results in economic harm of $500 or more, inducing panic is a felony to be prosecuted under appropriate state law. If the public place involved in a violation of division (a)(1) is a school or an institution of higher education, inducing panic is a felony to be prosecuted under appropriate state law. If a violation of this section pertains to a purported, threatened or actual use of a weapon of mass destruction, inducing panic is a felony to be prosecuted under appropriate state law.

(d) (1) It is not a defense to a charge under this section that pertains to a purported or threatened use of a weapon of mass destruction that the offender did not possess or

have the ability to use a weapon of mass destruction or that what was represented to be a weapon of mass destruction was not a weapon of mass destruction.

(2) Any act that is a violation of this section and any other section of the Ohio Revised Code or these Codified Ordinances may be prosecuted under this section, the other section, or both sections.

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

(1) Biological agent. Has the same meaning as in R.C. § 2917.33.

(2) Economic harm. Any of the following:

A. All direct, incidental and consequential pecuniary harm suffered by a victim as a result of the criminal conduct. Economic harm as described in this division includes but is not limited to all of the following:

1. All wages, salaries or other compensation lost as a result of the criminal conduct;
2. The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
3. The overhead costs incurred from the time that a business is shut down as a result of the criminal conduct;
4. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

B. All costs incurred by the state or any political subdivision as a result of, or in making any response to, the criminal conduct that constituted the violation of this section or R.C. § 2917.32, or any substantially equivalent municipal ordinance, including but not limited to all costs so incurred by any law

enforcement officers, firefighters, rescue personnel or emergency medical services personnel of the state or the political subdivision.

(3) Emergency medical services personnel. Has the same meaning as in R.C. § 2133.21.

(4) Institution of higher education. Any of the following:

A. A state university or college as defined in R.C. § 3345.12(A)(1), community college, state community college, university branch or technical college;

B. A private, nonprofit college, university or other post-secondary institution located in this state that possesses a certificate of authorization issued by the Ohio Board of Regents pursuant to R.C. Chapter 1713;

C. A post-secondary institution with a certificate of registration issued by the State Board of Career Colleges and Schools pursuant to R.C. Chapter 3332.

(5) School. Any school operated by a board of education or any school for which the State Board of Education 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 violation of this section is committed.

(6) Weapon of mass destruction. Any of the following:

A. Any weapon that is designed or intended to cause death or serious physical harm through the release, dissemination or impact of toxic or poisonous chemicals, or other precursors;

B. Any weapon involving a disease organism or biological agent;

C. Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life;

D. Any of the following, except to the extent that the item or device in question is expressly excepted from the definition of destructive device pursuant to 18 U.S.C. 921(a)(4) and regulations issued under that section:

1. Any explosive, incendiary or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine or similar device;
2. Any combination of parts either designed or intended for use in converting any item or device into any item or device described in division D.1. of this definition and from which an item or device described in that division may be readily assembled.

   (R.C. § 2917.31)

§ 648.08 MAKING FALSE ALARMS.

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

(1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm.

(2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property.

(3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that the offense did not occur.

(b) This section does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of making false alarms. Except as otherwise provided in this division, making false alarms is a misdemeanor of the first degree. If a violation of this section results in economic harm of $500 or more, making false alarms is a felony to be prosecuted under appropriate state law. If a violation of this section pertains to a purported,

threatened, or actual use of a weapon of mass destruction, making false alarms is a felony to be prosecuted under appropriate state law.

(d) (1) It is not a defense to a charge under this section that pertains to a purported or threatened use of a weapon of mass destruction that the offender did not possess or have the ability to use a weapon of mass destruction or that what was represented to be a weapon of mass destruction was not a weapon of mass destruction.

(2) Any act that is a violation of this section and any other section of the Ohio Revised Code or these Codified Ordinances may be prosecuted under this section, the other section, or both sections.

(e) As used in this section, economic harm and Aweapon of mass destruction have the same meaning as in R.C. § 2917.31.

(R.C. § 2917.32)

§ 648.09 INCITING TO VIOLENCE.

(a) No person shall knowingly engage in conduct designed to urge or incite another to commit any offense of violence when either of the following apply:

(1) The conduct takes place under circumstances that create a clear and present danger that any offense of violence will be committed.

(2) The conduct proximately results in the commission of any offense of violence.

(b) Whoever violates this section is guilty of inciting to violence. If the offense of violence that the other person is being urged or incited to commit is a misdemeanor, inciting to violence is a misdemeanor of the first degree. If the offense of violence that the other person is being urged or incited to commit is a felony, inciting to violence is a felony to be prosecuted under appropriate state

law.

(R.C. § 2917.01)

CHAPTER 654: ADMINISTRATION, ENFORCEMENT AND PUBLIC SERVICE

654.01 Falsification
654.02 False report of child abuse or neglect
654.03 Compounding a crime
654.04 Failure to report a crime or death
654.05 Failure to aid a law enforcement officer
654.06 Obstructing official business
654.07 Obstructing justice
654.08 Resisting arrest
654.09 Compliance with lawful order of police officer; fleeing
654.10 Having an unlawful interest in a public contract
654.11 Soliciting or receiving improper compensation
654.12 Dereliction of duty
654.13 Interfering with civil rights
654.14 Impersonating an officer
654.15 Display of law enforcement agency emblem
654.16 Disposition of unclaimed or forfeited property held by Police Department
654.17 Detention of shoplifters and those committing motion picture piracy; protection of institutional property
654.18 Failure to disclose personal information
654.19 Misuse of 9-1-1 system
654.20 Using sham legal process

Statutory reference:

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

Cross-reference:

Declaratory judgment in sex related offenses, see § 666.15

Injunction and abatement of nuisance in sex related offenses, see § 666.16

Justifiable use of force to suppress riot, see § 648.03

License or permit to possess dangerous ordnance, see § 678.06

Making false alarms, see § 648.08

Misconduct at an emergency, see § 648.06

Penalties and sentencing, see Ch. 698

Rabies quarantine, see § 618.12

Registration of dogs, see § 618.08

Rules of evidence in sex related offenses, see § 666.10

§ 654.01 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.

(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; 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 with purpose to obtain an Ohio's best Rx program enrollment card under R.C. § 173.773 or payment under R.C. § 173.801.

(15) 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 license to carry a concealed handgun or is made in an affidavit submitted to a County Sheriff to obtain a temporary emergency license to carry a concealed handgun under R.C. § 2923.1213.

(16) 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.

(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 license to carry a concealed handgun 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 R.C. § 2923.125(B)(3).

(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), (a)(14) or (a)(16) of this section is guilty of falsification, a misdemeanor of the first degree.

(2) Whoever violates division (a)(9) of this section is guilty of falsification in a theft offense. Except as otherwise provided in this division, falsification in a theft offense is a misdemeanor of the first degree. If the value of the property or services stolen is $500 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)(15) or (c) of this section is guilty of falsification to obtain a concealed handgun license, a felony to be prosecuted under appropriate state law.

(R.C. § 2921.13)

(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 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.

(R.C. § 4509.102)

§ 654.02 FALSE REPORT OF CHILD ABUSE OR NEGLECT.

(a) No person shall knowingly make or cause another person to make a false report under R.C. § 2151.421(B) alleging that any person has committed an act or omission that resulted in a child being an abused child as defined in R.C. § 2151.031 or a neglected child as defined in R.C. § 2151.03.

(b) Whoever violates this section is guilty of making or causing a false report of child abuse or child neglect, a misdemeanor of the first degree.

(R.C. § 2921.14)

§ 654.03 COMPOUNDING A CRIME.

(a) No person shall knowingly demand, accept or agree to accept anything of value in consideration of abandoning or agreeing to abandon a pending criminal prosecution.

(b) It is an affirmative defense to a charge under this section when both of the following apply:

(1) The pending prosecution involved is for a violation of R.C. § 2913.02, § 2913.11, § 2913.21(B)(2) or § 2913.47, or a substantially equivalent municipal ordinance, of which the actor under this section was the victim.

(2) The thing of value demanded, accepted or agreed to be accepted, in consideration of abandoning or agreeing to abandon the prosecution, did not exceed an amount that the actor reasonably believed due him or her as restitution for the loss caused him or her by the offense.

(c) When a prosecuting witness abandons or agrees to abandon a prosecution under division (b) of this section, the abandonment or agreement in no way binds the state to abandoning the prosecution.

(d) Whoever violates this section is guilty of compounding a crime, a misdemeanor of the first degree.
(R.C. § 2921.21)

§ 654.04 FAILURE TO REPORT A CRIME OR DEATH.

(a) No person, knowing that a felony has been or is being committed, shall knowingly fail to report the information to law enforcement authorities.

(b) Except for conditions that are within the scope of division (e) of this section, no person who is a physician, limited practitioner, nurse or other person giving aid to a sick or injured person shall negligently fail to report to law enforcement authorities any gunshot or stab wound that the person treated or observed, or any serious physical harm to other persons that the person knows or has reasonable cause to believe resulted from an offense of violence.

(c) No person who discovers a body or acquires the first knowledge of the death of a person shall fail to report the death immediately to a physician whom the person knows to be treating the deceased for a condition from which death at that time would not be unexpected, or to a law enforcement officer, ambulance service, emergency squad or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained.

(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 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 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 those actions. Notwithstanding R.C. § 4731.22, the physician-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted pursuant to division (e) of this section.

(f) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, registered or licensed practical nurse, psychologist, social worker, independent social worker, social work assistant, professional clinical counselor or professional counselor 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 shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted pursuant to division (f)(1), and the information may be admitted as evidence in

accordance with the Rules of Evidence.

(g) Division (a) or (d) of this section does not require disclosure of information, when any of the following applies:

(1) The information is privileged by reason of the relationship between attorney and client, doctor and patient, licensed psychologist or licensed school psychologist and client, member of the clergy or rabbi or minister or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister or priest for a religious counseling purpose in the professional character of the member of the clergy, rabbi, minister or priest, husband and wife, or a communications assistant and those who are a party to a telecommunications relay service call.

(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 organization certified pursuant to R.C. § 3793.06.

(6) Disclosure would amount to revealing information acquired by the actor in the course of his or her duties in connection with a bona fide program for providing counseling

services to victims of crimes that are violations of 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, Acounseling services include services provided in an informal setting by a person who, by education or experience, is competent to provide those services.

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

(i) Whoever violates division (a) or (b) of this section is guilty of failure to report a crime. Violation of division (a) of this section is a misdemeanor of the fourth degree. Violation of division (b) of this section is a misdemeanor of the second degree.

(j) Whoever violates division (c) or (d) of this section is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.

(k) (1) Whoever negligently violates division (e) of this section is guilty of a minor misdemeanor.

(2) Whoever knowingly violates division (e) of this section is guilty of a misdemeanor of the second degree.

(R.C. § 2921.22)

§ 654.05 FAILURE TO AID A LAW ENFORCEMENT OFFICER.

(a) No person shall negligently fail or refuse to aid a law enforcement officer, when called upon for assistance in preventing or halting the commission of an offense, or in apprehending or detaining an offender, when the aid can be given without a substantial risk of physical harm to the

person giving it.

(b) Whoever violates this section is guilty of failure to aid a law enforcement officer, a minor misdemeanor.
(R.C. § 2921.23)

§ 654.06 OBSTRUCTING OFFICIAL BUSINESS.

(a) 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.

(b) Whoever violates this section is guilty of obstructing official business. Except as otherwise provided in this division, obstructing official business is a misdemeanor of the second degree. If a violation of this section creates a risk of physical harm to any person, obstructing official business is a felony to be prosecuted under appropriate state law.
(R.C. § 2921.31)

§ 654.07 OBSTRUCTING JUSTICE.

(a) No person, with purpose to hinder the discovery, apprehension, prosecution, conviction or punishment of another for crime, or to assist another to benefit from the commission of a crime, and no person, with purpose to hinder the discovery, apprehension, prosecution, adjudication as a delinquent child, or disposition of a child for an act that if committed by an adult would be a crime or to assist a child to benefit from the commission of an act that if committed by an adult would be

a crime, shall do any of the following:

(1) Harbor or conceal the other person or child.

(2) Provide the other person or child with money, transportation, a weapon, a disguise or other means of avoiding discovery or apprehension.

(3) Warn the other person or child of impending discovery or apprehension.

(4) Destroy or conceal physical evidence of the crime or act, or induce any person to withhold testimony or information or to elude legal process summoning him or her to testify or supply evidence.

(5) Communicate false information to any person.

(6) Prevent or obstruct any person, by means of force, intimidation or deception, from performing any act to aid in the discovery, apprehension or prosecution of the other person or child.

(b) A person may be prosecuted for, and may be convicted of or adjudicated a delinquent child for committing, a violation of division (a) of this section regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to or is adjudicated a delinquent child for committing the crime or act the person or child aided committed. The crime or act the person or child aided committed shall be used under division (c) of this section in determining the penalty for violation of division (a) of this section, regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to or is adjudicated a delinquent child for committing the crime or act the person or child aided committed.

(c) Whoever violates this section is guilty of obstructing justice.

(1) If the crime committed by the person aided is a misdemeanor or if the act committed by the child aided would be a misdemeanor if committed by an adult, obstructing

justice is a misdemeanor of the same degree as the crime committed by the person aided or a misdemeanor of the same degree that the act committed by the child aided would be if committed by an adult.

(2) If the crime committed by the person aided is a felony or if the act committed by the child aided would be a felony if committed by an adult, or if the crime or act committed by the person or child aided is an act of terrorism, obstructing justice is a felony to be prosecuted under appropriate state law.

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

(1) Act of terrorism. Has the same meaning as in R.C. § 2909.21.

(2) Adult and child. Have the same meaning as in R.C. § 2151.011.

(3) Delinquent child. Has the same meaning as in R.C. § 2152.02.

(R.C. § 2921.32)

§ 654.08 RESISTING ARREST.

(a) No person, recklessly or by force, shall resist or interfere with a lawful arrest of himself, herself or another.

(b) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another person and, during the course of or as a result of the resistance or interference, cause physical harm to a law enforcement officer.

(c) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another person if either of the following applies:

(1) The offender, during the course of or as a result of the resistance or interference, recklessly causes physical harm to a law enforcement officer by means of a deadly weapon; or

(2) The offender, during the course of the resistance or interference, brandishes a deadly weapon.

(d) Whoever violates this section is guilty of resisting arrest. A violation of division (a) of this section is a misdemeanor of the second degree. A violation of division (b) of this section is a misdemeanor of the first degree. A violation of division (c) of this section is a felony to be prosecuted under appropriate state law.

(e) As used in this section, deadly weapon has the same meaning as in R.C. § 2923.11. (R.C. § 2921.33)

Statutory reference:

Unlawful taking of deadly weapon from law enforcement officer, felony, see R.C. § 2911.01

§ 654.09 COMPLIANCE WITH LAWFUL ORDER OF POLICE OFFICER; FLEEING.

(a) No person shall fail to comply with any lawful order or direction of any police officer invested with authority to direct, control or regulate traffic.

(b) No person shall operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop.

(c) (1) Whoever violates this section is guilty of failure to comply with an order or signal of a police officer.

(2) A violation of division (a) of this section is a misdemeanor of the first degree.

(3) Except as provided in divisions (c)(4) and (c)(5) of this section, a violation of division (b) of this section is a misdemeanor of the first degree.

(4) Except as provided in division (c)(5) of this section, a violation of division (b) of this section is a felony and shall be prosecuted under appropriate state law if the jury or judge as trier of fact finds by proof beyond a reasonable doubt that in committing the offense, the offender was fleeing immediately after the commission of a felony.

(5) A. A violation of division (b) of this section is a felony and shall be prosecuted under appropriate state law if the jury or judge as trier of fact finds any of the following by proof beyond a reasonable doubt:

1. The operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property.
2. The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.

B. If a police officer pursues an offender who is violating division (b) of this section and division (c)(5)A. of this section applies, the sentencing court, in determining the seriousness of an offender's conduct for purposes of sentencing the offender for a violation of division (b) of this section, shall consider, along with the factors set forth in R.C. §§ 2929.12 and 2929.13 that are required to be considered, all of the following:

1. The duration of the pursuit;
2. The distance of the pursuit;
3. The rate of speed at which the offender operated the motor vehicle during the pursuit;
4. Whether the offender failed to stop for traffic lights or stop signs during the pursuit;

5. The number of traffic lights or stop signs for which the offender failed to stop during the pursuit;
6. Whether the offender operated the motor vehicle during the pursuit without lighted lights during a time when lighted lights are required;
7. Whether the offender committed a moving violation during the pursuit;
8. The number of moving violations the offender committed during the pursuit;
9. Any other relevant factors indicating that the offender's conduct is more serious than conduct normally constituting the offense.

(d) In addition to any other sanction imposed for a violation of this section, the court shall impose a class two suspension from the range specified in R.C. § 4510.02(A)(2). If the offender previously has been found guilty of an offense under this section or under R.C. § 2921.331, the court shall impose a class one suspension as described in R.C. § 4510.02(A)(1). The court shall not grant limited driving privileges to the offender. No judge shall suspend the first three years of suspension under a class two suspension of an offender's license, permit or privilege required by this division or any portion of the suspension under a class one suspension of an offender's license, permit or privilege required by this division.

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

(1) AMoving violation. Has the same meaning as in R.C. § 2743.70.

(2) APolice officer. Has the same meaning as in R.C. § 4511.01.

(R.C. § 2921.331(A) - (C), (E), (F))

§ 654.10 HAVING AN UNLAWFUL INTEREST IN A PUBLIC CONTRACT.

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

(1) Authorize or employ the authority of the public official's office to secure authorization of any public contract in which the public official, a member of the public official's family, or any of the public official's business associates has an interest.

(2) Authorize or employ the authority or influence of the public official's office to secure the investment of public funds in any share, bond, mortgage or other security with respect to which the public official, a member of the public official's family or any of the public official's business associates either has an interest, is an underwriter or receives any brokerage, origination or servicing fees.

(3) During the public official's term of office or within one year thereafter, occupy any position of profit in the prosecution of a public contract authorized by the public official or by a legislative body, commission or board of which the public official was a member at the time of authorization, unless the contract was let by competitive bidding to the lowest and best bidder.

(4) Have an interest in the profits or benefits of a public contract entered into by or for the use of the political subdivision or governmental agency or instrumentality with which the public official is connected.

(5) Have an interest in the profits or benefits of a public contract that is not let by competitive bidding when required by law, and that involves more than $150.

(b) In the absence of bribery or a purpose to defraud, a public official, member of a public official's family or any of a public official's business associates shall not be considered as having an interest in a public contract or the investment of public funds, if all of the following apply:

(1) The interest of that person is limited to owning or controlling shares of the corporation, or being a creditor of the corporation or other organization, that is the contractor on the public contract involved, or that is the issuer of the security in

which public funds are invested.

(2) The shares owned or controlled by that person do not exceed 5% of the outstanding shares of the corporation, and the amount due that person as creditor does not exceed 5% of the total indebtedness of the corporation or other organization.

(3) That person, prior to the time the public contract is entered into, files with the political subdivision or governmental agency or instrumentality involved, an affidavit giving that person's exact status in connection with the corporation or other organization.

(c) This section does not apply to a public contract in which a public official, member of a public official's family, or one of a public official's business associates has an interest, when all of the following apply:

(1) The subject of the public contract is necessary supplies or services for the political subdivision or governmental agency or instrumentality involved.

(2) The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the political subdivision or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public official's becoming associated with the political subdivision or governmental agency or instrumentality involved.

(3) The treatment accorded the political subdivision or governmental agency or instrumentality is either preferential to or the same as that accorded other customers or clients in similar transactions.

(4) The entire transaction is conducted at arm's length, with full knowledge by the political subdivision or governmental agency or instrumentality involved, of the interest of the public official, member of the public official's family, or business associate, and the public official takes no part in the deliberations or decision of the political subdivision or governmental agency or instrumentality with respect to the public

contract.

(d) Division (a)(4) of this section does not prohibit participation by a public employee in any housing program funded by public moneys if the public employee otherwise qualifies for the program and does not use the authority or influence of the public employee's office or employment to secure benefits from the program and if the moneys are to be used on the primary residence of the public employee. This participation does not constitute an unlawful interest in a public contract in violation of this section.

(e) Whoever violates this section is guilty of having an unlawful interest in a public contract. Violation of division (a)(1) or (a)(2) of this section is a felony to be prosecuted under appropriate state law. Violation of division (a)(3), (a)(4) or (a)(5) of this section is a misdemeanor of the first degree.

(f) It is not a violation of this section for a prosecuting attorney to appoint assistants and employees in accordance with R.C. §§ 309.06 and 2921.421, or for a chief legal officer of a municipality or an official designated as prosecutor in a municipality to appoint assistants and employees in accordance with R.C. §§ 733.621 and 2921.421, or for a township law director appointed under R.C. § 504.15 to appoint assistants and employees in accordance with R.C. §§ 504.151 and 2921.421.

(g) Any public contract in which a public official, a member of the public official's family or any of the public official's business associates has an interest in violation of this section is void and unenforceable. Any contract securing the investment of public funds in which a public official, a member of the public official's family or any of the public official's business associates has an interest, is an underwriter or receives any brokerage, origination or servicing fees and that was entered into in violation of this section is void and unenforceable.

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

(1) Chief legal officer. Has the same meaning as in R.C. § 733.621.

(2) Public contract. Any of the following:

A. The purchase or acquisition, or a contract for the purchase or acquisition, of property or services by or for the use of the state or any of its political subdivisions, or any agency or instrumentality of either, including the employment of an individual by the state, any of its political subdivisions, or any agency or instrumentality of either.

B. A contract for the design, construction, alteration, repair or maintenance of any public property.

(R.C. § 2921.42)

§ 654.11 SOLICITING OR RECEIVING IMPROPER COMPENSATION.

(a) No public servant shall knowingly solicit or accept and no person shall knowingly promise or give to a public servant either of the following:

(1) Any compensation, other than as allowed by R.C. § 102.03(G), (H), (I) or other provisions of law, to perform the public servant's official duties, to perform any other act or service in the public servant's public capacity, for the general performance of the duties of the public servant's public office or public employment, or as a supplement to the public servant's public compensation.

(2) Additional or greater fees or costs than are allowed by law to perform the public servant's official duties.

(b) No public servant for the public servant's own personal or business use and no person for the person's own personal or business use or for the personal or business use of a public servant or party official, shall solicit or accept anything of value in consideration of either of the following:

(1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency.

(2) Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion or other material aspects of employment.

(c) No person for the benefit of a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity shall coerce any contribution in consideration of either of the following:

(1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency.

(2) Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion or other material aspects of employment.

(d) Whoever violates this section is guilty of soliciting improper compensation, a misdemeanor of the first degree.

(e) A public servant who is convicted of a violation of this section is disqualified from holding any public office, employment or position of trust in this state for a period of seven years from the date of conviction.

(f) Divisions (a), (b) and (c) of this section do not prohibit any person from making voluntary

contributions to a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity or prohibit a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity from accepting voluntary contributions.
(R.C. § 2921.43)

§ 654.12 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 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) As used in this section, Apublic servant includes an officer or employee of a contractor as defined in R.C. § 9.08.
(R.C. § 2921.44)

§ 654.13 INTERFERING WITH CIVIL RIGHTS.

(a) No public servant, under color of his or her office, employment or authority, shall knowingly deprive, conspire or attempt to deprive any person of a constitutional or statutory right.

(b) Whoever violates this section is guilty of interfering with civil rights, a misdemeanor of the first degree.
(R.C. § 2921.45)

§ 654.14 IMPERSONATING AN OFFICER.

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

(1) AFederal law enforcement officer. An employee of the United States who serves in a position the duties of which are primarily the investigation, apprehension or detention of individuals suspected or convicted of offenses under the criminal laws of the United States.

(2) Impersonate. To act the part of, assume the identity of, wear the uniform or any part of the uniform of, or display the identification of a particular person or of a member of a class of persons with purpose to make another person believe that the actor is that particular person or is a member of that class of persons.

(3) Investigator of the Bureau of Criminal Identification and Investigation. Has the same meaning as in R.C. § 2903.11.

(4) Peace officer. A Sheriff, Deputy Sheriff, Marshal, Deputy Marshal, member of the organized police department of a municipal corporation or township constable, who is employed by a political subdivision of this state, a member of a police force employed by a metropolitan housing authority under R.C. § 3735.31(D), a member of a police force employed by a regional transit authority under R.C. § 306.35(Y), a state university law enforcement officer appointed under R.C. § 3345.04, a veterans' home police officer appointed under R.C. § 5907.02, a special police officer employed by a port authority under R.C. § 4582.04 or § 4582.28, or a State Highway Patrol trooper and whose primary duties are to preserve the peace, to protect life and property and to enforce the laws, ordinances or rules of the state or any of its political subdivisions.

(5) Private police officer. Any security guard, special police officer, private detective or other person who is privately employed in a police capacity.

(b) No person shall impersonate a peace officer, private police officer, investigator of the Bureau of Criminal Identification and Investigation or federal law enforcement officer.

(c) No person, by impersonating a peace officer, private police officer, investigator of the Bureau of Criminal Identification and Investigation or federal law enforcement officer, shall arrest or detain any person, search any person or search the property of any person.

(d) No person, with purpose to commit or facilitate the commission of an offense, shall impersonate a peace officer, private police officer, federal law enforcement officer, an officer, agent or employee of the municipality or the state, or investigator of the Bureau of Criminal Identification and Investigation.

(e) No person shall commit a felony while impersonating a peace officer, private police officer, federal law enforcement officer, an officer, agent or employee of the municipality or of the state or investigator of the Bureau of Criminal Identification and Investigation.

(f) It is an affirmative defense to a charge under division (b) of this section that the impersonation of the peace officer, private police officer, federal law enforcement officer, an officer, agent or employee of the municipality or of the state, or investigator of the Bureau of Criminal Identification and Investigation was for a lawful purpose.

(g) Whoever violates division (b) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates division (c) or (d) of this section is guilty of a misdemeanor of the first degree. If the purpose of a violation of division (d) of this section is to commit or facilitate the commission of a felony, a violation of division (d) is a felony to be prosecuted under appropriate

state law. Whoever violates division (e) of this section is guilty of a felony to be prosecuted under appropriate state law.
(R.C. § 2921.51)

§ 654.15 DISPLAY OF LAW ENFORCEMENT AGENCY EMBLEM.

(a) No person who is not entitled to do so shall knowingly display on a motor vehicle the emblem of a law enforcement agency or an organization of law enforcement officers.

(b) Whoever violates this section is guilty of the unlawful display of the emblem of a law enforcement agency or an organization of law enforcement officers, a minor misdemeanor.
(R.C. § 2913.441)

§ 654.16 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. Title 45, except as provided in division (b)(1)F. of this section;

2. Abandoned junk motor vehicles or other property of negligible value;

3. Property held by a department of rehabilitation and correction institution that is unclaimed, that does not have an identified owner, that the owner agrees to dispose of or that is identified by the Department as having little value;
4. Animals taken, and devices used in unlawfully taking animals, under 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% of any moneys acquired from any sale or auction to the citizens' reward program.

(2) A. The Police Department shall adopt and comply with a written internal control policy that does all of the following:

1. Provides for keeping detailed records as to the amount of property acquired by the Police Department and the date property was acquired;
2. Provides for keeping detailed records of the disposition of the property, which shall include but not be limited to both of the following:
   a. The manner in which it was disposed, the date of disposition, detailed financial records concerning any property sold and the name of any person who received the property. The record shall not identify or enable identification of the individual officer who seized any item of

property.

b. The general types of expenditures made with amounts that are gained from the sale of the property and that are retained by the agency, including the specific amount expended on each general type of expenditure, except that the policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation.

3. Complies with R.C. § 2981.13 if the Police Department has a law enforcement trust fund or similar fund created under that section.

B. If the Police Department, during any calendar year, has any seized or forfeited property covered by this section in its custody, including amounts distributed under

R.C. § 2981.13 to its law enforcement trust fund or a similar fund created for the State Highway Patrol, Department of Public Safety or State Board of Pharmacy, the Police Department shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public records kept by the Police Department pursuant to this section for that calendar year. The Police Department shall send a copy of the cumulative report to the Attorney General not later than the first day of March in the calendar year following the calendar year covered by the report.

C. 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 and each report received by the Attorney General 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 of general circulation in the county and to briefly describe the nature of the property in custody and inviting persons to view and establish their right to it.

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

A. ACitizens' reward program. Has the same meaning as in R.C. § 9.92.

B. ALaw enforcement agency. Includes correctional institutions.

C. ATownship law enforcement agency. An organized police department of a township, a township police district, a joint township police district, or the office of a township constable.

(R.C. § 2981.11)

(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 shall destroy other

firearms and dangerous ordnance 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. Chapters 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. Chapter 119 to provide for the distribution to state or local law enforcement agencies upon their request. If any tax imposed under R.C. Title 43 has not been paid in relation to the beer, intoxicating liquor, or alcohol, any moneys acquired from the sale shall first be used to pay the tax. All other money collected under this division (b)(1)D. shall be paid into the State Treasury. Any beer, intoxicating liquor, or alcohol that the Division determines to be unfit for sale shall be destroyed.

E. Money received by an inmate of a correctional institution from an unauthorized source or in an unauthorized manner shall be returned to the sender, if known, or deposited in the inmates' industrial and entertainment fund of the institution if the sender is not known.

F. 1. Any mobile instrumentality forfeited under R.C. Chapter 2981 may be given to the law enforcement agency that initially seized the mobile instrumentality for use in performing its duties, if the agency wants the mobile instrumentality. The agency shall take the mobile instrumentality subject to any security interest or lien on the mobile instrumentality.

2. Vehicles and vehicle parts forfeited under 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.

(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, 10% of any moneys acquired from the sale of property disposed of under this section shall be applied to one or more alcohol and drug addiction treatment programs that are certified by the Department of Alcohol and Drug Addiction Services under R.C. § 3793.06. A juvenile court shall

not specify a program, except as provided in this division, unless the program is in the same county as the court or in a contiguous county. If no certified program is located in any of those counties, the juvenile court may specify a certified program anywhere in Ohio. The remaining 90% 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% of any forfeited proceeds or cash derived from each sale of property disposed of pursuant to this section to the citizens' reward program for use exclusively to pay rewards. No part of the funds may be used to pay expenses associated with the program. If a citizens' reward program that operates in more than one county or in another state in addition to this state receives funds under this section, the funds shall be used to pay rewards only for tips and information to law enforcement agencies concerning offenses committed in the county from which the funds were received.

(6) Any property forfeited under R.C. Chapter 2981 not be used to pay any fine imposed upon a person who is convicted of or pleads guilty to an underlying criminal offense or a different offense arising out of the same facts and circumstances.
(R.C. § 2981.12)

(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. Chapter 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.
(R.C. § 2981.13(A))

Statutory reference:

Forfeiture of property generally, see R.C. Chapter 2981

§ 654.17 DETENTION OF SHOPLIFTERS AND THOSE COMMITTING MOTION PICTURE PIRACY; PROTECTION OF INSTITUTIONAL PROPERTY.

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

(1) Archival institution. Any public or private building, structure, or shelter in which are stored historical documents, devices, records, manuscripts or items of public interest, which historical materials are stored to preserve the materials or the information in the materials, to disseminate the information contained in the materials, or to make the materials available for public inspection or for inspection by certain persons who have a particular interest in, use for, or knowledge concerning the materials.

(2) Audiovisual recording function and facility. Have the same meaning as in R.C. § 2913.07.

(3) Museum. Any public or private nonprofit institution that is permanently organized for primarily educational or aesthetic purposes, owns or borrows objects or items of public interest, and cares for and exhibits to the public the objects or items.

(b) A merchant, or an employee or agent of a merchant, who has probable cause to believe that things offered for sale by a mercantile establishment have been unlawfully taken by a person, may, for the purposes set forth in division (d) below, detain the person in a reasonable manner for a reasonable length of time within the mercantile establishment or its immediate vicinity.

(c) Any officer, employee or agent of a library, museum or archival institution may, for the purposes set forth in division (d) below or for the purpose of conducting a reasonable investigation of a belief that the person has acted in a manner described in divisions (c)(1) and (c)(2) below, detain a person in a reasonable manner for a reasonable length of time within, or in the immediate vicinity of, the library, museum or archival institution, if the officer, employee or agent has probable cause to believe that the person has:

(1) Without privilege to do so, knowingly moved, defaced, damaged, destroyed or otherwise improperly tampered with property owned by or in the custody of the library, museum or archival institution; or

(2) With purpose to deprive the library, museum or archival institution of property owned by it or in its custody, knowingly obtained or exerted control over the property without the consent of the owner or person authorized to give consent, beyond the scope of the express or implied consent of the owner or person authorized to give consent, by deception, or by threat.

(d) An officer, agent or employee of a library, museum or archival institution pursuant to division (c) above or a merchant or an employee or agent of a merchant pursuant to division (b) above may detain another person for any of the following purposes:

(1) To recover the property that is the subject of the unlawful taking, criminal mischief or theft;

(2) To cause an arrest to be made by a peace officer;

(3) To obtain a warrant of arrest.

(e) The owner or lessee of a facility in which a motion picture is being shown, or the owner's or lessee's employee or agent, who has probable cause to believe that a person is or has been operating an audiovisual recording function of a device in violation of R.C. § 2917.07 may, for the purpose of causing an arrest to be made by a peace officer or of obtaining an arrest warrant, detain the person in a reasonable manner for a reasonable length of time within the facility or its immediate vicinity.

(f) The officer, agent or employee of the library, museum or archival institution, the merchant or an employee or agent of a merchant, or the owner, lessee, employee or agent of the facility acting under divisions (b), (c) or (d) above shall not search the person detained, search or seize any property belonging to the person detained without the person's consent, or use undue restraint upon the person detained.

(g) Any peace officer may arrest without a warrant any person that the officer has probable cause to believe has committed any act described in division (c)(1) or (c)(2) above, that the officer has probable cause to believe has committed an unlawful taking in a mercantile establishment, or that the officer has reasonable cause to believe has committed an act prohibited by R.C. § 2913.07. An arrest under this division shall be made within a reasonable time after the commission of the act or unlawful taking.

(R.C. § 2935.041)

§ 654.18 FAILURE TO DISCLOSE PERSONAL INFORMATION.

(a) No person who is in a public place shall refuse to disclose the person's name, address or

date of birth, when requested by a law enforcement officer who reasonably suspects either of the following:

(1) The person is committing, has committed or is about to commit a criminal offense.

(2) The person witnessed any of the following:

A. An offense of violence that would constitute a felony under the laws of this state;

B. A felony offense that causes or results in, or creates a substantial risk of, serious physical harm to another person or property;

C. Any attempt or conspiracy to commit, or complicity in committing, any offenses identified in division (a)(2)A. or (a)(2)B. of this section;

D. Any conduct reasonably indicating that any offense identified in division (a)(2)A. or (a)(2)B. of this section or any attempt, conspiracy or complicity described in division (a)(2)C. of this section has been, is being or is about to be committed.

(b) Whoever violates division (a) of this section is guilty of failure to disclose one's personal information, a misdemeanor of the fourth degree.

(c) Nothing in division (a) of this section requires a person to answer any questions beyond that person's name, address or date of birth. Nothing in division (a) of this section authorizes a law enforcement officer to arrest a person for not providing any information beyond the person's name, address or date of birth or for refusing to describe the offense observed.

(d) It is not a violation of division (a) of this section to refuse to answer a question that would reveal a person's age or date of birth if age is an element of the crime that the person is suspected of committing.

(R.C. § 2921.29)

(e) No person entering an airport, train station, port or other similar critical transportation infrastructure site shall refuse to show identification when requested by a law enforcement officer when there is a threat to security and the law enforcement officer is requiring identification of all persons entering the site.

(f) A law enforcement officer may prevent any person who refuses to show identification when asked under the circumstances described in division (e) of this section from entering the critical transportation infrastructure site.
(R.C. § 2909.31)

§ 654.19 MISUSE OF 9-1-1 SYSTEM.

(a) As used in this section, 9-1-1 system means a system through which individuals can request emergency service using the telephone number 9-1-1.
(R.C. § 4931.40(A))

(b) No person shall knowingly use the telephone number of a 9-1-1 system established under R.C. §§ 4931.40 through 4931.70 to report an emergency if the person knows that no emergency exists.

(c) No person shall knowingly use a 9-1-1 system for a purpose other than obtaining emergency service.

(d) No person shall disclose or use any information concerning telephone numbers, addresses, or names obtained from the database that serves the public safety answering point of a 9-1-1 system established under R.C. §§ 4931.40 through 4931.70, except for any of the following purposes or under any of the following circumstances:

(1) For the purpose of the 9-1-1 system;

(2) For the purpose of responding to an emergency call to an emergency service provider;

(3) In the circumstance of the inadvertent disclosure of such information due solely to technology of the wireless telephone network portion of the 9-1-1 system not allowing access to the database to be restricted to 9-1-1 specific answering lines at a public safety answering point;

(4) In the circumstance of access to a database being given by a telephone company that is a wireless service provider to a public utility or municipal utility in handling

customer calls in times of public emergency or service outages. The charge, terms and conditions for the disclosure or use of the information for the purpose of such access to a database shall be subject to the jurisdiction of the Public Utilities Commission;

(5) In the circumstance of access to a database given by a telephone company that is a wireline service provider to a state and local government in warning of a public emergency, as determined by the Public Utilities Commission. The charge, terms and conditions for the disclosure or use of that information for the purpose of access to a database is subject to the jurisdiction of the Public Utilities Commission.
(R.C. § 4931.49(D) - (F))

(e) (1) Whoever violates division (b) of this section is guilty of a misdemeanor of the fourth degree.

(2) Whoever violates division (c) or (d) of this section is guilty of a misdemeanor of the fourth degree on a first offense and a felony to be prosecuted under appropriate state law on each subsequent offense.
(R.C. § 4931.99(A), (E))

§ 654.20 USING SHAM LEGAL PROCESS.

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

(1) Lawfully issued. Adopted, issued or rendered in accordance with the United States Constitution, the constitution of a state, and the applicable statutes, rules, regulations and ordinances of the United States, a state and the political subdivisions of a state.

(2) Political subdivisions. Municipal corporations, townships, counties, school districts

and all other bodies corporate and politic that are organized under state law and are responsible for governmental activities only in geographical areas smaller than that of a state.

(3) Sham legal process. An instrument that meets all of the following conditions:

A. It is not lawfully issued.

B. It purports to do any of the following:

1. To be a summons, subpoena, judgment or order of a court, a law enforcement officer, or a legislative, executive or administrative body.
2. To assert jurisdiction over or determine the legal or equitable status, rights, duties, powers or privileges of any person or property.
3. To require or authorize the search, seizure, indictment, arrest, trial or sentencing of any person or property.

C. It is designed to make another person believe that it is lawfully issued.

(4) State. A state of the United States, including without limitation the state legislature, the highest court of the state that has statewide jurisdiction, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, institutions and other instrumentalities of the state. State does not include the political subdivisions of the state.

(b) No person shall, knowing the sham legal process to be a sham legal process, do any of the following:

(1) Knowingly issue, display, deliver, distribute or otherwise use sham legal process.

(2) Knowingly use sham legal process to arrest, detain, search or seize any person or the property of another person.

(3) Knowingly commit or facilitate the commission of an offense using sham legal process.

(4) Knowingly commit a felony by using sham legal process.

(c) It is an affirmative defense to a charge under division (b)(1) or (b)(2) of this section that the use of sham legal process was for a lawful purpose.

(d) Whoever violates this section is guilty of using sham legal process. A violation of division (b)(1) of this section is a misdemeanor of the fourth degree. A violation of division (b)(2) or (b)(3) of this section is a misdemeanor of the first degree, except that if the purpose of a violation of division (b)(3) of this section is to commit or facilitate the commission of a felony, a violation of division (b)(3) of this section is a felony to be prosecuted under appropriate state law. A violation of division (b)(4) of this section is a felony to be prosecuted under appropriate state law.
(R.C. § 2921.52(A) - (D))

CHAPTER 660: SAFETY, SANITATION AND HEALTH

660.01 Venting of heaters and burners.

660.02 Spreading contagion.

660.03 Littering.

660.04 Noxious odors; filthy accumulations; polluting and diverting watercourses.

660.05 Duty to keep sidewalks in repair and clean.

660.06 Abandoned refrigerators and airtight containers.

660.07 Storage of junk vehicles.

660.08 Open burning.

660.09 Barricades and warning lights.

660.10 Sidewalk obstructions; damage or injury.

660.11 Notice to fill lots, remove putrid substances.

660.12 Fences.

660.13 Smoking in places of public assembly.

Cross-reference:

Animal nuisances, see § 618.14

Inducing panic, see § 648.07

Littering from motor vehicles, see § 432.43

Loads dropping or leaking; tracking mud; removal required, see § 440.06

Placing harmful substance or objects in food or confection, see § 636.16

Placing injurious material or obstruction in street, see § 412.01

Rabies quarantine, see § 618.12

Riot, see §§ 648.01 et seq.

Safety and equipment for motor vehicles, see Ch. 438

Weapons and explosives, see Ch. 678

Willfully leaving vehicles on private or public property, see § 452.05

Statutory reference:

Excavation liability, see R.C. §§ 723.49 et seq.

Nuisances, see R.C. Ch. 3767

§ 660.01 VENTING OF HEATERS AND BURNERS.

(a) The use of a brazier, salamander, space heater, room heater, furnace, water heater, or other burner or heater, using wood, coal, coke, fuel oil, kerosene, gasoline, natural gas, liquid petroleum gas or similar fuel, and tending to give off carbon monoxide or other harmful gases, must comply with the following provisions;

(1) When used in living quarters, or in any enclosed building or space in which persons are usually present, shall be used with a flue or vent so designed, installed and maintained as to vent the products of combustion outdoors; except in storage, factory or industrial
buildings which are provided with sufficient ventilation to avoid the danger of carbon monoxide poisoning.

(2) When used as a portable or temporary burner or heater at a construction site, or in a warehouse, shed or structure in which persons are temporarily present, shall be vented as provided in division (a)(1) or used with sufficient ventilation to avoid the danger of carbon monoxide poisoning.

(b) This section does not apply to domestic ranges, laundry stoves, gas logs installed in a fireplace with an adequate flue, or hot plates, unless the same are used as space or room heaters.

(c) No person shall negligently use, or, being the owner, person in charge or occupant of premises, negligently permit the use of a burner or heater in violation of the standards for venting

and ventilation provided in this section.

(d) Division (a) above does not apply to any kerosene-fired space or room heater that is equipped with an automatic extinguishing tip-over device, or to any natural gas-fired or liquid petroleum gas-fired space or room heater that is equipped with an oxygen depletion safety shut-off system, and that has its fuel piped from a source outside the building in which it is located, that are approved by an authoritative source recognized by the State Fire Marshal in the State Fire Code adopted by him or her under R.C. § 3737.82.

(e) The State Fire Marshal may make rules to ensure the safe use of unvented kerosene, natural gas or liquid petroleum gas heaters exempted from division (a) above when used in assembly buildings, business buildings, high hazard buildings, institutional buildings, mercantile buildings and type R-1 and R-2 residential buildings, as these groups of buildings are defined in rules adopted by the Board of Building Standards under R.C. § 3781.10. No person shall negligently use, or, being the owner, person in charge or occupant of premises, negligently permit the use of a heater in violation of any rules adopted under this division.

(f) The State Fire Marshal may make rules prescribing standards for written instructions containing ventilation requirements and warning of any potential fire hazards that may occur in using a kerosene, natural gas or liquid petroleum gas heater. No person shall sell or offer for sale any kerosene, natural gas or liquid petroleum gas heater unless the manufacturer provides with the heater written instructions that comply with any rules adopted under this division.

(g) No product labeled as a fuel additive for kerosene heaters and having a flash point below 100°F or 37.8°C shall be sold, offered for sale or used in any kerosene space heater.

(h) No device that prohibits any safety feature on a kerosene, natural gas or liquid petroleum gas space heater from operating shall be sold, offered for sale or used in connection with any kerosene, natural gas or liquid petroleum gas space heater.

(i) No person shall sell or offer for sale any kerosene-fired, natural gas or liquid petroleum gas-fired heater that is not exempt from division (a) above, unless it is marked conspicuously by the manufacturer on the container with the phrase Not Approved For Home Use.

(j) No person shall use a cabinet-type, liquid petroleum gas-fired heater having a fuel source within the heater, inside any building, except as permitted by the State Fire Marshal in the State Fire Code adopted by him or her under R.C. § 3737.82.
(R.C. § 3701.82)

(k) Whoever violates this section is guilty of a misdemeanor of the first degree.
(R.C. § 3701.99(B))

§ 660.02 SPREADING CONTAGION.

(a) No person, knowing or having reasonable cause to believe that he or she is suffering from a dangerous, contagious disease, shall knowingly fail to take reasonable measures to prevent exposing himself or herself to other persons, except when seeking medical aid.

(b) No person, having charge or care of a person whom he or she knows or has reasonable cause to believe is suffering from a dangerous, contagious disease, shall recklessly fail to take reasonable measures to protect others from exposure to the contagion, and to inform health authorities of the existence of the contagion.

(c) No person, having charge of a public conveyance or place of public accommodation, amusement, resort or trade, and knowing or having reasonable cause to believe that persons using the conveyance or place have been or are being exposed to a dangerous, contagious disease, shall negligently fail to take reasonable measures to protect the public from exposure to the contagion, and to inform health authorities of the existence of the contagion.
(R.C. § 3701.81)

(d) Whoever violates this section is guilty of a misdemeanor of the second degree. (R.C. § 3701.99(C))

§ 660.03 LITTERING.

(a) No person, regardless of intent, shall deposit litter or cause litter to be deposited on any public property, on private property not owned by him or her, or in or on waters of the state, unless one of the following applies:

(1) The person is directed to do so by a public official as part of a litter collection drive.

(2) Except as provided in division (b) of this section, the person deposits the litter in a litter receptacle in a manner that prevents its being carried away by the elements.

(3) The person is issued a permit or license covering the litter pursuant to R.C. Chapter 3734 or 6111.

(b) No person, without privilege to do so, shall knowingly deposit litter, or cause it to be deposited, in a litter receptacle located on any public property or on any private property not owned by him or her, unless one of the following applies:

(1) The litter was generated or located on the property on which the litter receptacle is located.

(2) The person is directed to do so by a public official as part of a litter collection drive.

(3) The person is directed to do so by a person whom he or she reasonably believes to have the privilege to use the litter receptacle.

(4) The litter consists of any of the following:

A. The contents of a litter bag or container of a type and size customarily carried and used in a motor vehicle.

B. The contents of an ash tray of a type customarily installed or carried and used in a motor vehicle.

C. Beverage containers and food sacks, wrappings and containers of a type and in an amount that reasonably may be expected to be generated during routine commuting or business or recreational travel by a motor vehicle.

D. Beverage containers, food sacks, wrappings, containers and other materials of a type and in an amount that reasonably may be expected to be generated during a routine day by a person and deposited in a litter receptacle by a casual passerby.

(c) (1) As used in division (b)(1) of this section, Apublic property includes any private property open to the public for the conduct of business, the provision of a service, or upon the payment of a fee, but does not include any private property to which the public otherwise does not have a right of access.

(2) As used in division (b)(4) of this section, Acasual passerby means a person who does not have depositing litter in a litter receptacle as his or her primary reason for traveling to or by the property on which the litter receptacle is located.

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

(1) ADeposit. To throw, drop, discard or place.

(2) ALitter. Garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass or anything else of an unsightly or unsanitary nature.

(3) ALitter receptacle. A dumpster, trash can, trash bin, garbage can or similar container in which litter is deposited for removal.

(e) This section may be enforced by any sheriff, deputy sheriff, police officer of the

municipality, police constable or officer of a township or township police district, wildlife officer, park officer, forest officer, preserve officer, conservancy district police officer, inspector of nuisances of a county, or any other law enforcement officer within his or her jurisdiction.
(R.C. § 3767.32)

(f) Whoever violates any provision of this section shall be guilty of a misdemeanor of the third degree. The sentencing court may, in addition to or in lieu of the penalty provided in this division, require a person who violates this section to remove litter from any public or private property or in or on waters of the state.
(R.C. § 3767.99(C))

§ 660.04 NOXIOUS ODORS; FILTHY ACCUMULATIONS; POLLUTING AND DIVERTING WATERCOURSES.

(a) No person shall erect, continue to use or maintain a building, structure or place for the exercise of a trade, employment or business or for keeping or feeding an animal which, by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort or property of individuals or of the public.

(b) No person shall cause or allow offal, filth or noisome substances to be collected or remain in any place to the damage or prejudice of others or of the public.

(c) No person shall unlawfully obstruct or impede the passage of a navigable river, harbor or collection of water, or corrupt or render unwholesome or impure a watercourse, stream of water or unlawfully divert the watercourse from its natural course or state to the injury or prejudice of others.

(d) Persons who are engaged in agriculture-related activities, as Aagriculture is defined in R.C. § 519.01, and who are conducting those activities outside the municipality, in accordance with generally accepted agricultural practices, and in such a manner so as not to have a substantial, adverse effect on the public health, safety or welfare, are exempt from divisions (a) and (b) above and from any ordinances, resolutions, rules, or other enactments of the municipality that prohibit excessive noise.
(R.C. § 3767.13)

(e) Whoever violates this section is guilty of a misdemeanor of the third degree.
(R.C. § 3767.99(C))

§ 660.05 DUTY TO KEEP SIDEWALKS IN REPAIR AND CLEAN.

(a) No owner or occupant of lots or lands abutting any sidewalk, curb or gutter shall fail to keep the sidewalks, curbs and gutters in repair and free from snow, ice or any nuisance, and to remove from the sidewalks, curbs or gutters all snow and ice accumulated thereon within a reasonable time, which will ordinarily not exceed 12 hours after any storm during which the snow and ice has accumulated.
(R.C. § 723.011)

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

§ 660.06 ABANDONED REFRIGERATORS AND AIRTIGHT CONTAINERS.

(a) No person shall abandon, discard or knowingly permit to remain on premises under his or her control, in a place accessible to children, any abandoned or discarded icebox, refrigerator or

other airtight or semi-airtight container which has a capacity of one and one-half cubic feet or more and an opening of 50 square inches or more and which has a door or lid equipped with a hinge, latch or other fastening device capable of securing the door or lid, without rendering the equipment harmless to human life by removing the hinges, latches or other hardware which may cause a person to be confined therein. This section shall not apply to an icebox, refrigerator or other airtight or semi-airtight container located in that part of a building occupied by a dealer, warehouse official or repair technician.
(R.C. § 3767.29)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
(R.C. § 3767.99(B))

§ 660.07 STORAGE OF JUNK VEHICLES.

(a) (1) For purposes of this section, Ajunk motor vehicle means any motor vehicle which is three years old or older; extensively damaged, the damage including but not limited to any of the following: missing wheels, tires, motor or transmission; apparently inoperable; and having a fair market value of $1,500 or less, that is left uncovered in the open on private property for more than 72 hours with the permission of the person having the right to possession of the property, except if the person is operating a junk yard or scrap metal processing facility licensed under the authority of R.C. §§ 4737.05 through 4737.12, or otherwise regulated under authority of a political subdivision; or if the property on which the motor vehicle is left is not subject to licensure or regulation by any governmental authority, unless the person having the right to the possession of the property can establish that the motor vehicle is part of a bona fide commercial operation; or if the motor vehicle is a collector's vehicle.

(2) The municipality shall not prevent a person from storing or keeping, or restrict him or her in the method of storing or keeping, any collector's vehicle on private property with the permission of the person having the right to the possession of the property, except that the municipality may require a person having such permission to conceal, by means of buildings, fences, vegetation, terrain or other suitable obstruction, any unlicensed collector's vehicle stored in the open.

(3) The Police Chief, the Council, or the zoning authority may send notice, by certified mail with return receipt requested, to the person having the right to the possession of the property on which a junk motor vehicle is left, that within ten days of receipt of the notice, the junk motor vehicle either shall be covered by being housed in a garage or other suitable structure, or shall be removed from the property.

(4) No person shall willfully leave a junk motor vehicle uncovered in the open for more

than ten days after receipt of a notice as provided in this section. The fact that a junk motor vehicle is so left is prima facie evidence of willful failure to comply with the notice, and each subsequent period of 30 days that a junk motor vehicle continues to be so left constitutes a separate offense.

(b) Except as otherwise provided int his division, whoever violates this section is guilty of a minor misdemeanor on a first offense. If the offender previously has been convicted of or pleaded guilty to one violation of this section, whoever violates this section is guilty of a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, whoever violates this section is guilty of a misdemeanor of the third degree. (R.C. § 4513.65)

§ 660.08 OPEN BURNING.

(a) (1) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A. Agricultural waste. Any waste material generated by crop, horticultural or livestock production practices, and includes such items as woody debris and plant matter from stream flooding, bags, cartons, structural materials and landscape wastes that are generated in agricultural activities, but does not include land clearing waste; buildings; garbage; dead animals; animal waste; motor vehicles and parts thereof; nor economic poisons and containers thereof, unless the manufacturer has identified open burning as a safe disposal procedure.

B. Economic poisons. Include but are not restricted to pesticides such as insecticides, fungicides, rodenticides, miticides, nematocides and fumigants;

herbicides; seed disinfectants; and defoliants.

C. Emergency burning. The burning of clean wood waste or deceased animals caused by a natural disaster or an uncontrolled event such as the following:

1. A tornado.
2. High winds.
3. An earthquake.
4. An explosion.
5. A flood.
6. A hail storm, a rain storm or an ice storm.

D. Garbage. Any waste material resulting from the handling, processing, preparation, cooking and consumption of food or food products.

E. Land clearing waste. Plant waste material which is removed from land, including plant waste material removed from stream banks during projects involving more than one property owner, for the purpose of rendering the land useful for residential, commercial or industrial development. Land clearing waste also includes the plant waste material generated during the clearing of land for new agricultural development.

F. Landscape waste. Any plant waste material, except garbage, including trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, yard trimmings and crop residues.

G. Ohio EPA. The Ohio Environmental Protection Agency Director or agencies delegated authority by the Director of the Ohio Environmental Protection Agency pursuant to R.C. § 3704.03 or the Chief of any Ohio Environmental Protection Agency District Office.

H. Open burning. The burning of any materials wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing

through a stack or chimney. Open burning includes the burning of any refuse or salvageable material in any device not subject to or designed specifically to comply with the requirements of O.A.C. 3745-17-09 or 3745-17-10.

I. Residential waste. Any waste material, including landscape wastes, generated on a one-, two- or three-family residence as a result of residential activities, but not including garbage.

J. Restricted area. The following:

1. Except as provided in division 2. of this definition, the area within the boundary of any municipal corporation established in accordance with the provisions of R.C. Title 7, plus a zone extending 1,000 feet beyond the boundaries of any such municipal corporation having a population of 1,000 to 10,000 persons and a zone extending one mile beyond any such municipal corporation having a population of 10,000 persons or more according to the latest federal census.

2. Restricted area shall not include any municipal corporation the territory of which is located on an island in Lake Erie except that, during the yearly period between Memorial Day and Labor Day, any such municipal corporation shall be required to comply with the requirements of division (c) of this section.

K. Unrestricted area. All areas outside the boundaries of a restricted area as defined above.

(2) *Incorporation by reference.* This section includes references to certain matter or materials. The text of the incorporated materials is not included in the regulations contained in this section. The materials are hereby made a part of the regulations in this section. For materials subject to change, only the specific version specified in the regulation are incorporated. Material is incorporated as it exists on the effective date of this section. Except for subsequent annual publication of existing (unmodified) Code of Federal Regulation compilations, any amendment or revision to a referenced document is not incorporated unless and until this rule has been amended to specify

the new dates.

A. *Availability.* The materials incorporated by reference are available as follows: National Fire Protection Association B Information on the National Protection Association codes may be obtained by contacting association at 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, 617-770-3000. Codes may be ordered online at: www.nfpa.org/catalog/home/index.asp. Copies of the code are available at most public libraries and at the State Library of Ohio.

B. *Incorporated materials.* The following material is incorporated: NFPA publication 1403, *Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures*, November 2001 Edition.

(O.A.C. 3745-19-01)

(b) *Relation to other laws.*

(1) Notwithstanding any provision in O.A.C. Chapter 3745-19, no open burning shall be conducted in an area where an air alert, warning or emergency under O.A.C. Chapter 3745-25 is in effect.

(2) No provisions of O.A.C. Chapter 3745-19 permitting open burning, and no permission to open burn granted by the Ohio EPA, shall exempt any person from compliance with any section of the Ohio Revised Code, or any regulation of any state department, or any local ordinance or regulation dealing with open burning.

(O.A.C. 3745-19-02)

(c) *Open burning in restricted areas.*

(1) No person or property owner shall cause or allow open burning in a restricted area except as provided in divisions (b) to (d) of this section or in R.C. § 3704.11.

(2) Open burning shall be allowed for the following purposes without notification to or

permission from the Ohio EPA:

A. Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers and strikers, smudge pots and similar occupational needs.

B. Bonfires, campfires and outdoor fireplace equipment, whether for cooking food for human consumption, pleasure, religious, ceremonial, warmth, recreational or similar purposes, if the following conditions are met:

1. They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood;
2. They are not used for waste disposal purposes; and
3. They shall have a total fuel area of three feet or less in diameter and two feet or less in height.

C. Disposal of hazardous explosive materials, military munitions or explosive devices that require immediate action to prevent endangerment of human health, public safety, property or the environment and that are excluded from the requirement to obtain a hazardous waste permit pursuant to O.A.C. 3745-50-45(D)(1)(d).

D. Recognized training in the use of fire extinguishers for commercial or industrial fire prevention.

E. Fires allowed by divisions (c)(2)A., (c)(2)B. and (c)(2)D. of this section shall not be used for waste disposal purposes and shall be of minimum size sufficient for their intended purpose; the fuel shall be chosen to minimize the generation and emission of air contaminants.

(3) Open burning shall be allowed for the following purposes with prior notification to the Ohio EPA in accordance with division (d)(2) of this section:

A. Prevention or control of disease or pests, with written or verbal verification to the Ohio EPA from the local health department, cooperative extension service, Ohio Department of Agriculture or U.S. Department of Agriculture, that open burning is the only appropriate disposal method.

B. Bonfires or campfires used for ceremonial purposes that do not meet the requirements of division (c)(2)B. of this section, provided the following conditions are met:

1. They have a total fuel area no greater than five feet in diameter by five feet in height and burn no longer than three hours;
2. They are not used for waste disposal purposes; and
3. They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood.

C. Disposal of agricultural waste generated on the premises if the following conditions are observed:

1. The fire is set only when atmospheric conditions will readily dissipate contaminants;
2. The fire does not create a visibility hazard on the roadways, railroad tracks or air fields;
3. The fire is located at a point on the premises no less than 1,000 feet from any inhabited building not located on the premises;
4. The wastes are stacked and dried to provide the best practicable condition for efficient burning; and
5. No materials are burned which contain rubber, grease, asphalt or liquid petroleum products.

(4) Open burning shall be allowed for the following purposes upon receipt of written

permission from the Ohio EPA, in accordance with division (d)(1) of this section, provided that any conditions specified in the permission are followed:

A. Disposal of ignitable or explosive materials where the Ohio EPA determines that there is no practical alternate method of disposal, excluding those materials identified in division (c)(2)C. of this section;

B. Instruction in methods of firefighting or for research in the control of fires as recognized by the State Fire Marshal Division of the Ohio Department of Commerce and the guidelines set forth in the National Fire Protection Association's (NFPA) publication 1403, *Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures*, provided that the application required in division (d)(1)A. of this section is submitted by the commercial or public entity responsible for the instruction;

C. In emergency or other extraordinary circumstances for any purpose determined to be necessary by the Director and performed as identified in the appendix to O.A.C. 3745-19-03. If deemed necessary, the open burning may be authorized with prior oral approval by the Director followed by the issuance of a written permission to open burn within seven working days of the oral approval;

D. Recognized horticultural, silvicultural, range or wildlife management practices; and

E. Fires and/or pyrotechnic effects, for purposes other than waste disposal, set as part of commercial film-making or video production activities for motion pictures and television.

(O.A.C. 3745-19-03)

(d) *Permission to individuals and notification to the Ohio EPA.*

(1) *Permission.*

A. An application for permission to open burn shall be submitted in writing at least ten working days before the fire is to be set. Saturday, Sunday and legal holidays shall not be considered a working day. It shall be in such form and contain such information as required by the Ohio EPA.

B. Except as provided in divisions (d)(1)F. and (d)(1)G. of this section, the applications shall contain, as a minimum, information regarding:

1. The purpose of the proposed burning;
2. The nature of quantities of material to be burned;
3. The date or dates when the burning will take place;
4. The location of the burning site, including a map showing distances to residences, populated areas, roadways, air fields and other pertinent landmarks; and
5. The methods or actions which will be taken to reduce the emissions of air contaminants.

C. Permission to open burn shall not be granted unless the applicant demonstrates to the satisfaction of the Ohio EPA that open burning is necessary to the public interest; will be conducted in a time, place and manner as to minimize the emission of air contaminants; and will have no serious detrimental effect upon adjacent properties or the occupants thereof. The Ohio EPA may impose such conditions as may be necessary to accomplish the purpose of O.A.C. Chapter 3745-19.

D. Except as provided in division (d)(1)F. of this section, permission to open burn must be obtained for each specific project. In emergencies where public health or environmental quality will be seriously threatened by delay while written permission is sought, the fire may be set with oral permission of the Ohio EPA.

E. Violations of any of the conditions set forth by the Ohio EPA in granting

permission to open burn shall be grounds for revocation of that permission and refusal to grant future permission, as well as for the imposition of other sanctions provided by law.

F. The Ohio Department of Commerce, Division of State Fire Marshal, may request permission to open burn on an annual basis for the purpose of training firefighters on pre-flashover conditions using the Ohio Fire Academy's mobile training laboratory at either the academy or at other training sites in Ohio. The annual application required pursuant to division (d)(1)A. of this section shall contain information as required in division (d)(1)B. of this section, except the information required in divisions (d)(1)B.3. and (d)(1)B.4. of this section need not be provided unless it is available at the time of submittal of the application. The Academy shall contact the appropriate Ohio EPA District Office or local air agency at least five working days before each training session of the date or dates when the training session will take place and its location. Saturday, Sunday and legal holidays shall not be considered a working day.

G. For open burning defined under division (c)(4)B. of this section and O.A.C. 3745-19-04(C)(2), permission to open burn shall not be granted unless the applicant provides proof of written notice of intent to demolish received by the appropriate Ohio EPA field office in accordance with O.A.C. 3745-20-03.

(2) *Notification.*

A. Notification shall be submitted in writing at least ten working days before the fire is to be set. Saturday, Sunday and legal holidays shall not be considered a working day. It shall be in such form and contain such information as shall be required by the Ohio EPA.

B. Such notification shall inform the Ohio EPA regarding:

1. The purpose of the proposed burning;

2. The nature and quantities of materials to be burned;
3. The date or dates when the burning will take place; and
4. The location of the burning site.

C. The Ohio EPA, after receiving notification, may determine that the open burning is not allowed under O.A.C. Chapter 3745-19 and the Ohio EPA shall notify the applicant to this effect.

(O.A.C. 3745-19-05)

(e) *Penalty.* Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. In addition, the offender shall be required to pay the cost of proper disposal of the materials burned. The cost of proper disposal of the materials burned shall be the amount it would have cost to dispose of the materials in a manner that is consistent with the air, water and solid waste laws, ordinances and regulations of the municipality and the state.

§ 660.09 BARRICADES AND WARNING LIGHTS.

(a) No person shall abandon or knowingly permit to remain on public or private property, any excavation, well, cesspool or structure which is in the process of construction, reconstruction, repair or alteration unless the same is adequately protected by suitable barricades and guarded by warning devices or lights at night so that the condition will not reasonably prove dangerous to life or limb.

(b) No person shall destroy, remove, damage or extinguish any barricade or warning light that is placed for the protection of the public so as to prevent injury to life or limb.

(c) Any owner or agent in control of a premises upon which a basement, cellar, well or cistern has been abandoned due to demolition, failure to build or any other reason shall cause the same to be filled to the ground surface with rock, gravel, earth or other suitable material.

(d) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

§ 660.10 SIDEWALK OBSTRUCTIONS; DAMAGE OR INJURY.

(a) No person shall place or knowingly drop upon any part of a sidewalk or playground any tacks, bottles, wire, glass, nails or other articles which may damage property of another or injure any person or animal traveling along or upon the sidewalk or playground.

(b) No person shall walk on, or allow any animal upon, or injure or deface in any way, any soft or newly laid sidewalk pavement.

(c) No person shall place, deposit or maintain any merchandise, goods, material or equipment upon any sidewalk so as to obstruct pedestrian traffic thereon except for such reasonable time as may be actually necessary for the delivery or pickup of the articles. In no case shall the obstruction remain on the sidewalk for more than one hour.

(d) No person shall unload upon, or transport any heavy merchandise, goods, material or equipment over or across any sidewalk or curb without first placing some sufficient protection over the pavement to protect against damage or injury.

(e) No person shall allow any cellar or trap door, coal chute or elevator or lift opening in any sidewalk to remain open without providing suitable safeguards to protect and warn pedestrian traffic of the dangerous conditions.

(f) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

§ 660.11 NOTICE TO FILL LOTS, REMOVE PUTRID SUBSTANCES.

(a) No person shall fail to comply with the following requirements within the lawful time after service or publication of the notice or resolution is made as required by law: to fill or drain any lot or land or remove all putrid substances therefrom, or remove all obstructions from culverts, covered drains or natural watercourses as provided in R.C. § 715.47.

(b) Whoever violates this section is guilty of a minor misdemeanor. A separate offense shall

be deemed committed each day during or on which a violation occurs or continues.

§ 660.12 FENCES.

(a) No person shall erect or maintain any fence charged with electrical current.

(b) No person shall erect or maintain a barbed wire fence which abuts or is adjacent to any public street or sidewalk. This division (b) does not prevent the placement and use of not more than two strands of barbed wire on top of a fence other than a barbed wire fence, provided the strands are not less than 48 inches from the ground.

(c) Barbed wire partition fences may be erected and maintained as provided in R.C. § 971.03.

(d) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

§ 660.13 SMOKING IN PLACES OF PUBLIC ASSEMBLY.

(a) As used in this section, place of public assembly means:

(1) Enclosed theaters, except the lobby; opera houses; auditoriums; classrooms; elevators; rooms in which persons are confined as a matter of health care, including but not limited to a hospital room and a room in a residential care facility serving as the residence of a person living in the residential care facility.

(2) All buildings and other enclosed structures owned by the state, its agencies, or political subdivisions, including but not limited to hospitals and state institutions for the mentally disabled and the mentally ill; university and college buildings, except rooms within those buildings used primarily as the residences of students or other persons

affiliated with the university or college; office buildings; libraries; museums; and vehicles used in public transportation. That portion of a building or other enclosed structure that is owned by the state, a state agency or a political subdivision, and that is used primarily as a food service establishment, is not a place of public assembly.

(3) Each portion of a building or enclosed structure that is not included in division (a)(1) or (a)(2) of this section is a place of public assembly if it has a seating capacity of 50 or more persons and is available to the public. Restaurants, food service establishments, dining rooms, cafes, cafeterias or other rooms used primarily for the service of food, as well as bowling alleys and places licensed by the Ohio Division of Liquor Control to sell intoxicating beverages for consumption on the premises, are not places of public assembly.

(b) For the purpose of separating persons who smoke from persons who do not smoke for the comfort and health of persons not smoking, in every place of public assembly there shall be an area where smoking is not permitted, which shall be designated a no smoking area, provided that not more than one-half of the rooms in any health care facility in which persons are confined as a matter of health care may be designated as smoking areas in their entirety. The designation shall be made before the place of public assembly is made available to the public. In places included in division (a)(1) of this section, the local fire authority having jurisdiction shall designate the no smoking area. In places included in division (a)(2) of this section that are owned by the state or its agencies, the Ohio Director of Administrative Services shall designate the area, and if the place is owned by a political subdivision, its legislative authority shall designate an officer who shall designate the area. In places included in division (a)(3) of this section, the person having control of the operations of the place of public assembly shall designate the no smoking area. In places included in division (a)(2) of this section which are also included in division (a)(1) of this section, the officer

who has authority to designate the area in places in division (a)(2) of this section shall designate the no smoking area. A no smoking area may include the entire place of public assembly. Designations shall be made by the placement of signs that are clearly visible and that state Ano smoking. No person shall remove signs from areas designated as no smoking areas.

(c) This section does not affect or modify the prohibition contained in R.C. § 3313.751(B).

(d) No person shall smoke in any area designated as a no smoking area in accordance with division (b) of this section.

(e) Whoever violates this section is guilty of a minor misdemeanor.
(R.C. § 3791.031)

CHAPTER 666: SEX RELATED OFFENSES

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Cross-reference:

Criminal child enticement, see § 636.09

Definitions generally, see § 606.01

Sentencing generally, see Ch. 698

Spreading contagion, see § 660.02

Statutory reference:

Assistance to victims of sexual assault, see R.C. §§ 2907.28 through 2907.30

Child victim, disposition of, see R.C. § 2945.481

Examination and treatment for venereal disease; HIV tests, see R.C. § 2907.27

Registration of sex offenders in cities and counties, see R.C. §§ 2950.01 et seq.

§ 666.01 DEFINITIONS.

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

(a) Harmful to juveniles. 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:

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

(2) 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.

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

(b) Juvenile. Any unmarried person under 18 years of age.

(c) Material. 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.

(d) Mental health client or patient. Has the same meaning as in R.C. § 2305.51.

(e) Mental health professional. Has the same meaning as in R.C. § 2305.115.

(f) Minor. A person under the age of 18.

(g) Nudity. 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.

(h) 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:

(1) Its dominant appeal is to prurient interest.

(2) 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.

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

(4) 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.

(5) 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.

(i) Performance. Any motion picture, preview, trailer, play, show, skit, dance or other exhibition performed before an audience.

(j) Prostitute. 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.

(k) Sado-masochistic abuse. Flagellation or torture by or upon a person or the condition of being fettered, bound or otherwise physically restrained.

(l) Sexual activity. Sexual conduct or sexual contact, or both.

(m) Sexual conduct. 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.

(n) Sexual contact. 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.

(o) Sexual excitement. The condition of human male or female genitals when in a state of sexual stimulation or arousal.

(p) Spouse. 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:

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

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

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

for legal separation.

(R.C. § 2907.01)

§ 666.02 UNLAWFUL SEXUAL CONDUCT WITH A MINOR.

(a) No person who is 18 years of age or older shall engage in sexual conduct with another who is not the spouse of the offender, when the offender knows the other person is 13 years of age or older but less than 16 years of age, or the offender is reckless in that regard.

(b) Whoever violates this section is guilty of unlawful sexual conduct with a minor.

(1) Except as otherwise provided in division (b)(2), unlawful sexual conduct with a minor is a felony to be prosecuted under appropriate state law.

(2) Except as otherwise provided in division (b)(3) of this section, if the offender is less than four years older than the other person, unlawful sexual conduct with a minor is a misdemeanor of the first degree.

(3) If the offender previously has been convicted of or pleaded guilty to a violation of R.C. § 2907.02, § 2907.03 or § 2907.04, or any substantially equivalent municipal ordinance, or a violation of former R.C. § 2907.12, or any substantially equivalent municipal ordinance, unlawful sexual conduct with a minor is a felony to be prosecuted under appropriate state law.

(R.C. § 2907.04)

§ 666.03 SEXUAL IMPOSITION.

(a) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more other persons to have sexual contact when any of the following applies:

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

(2) The offender knows that the other person's, or one of the other person's ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired.

(3) The offender knows that the other person, or one of the other persons, submits because of being unaware of the sexual contact.

(4) The other person, or one of the other persons, is 13 years of age or older but less than 16 years of age, whether or not the offender knows the age of the person, and the offender is at least 18 years of age and four or more years older than the other person.

(5) The offender is a mental health professional, the other person or one of the other persons is a mental health client or patient of the offender, and the offender induces the other person who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.

(b) No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.

(c) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender has been convicted previously of 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.

(R.C. § 2907.06)

Statutory reference:

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

§ 666.04 PUBLIC INDECENCY.

(a) No person shall recklessly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront others who are in the person's physical proximity and who are not members of the person's household:

(1) Expose the person's private parts.

(2) Engage in sexual conduct or masturbation.

(3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation.

(b) No person shall knowingly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront another person who is a minor, who is not the spouse of the offender, and who resides in the person's household:

(1) Engage in masturbation.

(2) Engage in sexual conduct.

(3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation.

(4) Expose the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity.

(c) (1) Whoever violates this section is guilty of public indecency and shall be punished as provided in divisions (c)(2), (c)(3), (c)(4) and (c)(5) of this section.

(2) Except as otherwise provided in this division (c)(2), a violation of division (a)(1) of this section is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section or a substantially equivalent state law or municipal ordinance, a violation of division (a)(1) of this section is a misdemeanor of the third degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to two violations of this section or a substantially equivalent state law municipal ordinance, a violation of division (a)(1) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of this section or a substantially equivalent state law or municipal ordinance, a violation of division (a)(1) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony to be prosecuted under appropriate state law.

(3) Except as otherwise provided in this division (c)(3), a violation of division (a)(2) or (a)(3) of this section is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section or a substantially equivalent state law or municipal ordinance, a violation of division (a)(2) or (a)(3) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section or a substantially equivalent state law municipal ordinance, a violation of division (a)(2) or (a)(3) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be

affronted by the offender's conduct was a minor, a felony to be prosecuted under appropriate state law.

(4) Except as otherwise provided in this division (c)(4), a violation of division (b)(1), (b)(2) or (b)(3) of this section is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section or a substantially equivalent state law or municipal ordinance, a violation of division (b)(1), (b)(2) or (b)(3) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section or a substantially equivalent state law municipal ordinance, a violation of division (b)(1), (b)(2) or (b)(3) of this section is a felony to be prosecuted under appropriate state law.

(5) Except as otherwise provided in this division (c)(5), a violation of division (b)(4) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to any violation of this section or a substantially equivalent state law municipal ordinance, a violation of division (b)(4) of this section is a felony to be prosecuted under appropriate state law.

(R.C. § 2907.09)

(d) A mother is entitled to breast-feed her baby in any location of a place of public accommodation, as defined in R.C. § 4112.01, wherein the mother otherwise is permitted.

(R.C. § 3781.55)

Statutory reference:

Bail considerations for persons charged, see R.C. § 2907.41

§ 666.05 VOYEURISM.

(a) No person, for the purpose of sexually arousing or gratifying himself or herself, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.

(b) No person, for the purpose of sexually arousing or gratifying himself or herself, shall commit trespass or otherwise surreptitiously invade the privacy of another to videotape, film, photograph or otherwise record the other person in a state of nudity.

(c) No person, for the purpose of sexually arousing or gratifying himself or herself, shall commit trespass or otherwise surreptitiously invade the privacy of another to videotape, film, photograph or otherwise record the other person in a state of nudity if the other person is a minor.

(d) No person, for the purpose of sexually arousing or gratifying himself or herself, shall commit trespass or otherwise surreptitiously invade the privacy of another to videotape, film, photograph or otherwise record the other person in a state of nudity if the other person is a minor and any of the following applies:

(1) The offender is the minor's natural or adoptive parent, step-parent, guardian or custodian, or person in loco parentis of the minor.

(2) The minor is in custody of law or is a patient in a hospital or other institution, and the offender has supervisory or disciplinary authority over the minor.

(3) The offender is a teacher, administrator, coach or other person in authority employed by or serving in a school for which the State Board of Education prescribes minimum standards pursuant to R.C. § 3301.07(D), the minor is enrolled in or attends that school, and the offender is not enrolled in or does not attend that school.

(4) The offender is a teacher, administrator, coach or other person in authority employed by or serving in an institution of higher education, and the minor is enrolled in or

attends that institution.

(5) The offender is a caregiver, administrator or other person in authority employed by or serving in a child day-care center, type A family day-care home, or type B family day-care home, and the minor is enrolled in or attends that center or home.

(6) The offender is the minor's athletic or other type of coach, is the minor's instructor, is the leader of a scouting troop of which the minor is a member, provides babysitting care for the minor, or is a person with temporary or occasional disciplinary control over the minor.

(e) No person shall secretly or surreptitiously videotape, film, photograph or otherwise record another person under or through the clothing being worn by that person for the purpose of viewing the body of, or the undergarments worn by, that other person.

(f) Whoever violates this section is guilty of voyeurism.

(1) A violation of division (a) of this section is a misdemeanor of the third degree.

(2) A violation of division (b) of this section is a misdemeanor of the second degree.

(3) A violation of division (c) or (e) of this section is a misdemeanor of the first degree.

(4) A violation of division (d) of this section is a felony to be prosecuted under appropriate state law.

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

(1) Babysitting care. Care provided for a child while the parents, guardians or legal custodians of the child are temporarily away.

(2) Child day-care center, type A family day-care home and type B family day-care home. Have the same meanings as in R.C. § 5104.01.

(3) Institution of higher education. A state institution of higher education as defined in R.C. § 3345.031, a private nonprofit college or university located in this state that possesses a certificate of authorization issued by the Ohio Board of Regents pursuant to R.C. Chapter 1713, or a school certified under R.C. Chapter 3332. (R.C. § 2907.08)

§ 666.06 POLYGRAPH EXAMINATIONS FOR VICTIMS; RESTRICTIONS ON USE.

(a) (1) A peace officer, prosecutor, or other public official shall not ask or require a victim of an alleged sex offense to submit to a polygraph examination as a condition for proceeding with the investigation of the alleged sex offense.

(2) The refusal of the victim of an alleged sex offense to submit to a polygraph examination shall not prevent the investigation of the alleged sex offense, the filing of criminal charges with respect to the alleged sex offense, or the prosecution of the alleged perpetrator of the alleged sex offense.

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

A. Peace officer. Has the same meaning as in R.C. § 2921.51.

B. Polygraph examination. Any mechanical or electrical instrument or device of any type used or allegedly used to examine, test or question an individual for the purpose of determining the individual's truthfulness.

C. Prosecution. The prosecution of criminal charges in a criminal prosecution or the prosecution of a delinquent child complaint in a delinquency proceeding.

D. Prosecutor. Has the same meaning as in R.C. § 2935.01.

E. Public official. Has the same meaning as in R.C. § 117.01.

F. Sex offense. A violation of any provision of §§ 666.02 to 666.05 or R.C. §§ 2907.02 to 2907.09.
(R.C. § 2907.10)

§ 666.07 PROCURING.

(a) No person, knowingly and for gain, shall do either of the following:

(1) Entice or solicit another to patronize a prostitute or brothel;

(2) Procure a prostitute for another to patronize, or take or direct another at his or her request to any place for the purpose of patronizing a prostitute.

(b) No person, having authority or responsibility over the use of premises, shall knowingly permit the premises to be used for the purpose of engaging in sexual activity for hire.

(c) Whoever violates this section is guilty of procuring, a misdemeanor of the first degree. (R.C. § 2907.23)

§ 666.08 SOLICITING.

(a) No person shall solicit another to engage with the other person in sexual activity for hire.

(b) (1) Whoever violates division (a) of this section is guilty of soliciting, a misdemeanor of the third degree.

(2) If a person is convicted of or pleads guilty to a violation of division (a) of this section or an attempt to commit a violation of division (a) of this section and if the person, in committing or attempting to commit the violation, was in, was on or used a motor vehicle, the court, in addition to or independent of all other penalties imposed for the violation, shall impose upon the offender a class six suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(6).

(R.C. § 2907.24)

Statutory reference:

Offenders with knowledge that they test HIV positive, felony, see R.C. § 2907.24(B)

Testing offenders for venereal disease and AIDS, see R.C. § 2907.27

§ 666.09 LOITERING TO ENGAGE IN SOLICITATION.

(a) No person, with purpose to solicit another to engage in sexual activity for hire and while in or near a public place, shall do any of the following:

(1) Beckon to, stop or attempt to stop another;

(2) Engage or attempt to engage another in conversation;

(3) Stop or attempt to stop the operator of a vehicle or approach a stationary vehicle;

(4) If the offender is the operator of or a passenger in a vehicle, stop, attempt to stop, beckon to, attempt to beckon to, or entice another to approach or enter the vehicle of which the offender is the operator or in which the offender is the passenger;

(5) Interfere with the free passage of another.

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

(1) APublic place. Any of the following:

A. A street, road, highway, thoroughfare, bikeway, walkway, sidewalk, bridge, alley, alleyway, plaza, park, driveway, parking lot or transportation facility.

B. A doorway or entrance way to a building that fronts on a place described in division (1)A. of this definition.

C. A place not described in division (1)A. or (1)B. of this definition that is open to the public.

(2) AVehicle. Has the same meaning as in R.C. § 4501.01.

(c) Whoever violates this section is guilty of loitering to engage in solicitation, a misdemeanor of the third degree.

(R.C. § 2907.241)

Statutory reference:

Offenders with knowledge that they test HIV positive, felony, see R.C. § 2907.241(B)

Testing offenders for venereal disease and AIDS, see R.C. § 2907.27

§ 666.10 PROSTITUTION.

(a) No person shall engage in sexual activity for hire.

(b) Whoever violates this section is guilty of prostitution, a misdemeanor of the third degree. (R.C. § 2907.25)

Statutory reference:

Offenders with knowledge that they test HIV positive, felony, see R.C. § 2907.25(B)

Testing offenders for venereal disease and AIDS, see R.C. § 2907.27

§ 666.11 RULES OF EVIDENCE.

(a) In any case in which it is necessary to prove that a place is a brothel, evidence as to the reputation of the place and as to the reputation of the persons who inhabit or frequent it is admissible on the question of whether the place is or is not a brothel.

(b) In any case in which it is necessary to prove that a person is a prostitute, evidence as to the reputation of the person is admissible on the question of whether the person is or is not a prostitute.

(c) In any prosecution for a violation of §§ 666.07 to 666.10, proof of a prior conviction of the accused of any such offense or substantially equivalent offense is admissible in support of the charge.

(d) The prohibition contained in R.C. § 2317.02(D) against testimony by a husband or wife concerning communications between them does not apply, and the accused's spouse may testify concerning any such communication in any of the following cases:

(1) When the husband or wife is charged with a violation of § 666.07 and the spouse

testifying was the prostitute involved in the offense or the person who used the offender's premises to engage in sexual activity for hire;

(2) When the husband or wife is charged with a violation of § 666.08 or § 666.10. (R.C. § 2907.26)

§ 666.12 DISSEMINATING MATTER HARMFUL TO JUVENILES.

(a) No person, with knowledge of its character or content, shall recklessly do any of following:

(1) Directly sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile any material or performance that is obscene or harmful to juveniles;

(2) Offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;

(3) While in the physical proximity of the juvenile or law enforcement officer posing as a juvenile, allow any juvenile or law enforcement officer posing as a juvenile to review or peruse any material or view any live performance that is harmful to juveniles.

(b) The following are affirmative defenses to a charge under this section that involves material or a performance that is harmful to juveniles but not obscene:

(1) The defendant is the parent, guardian or spouse of the juvenile involved.

(2) The juvenile involved, at the time of the conduct in question, was accompanied by his or her parent or guardian who, with knowledge of its character, consented to the material or performance being furnished or presented to the juvenile.

(3) The juvenile exhibited to the defendant or his or her agent or employee a draft card, driver's license, birth record, marriage license or other official or apparently official document purporting to show that the juvenile was 18 years of age or over or married, and the person to whom the document was exhibited did not otherwise have reasonable cause to believe that the juvenile was under the age of 18 and unmarried.

(c) (1) It is an affirmative defense to a charge under this section, involving material or a

performance that is obscene or harmful to juveniles, that the material or performance was furnished or presented for a bona fide medical, scientific, educational, governmental, judicial or other proper purpose, by a physician, psychologist, sociologist, scientist, teacher, librarian, clergy, prosecutor, judge or other proper person.

(2) Except as provided in division (b)(3) of this section, mistake of age is not a defense to a charge under this section.

(d) (1) A person directly sells, delivers, furnishes, disseminates, provides, exhibits, rents or presents or directly offers or agrees to sell, deliver, furnish, disseminate, provide, exhibit, rent or present material or a performance to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section by means of an electronic method of remotely transmitting information if the person knows or has reason to believe that the person receiving the information is a juvenile or the group of persons receiving the information are juveniles.

(2) A person remotely transmitting information by means of a method of mass distribution does not directly sell, deliver, furnish, disseminate, provide, exhibit, rent or present or directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent or present the material or performance in question to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section if either of the following applies:

A. The person has inadequate information to know or have reason to believe that a particular recipient of the information or offer is a juvenile.

B. The method of mass distribution does not provide the person the ability to prevent a particular recipient from receiving the information.

(e) Whoever violates this section is guilty of disseminating matter harmful to juveniles. If the material or performance involved is harmful to juveniles except as otherwise provided in this division, a violation of this section is a misdemeanor of the first degree. If the material or performance involved is obscene, violation of this section is a felony to be prosecuted under appropriate state law.

(R.C. § 2907.31)

§ 666.13 DISPLAYING MATTER HARMFUL TO JUVENILES.

(a) No person who has custody, control or supervision of a commercial establishment, with knowledge of the character or content of the material involved, shall display at the establishment any material that is harmful to juveniles and that is open to view by juveniles as part of the invited general public.

(b) It is not a violation of division (a) of this section if the material in question is displayed by placing it behind blinder racks or similar devices that cover at least the lower two-thirds of the material, if the material in question is wrapped or placed behind the counter, or if the material in question otherwise is covered or located so that the portion that is harmful to juveniles is not open to the view of juveniles.

(c) Whoever violates this section is guilty of displaying matter harmful to juveniles, a misdemeanor of the first degree. Each day during which the offender is in violation of this section constitutes a separate offense.

(R.C. § 2907.311)

§ 666.14 DECEPTION TO OBTAIN MATTER HARMFUL TO JUVENILES.

(a) No person, for the purpose of enabling a juvenile to obtain any material or gain admission to any performance which is harmful to juveniles, shall do either of the following:

(1) Falsely represent that he or she is the parent, guardian or spouse of the juvenile.

(2) Furnish the juvenile with any identification or document purporting to show that the juvenile is 18 years of age or over or married.

(b) No juvenile, for the purpose of obtaining any material or gaining admission to any performance which is harmful to juveniles, shall do either of the following:

(1) Falsely represent that he or she is 18 years of age or over or married.

(2) Exhibit any identification or document purporting to show that he or she is 18 years of age or over or married.

(c) Whoever violates this section is guilty of deception to obtain matter harmful to juveniles, a misdemeanor of the second degree. A juvenile who violates division (b) of this section shall be adjudged an unruly child, with the disposition of the case as may be appropriate under R.C. Chapter 2151.

(R.C. § 2907.33)

§ 666.15 PRESUMPTIONS; NOTICE.

(a) An owner or manager, or agent or employee of an owner or manager, of a bookstore, newsstand, theater or other commercial establishment engaged in selling material or exhibiting performances, who, in the course of business does any of the acts prohibited by § 666.12 is presumed to have knowledge of the character of the material or performance involved if the owner, manager, or agent or employee of the owner or manager has actual notice of the nature of the material or performance, whether or not the owner, manager, or agent or employee of the owner or

manager has precise knowledge of its contents.

(b) Without limitation on the manner in which the notice may be given, actual notice of the character of material or a performance may be given in writing by the chief legal officer of the municipality. This notice, regardless of the manner in which it is given, shall identify the sender, identify the material or performance involved, state whether it is obscene or harmful to juveniles, and bear the date of the notice.

(c) Section 666.12 does not apply to a motion picture operator or projectionist acting within the scope of employment as an employee of the owner or manager of the theater or other place for the showing of motion pictures to the general public, and having no managerial responsibility or financial interest in the operator's or projectionist's place of employment, other than wages.

(d) (1) The provisions of §§ 666.12, 666.13 and 666.14(a) do not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection.

(2) Division (d)(1) of this section does not apply to a person who conspires with an entity actively involved in the creation or knowing distribution of material in violation of § 666.12, § 666.13 or § 666.14 or who knowingly advertises the availability of material of that nature.

(3) Division (d)(1) of this section does not apply to a person who provides access or connection to an electronic method of remotely transferring information that is

engaged in the violation of § 666.12, § 666.13 or § 666.14 and that contain content that person has selected and introduced into the electronic method of remotely transferring information or content over which that person exercises editorial control.

(e) An employer is not guilty of a violation of § 666.12, § 666.13 or § 666.14 based on the actions of an employee or agent of the employer unless the employee's or agent's conduct is within the scope of the employee's or agent's employment or agency, and the employer does either of the following:

(1) With knowledge of the employee's or agent's conduct, the employer authorizes or ratifies the conduct.

(2) The employer recklessly disregards the employee's or agent's conduct.

(f) It is an affirmative defense to a charge under § 666.12 or § 666.13 as the section applies to an image transmitted through the internet or other electronic method of remotely transmitting information that the person charged with violating the section has taken, in good faith, reasonable, effective and appropriate actions under the circumstances to restrict or prevent access by juveniles to material that is harmful to juveniles, including any method that is feasible under available technology.

(R.C. § 2907.35)

§ 666.16 DECLARATORY JUDGMENT.

(a) Without limitation on the persons otherwise entitled to bring an action for a declaratory judgment pursuant to R.C. Chapter 2721, involving the same issue, the following persons have standing to bring a declaratory judgment action to determine whether particular materials or performances are obscene or harmful to juveniles:

(1) The chief legal officer of the municipality if and when there is reasonable cause to believe that R.C. § 2907.31 or § 2907.32, or a substantially equivalent municipal ordinance, is being or is about to be violated;

(2) Any person who, pursuant to R.C. § 2907.35(B) or a substantially equivalent municipal ordinance, has received notice in writing from the chief legal officer stating that particular materials or performances are obscene or harmful to juveniles.

(b) Any party to an action for a declaratory judgment pursuant to division (a) of this section is entitled, upon the party's request, to trial on the merits within five days after joinder of the issues, and the court shall render judgment within five days after trial is concluded.

(c) An action for a declaratory judgment pursuant to division (a) of this section shall not be brought during the pendency of any civil action or criminal prosecution when the character of the particular materials or performances involved is at issue in the pending case, and either of the following applies:

(1) Either of the parties to the action for a declaratory judgment is a party to the pending case;

(2) A judgment in the pending case will necessarily constitute res judicata as to the character of the materials or performances involved.

(d) A civil action or criminal prosecution in which the character of particular materials or performances is at issue, brought during the pendency of an action for a declaratory judgment involving the same issue, shall be stayed during the pendency of the action for a declaratory judgment.

(e) The fact that a violation of R.C. § 2907.31 or § 2907.32, or a substantially equivalent

municipal ordinance, occurs prior to a judicial determination of the character of the material or performance involved in the violation does not relieve the offender of criminal liability for the violation, even though prosecution may be stayed pending the judicial determination.
(R.C. § 2907.36)

§ 666.17 INJUNCTION; ABATEMENT OF NUISANCE.

(a) Where it appears that R.C. § 2907.31 or § 2907.32, or a substantially equivalent municipal ordinance, is being or is about to be violated, the chief legal officer of the municipality may bring an action to enjoin the violation. The defendant, upon his or her request, is entitled to trial on the merits within five days after the joinder of the issues, and the court shall render judgment within five days after the trial is concluded.

(b) Premises used or occupied for repeated violations of R.C. § 2907.31 or § 2907.32, or a substantially equivalent municipal ordinance, constitute a nuisance subject to abatement pursuant to R.C. Chapter 3767.
(R.C. § 2907.37)

§ 666.18 UNLAWFUL OPERATION OF VIEWING BOOTHS DEPICTING SEXUAL CONDUCT.

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

(1) ACommercial establishment. An entity that is open to the public and to which either of the following applies:

A. It has a substantial or significant portion of its stock-in-trade of the sale, rental

or viewing of visual materials or performances depicting sexual conduct.

B. It has as a principal business purpose the sale, rental or viewing of visual materials or performances depicting sexual conduct.

(2) AVisual materials or performances. Films, videos, CD-ROM discs, streaming video or other motion pictures.

(b) No person who has custody, control or supervision of a commercial establishment, with knowledge of the character of the visual material or performance involved, shall knowingly permit the use of, or offer the use of, viewing booths, stalls or partitioned portions of a room located in the commercial establishment for the purpose of viewing visual materials or performances depicting sexual conduct unless both of the following apply:

(1) The inside of each booth, stall or partitioned room is visible from, and at least one side of each booth, stall or partitioned room is open to, a continuous and contiguous main aisle or hallway that is open to the public areas of the commercial establishment and is not obscured by any curtain, door or other covering or enclosure.

(2) No booth, stall or partitioned room is designed, constructed, pandered or allowed to be used for the purpose of encouraging or facilitating nudity or sexual activity on the part of or between patrons or members of the public, and no booth, stall or partitioned room has any aperture, hole or opening for the purpose of encouraging or facilitating nudity or sexual activity.

(c) It is an affirmative defense to a charge under this section that either of the following applies to the involved visual materials or performances:

(1) The visual materials or performances depicting sexual conduct are disseminated or presented for a bona fide medical, scientific, educational, religious, governmental,

judicial or other proper purpose and by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge or other person having a proper interest in the visual materials or performances.

(2) The visual materials or performances depicting sexual conduct, taken as a whole, would be found by a reasonable person to have serious literary, artistic, political or scientific value or are presented or disseminated in good faith for a serious literary, artistic, political or scientific purpose and are not pandered for their prurient appeal.

(d) Whoever violates this section is guilty of permitting unlawful operation of viewing booths depicting sexual conduct, a misdemeanor of the first degree.
(R.C. § 2907.38)

§ 666.19 JUVENILES ON THE PREMISES OF ADULT ENTERTAINMENT ESTABLISHMENTS PROHIBITED.

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

(1) Adult arcade. Any place to which the public is permitted or invited in which coin-operated, slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and in which the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing specified sexual activities or specified anatomical areas.

(2) Adult bookstore, adult novelty store or adult video store.

A. A commercial establishment that, for any form of consideration, has as a significant or substantial portion of its stock-in-trade in, derives a significant or substantial portion of its revenues from, devotes a significant or substantial portion of its interior business or advertising to, or maintains a substantial section of its sales or display space for the sale or rental of any of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides or other visual representations, that are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas;
2. Instruments, devices or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of self or others.

B. Includes a commercial establishment as defined in R.C. § 2907.38. An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials exhibiting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore, adult novelty store or adult video store. The existence of other principal business purposes does not exempt an establishment from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, such materials that exhibit or describe specified sexual activities or specified anatomical areas.

(3) Adult cabaret. A nightclub, bar, juice bar, restaurant, bottle club or similar commercial establishment, whether or not alcoholic beverages are served, that regularly features

any of the following:

A. Persons who appear in a state of nudity or semi-nudity;

B. Live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities;

C. Films, motion pictures, video cassettes, slides or other photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.

(4) Adult entertainment. The sale, rental or exhibition, for any form of consideration, of books, films, video cassettes, magazines, periodicals or live performances that are characterized by an emphasis on the exposure or display of specified anatomical areas or specified sexual activity.

(5) Adult entertainment establishment. An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude or seminude model studio or sexual encounter establishment. An establishment in which a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the state engages in medically approved and recognized therapy, including but not limited to massage therapy, as regulated pursuant to R.C. § 4731.15, is not an Aadult entertainment establishment .

(6) Adult motion picture theater. A commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.

(7) Adult theater. A theater, concert hall, auditorium or similar commercial establishment that, for any form of consideration, regularly features persons who appear in a state

of nudity or semi-nudity or live performances that are characterized by their emphasis upon the exposure of specified anatomical areas or specified sexual activities.

(8) Distinguished or characterized by their emphasis upon. The dominant or principal character and theme of the object described by this phrase. For instance, when the phrase refers to films Athat are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas , the films so described are those whose dominant or principal character and theme are the exhibition or description of specified sexual activities or specified anatomical areas.

(9) Nude or seminude model studio. Any place where a person, who regularly appears in a state of nudity or seminudity, is provided for money or any other form of consideration to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons. A modeling class or studio is not a Anude or seminude model studio and is not subject to this chapter if it is operated in any of the following ways:

A. By a college or university supported entirely or partly by taxation;

B. By a private college or university that maintains and operates educational programs, the credits for which are transferable to a college or university supported entirely or partly by taxation;

C. In a structure that has no sign visible from the exterior of the structure and no other advertising indicating that a person appearing in a state of nudity or seminudity is available for viewing, if in order to participate in a class in the structure, a student must enroll at least three days in advance of the class and if not more than one nude or seminude model is on the premises at any one time.

(10) Nudity, nude or state of nudity. The showing of the human male or female genitals,

pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering; or the showing of the female breasts with less than a fully opaque covering of any part of the nipple.

(11) Regularly features or regularly shown. A consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the adult entertainment establishment.

(12) Seminude or state of semi-nudity. A state of dress in which opaque clothing covers not more than the genitals, pubic region and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

(13) Sexual encounter establishment.

A. A business or commercial establishment that, as one of its principal business purposes, offers for any form of consideration a place where either of the following occur:

1. Two or more persons may congregate, associate or consort for the purpose of engaging in specified sexual activities.
2. Two or more persons appear nude or seminude for the purpose of displaying their nude or seminude bodies for their receipt of consideration or compensation in any type or form.

B. An establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the state engages in medically approved and recognized therapy, including but not limited to massage therapy, as regulated pursuant to R.C. § 4731.15, is not a Asexual encounter establishment .

(14) Specified anatomical areas. The cleft of the buttocks, anus, male or female genitals, or the female breast.

(15) ASpecified sexual activity. Any of the following:

A. Sex acts, normal or perverted, or actual or simulated, including intercourse, oral copulation, masturbation or sodomy;

B. Excretory functions as a part of or in connection with any of the activities described in division A. of this definition.

(b) No person knowingly shall allow an individual, including but not limited to a patron, customer, or employee, who is under 18 years of age on the premises of an adult entertainment establishment.

(c) No individual who is under 18 years of age knowingly shall show or give false information concerning the individual's name or age, or other false identification, for the purpose of gaining entrance to an adult entertainment establishment.

(d) A person shall not be found guilty of a violation of division (b) of this section if the person raises as an affirmative defense and if the jury or, in a nonjury trial, the court finds the person has established by a preponderance of the evidence, all of the following:

(1) The individual gaining entrance to the adult entertainment establishment exhibited to an operator, employee, agent or independent contractor of the adult entertainment establishment a driver's or commercial driver's license or an identification card issued under R.C. §§ 4507.50 and 4507.52 showing that the individual was then at least 18 years of age.

(2) The operator, employee, agent or independent contractor made a bona fide effort to ascertain the true age of the individual gaining entrance to the adult entertainment establishment by checking the identification presented, at the time of entrance, to ascertain that the description on the identification compared with the appearance of

the individual and that the identification had not been altered in any way.

(3) The operator, employee, agent or independent contractor had reason to believe that the individual gaining entrance to the adult entertainment establishment was at least 18 years of age.

(e) In any criminal action in which the affirmative defense described in division (d) of this section is raised, the Registrar of Motor Vehicles or the Deputy Registrar who issued a driver's or commercial driver's license or an identification card under R.C. §§ 4507.50 and 4507.52 shall be permitted to submit certified copies of the records, in the Registrar's or Deputy Registrar's possession, of the issuance of the license or identification card in question, in lieu of the testimony of the personnel of the Bureau of Motor Vehicles in the action.

(f) (1) Whoever violates division (b) of this section is guilty of permitting a juvenile on the premises of an adult entertainment establishment, a misdemeanor of the first degree. Each day a person violates this division constitutes a separate offense.

(2) Whoever violates division (c) of this section is guilty of use by a juvenile of false information to enter an adult entertainment establishment, a delinquent act that would be a misdemeanor of the fourth degree if committed by an adult.

(R.C. § 2907.39)

§ 666.20 SEXUALLY ORIENTED BUSINESSES; ILLEGAL OPERATION AND ACTIVITY.

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

(1) Adult bookstore or adult video store. A commercial establishment that has as a significant or substantial portion of its stock-in-trade or inventory in, derives a

significant or substantial portion of its revenues from, devotes a significant or substantial portion of its interior business or advertising to, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides or other visual representations, that are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.

(2) Adult cabaret. Has the same meaning as in R.C. § 2907.39.

(3) Adult motion picture theater. A commercial establishment where films, motion pictures, videocassettes, slides or similar photographic reproductions that are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five individuals for any form of consideration.

(4) Characterized by. Describing the essential character or quality of an item.

(5) Employee. Any individual who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, regardless of whether the individual is denominated an employee, independent contractor, agent or otherwise, but does not include an individual exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

(6) Nudity, nude or state of nudity. Has the same meaning as in R.C. § 2907.39.

(7) Operator. Any individual on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises.

(8) Patron. Any individual on the premises of a sexually oriented business except for any of the following:

A. An operator or an employee of the sexually oriented business;

B. An individual who is on the premises exclusively for repair or maintenance of the premises or for the delivery of goods to the premises;

C. A public employee or a volunteer firefighter emergency medical services worker acting within the scope of the public employee's or volunteer's duties as a public employee or volunteer.

(9) Premises. The real property on which the sexually oriented business is located and all appurtenances to the real property, including but not limited to the sexually oriented business, the grounds, private walkways and parking lots or parking garages adjacent to the real property under the ownership, control or supervision of the owner or operator of the sexually oriented business.

(10) Regularly. Consistently or repeatedly.

(11) Seminude or state of seminudity. Has the same meaning as in R.C. § 2907.39.

(12) Sexual device. Any three-dimensional object designed and marketed for stimulation of the male or female human genitals or anus or female breasts or for sadomasochistic use or abuse of oneself or others, including but not limited to dildos, vibrators, penis pumps and physical representations of the human genital organs, but not including devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

(13) Sexual device shop. A commercial establishment that regularly features sexual devices, but not including any pharmacy, drug store, medical clinic or establishment primarily dedicated to providing medical or healthcare products or services, and not including any commercial establishment that does not restrict access to its premises by reason of age.

(14) Sexual encounter center. A business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration physical

contact in the form of wrestling or tumbling between individuals of the opposite sex when one or more of the individuals is nude or seminude.

(15) Sexually oriented business. An adult bookstore, adult video store, adult cabaret, adult motion picture theater, sexual device shop or sexual encounter center, but does not include a business solely by reason of its showing, selling or renting materials that may depict sex.

(16) Specified anatomical areas. Includes human genitals, pubic region and buttocks and the human female breast below a point immediately above the top of the areola.

(17) Specified sexual activity. Sexual intercourse, oral copulation, masturbation or sodomy, or excretory functions as a part of or in connection with any of these activities.

(b) No sexually oriented business shall be or remain open for business between midnight and 6:00 a.m. on any day, except that a sexually oriented business that holds a liquor permit pursuant to R.C. Chapter 4303 may remain open until the hour specified in that permit if it does not conduct, offer or allow sexually oriented entertainment activity in which the performers appear nude.

(c) (1) No patron who is not a member of the employee's immediate family shall knowingly touch any employee while that employee is nude or seminude or touch the clothing of any employee while that employee is nude or seminude.

(2) No employee who regularly appears nude or seminude on the premises of a sexually oriented business, while on the premises of that sexually oriented business and while nude or seminude, shall knowingly touch a patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family or the clothing of a patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family or allow a patron who is not a member of the

employee's immediate family or another employee who is not a member of the employee's immediate family to touch the employee or the clothing of the employee.

(d) Whoever violates division (b) of this section is guilty of illegally operating a sexually oriented business, a misdemeanor of the first degree.

(e) Whoever violates division (c) of this section is guilty of illegal sexually oriented activity in a sexually oriented business. If the offender touches a specified anatomical area of the patron or employee, or the clothing covering a specified anatomical area, a violation of division (c) of this section is a misdemeanor of the first degree. If the offender does not touch a specified anatomical area of the patron or employee, or the clothing covering a specified anatomical area, a violation of division (c) of this section is a misdemeanor of the fourth degree.
(R.C. § 2907.40)

Statutory reference:

State indemnification for certain municipal liability stemming from local adult business regulations,

see R.C. § 715.55

§ 666.99 SENTENCING FOR SEXUALLY ORIENTED OFFENSES; SEXUAL PREDATORS; REGISTRATION.

(a) If an offender is being sentenced for a sexually oriented offense or child-victim oriented offense that is a misdemeanor committed on or after January 1, 1997, and the offender is a tier III sex offender/child-victim offender relative to the offense or the offense is any offense listed in R.C. § 2901.07(D)(1) to (D)(3), the judge shall include in the offender's sentence a statement that the offender is a tier III sex offender/child-victim offender, shall comply with the requirements of R.C.

§ 2950.03, and shall require the offender to submit to a DNA specimen collection procedure pursuant to R.C. § 2901.07.

(b) If an offender is being sentenced for a sexually oriented offense or a child-victim oriented offense that is a misdemeanor committed on or after January 1, 1997, the judge shall include in the sentence a summary of the offender's duties imposed under R.C. §§ 2950.04, 2950.041, 2950.05 and 2950.06, and the duration of the duties. The judge shall inform the offender, at the time of sentencing, of those duties and of their duration. If required under R.C. § 2950.03(A)(2), the judge shall perform the duties specified in that section or, if required under R.C. § 2950.03(A)(6), the judge shall perform the duties specified in that division.
(R.C. § 2929.23)

CHAPTER 672: THEFT AND FRAUD

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Cross-reference:

Disposition of unclaimed or forfeited property held by Police Department, see § 654.16

Detention of shoplifters and those committing motion picture piracy; protection of institutional property, see § 654.17

Definitions relating to theft and fraud, see § 642.01

Possession of municipal property, see § 642.02

Unauthorized use of property, see § 642.03

Possessing criminal tools, see § 678.14

§ 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 $500 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 or disabled adult;

(4) If the property stolen is a firearm or dangerous ordnance;

(5) If the property stolen is a motor vehicle;

(6) If the property stolen is any dangerous drug, or if the offender previously has been convicted of a felony drug abuse offense;

(7) If the property stolen is a police dog or horse or an assistance dog and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog; or

(8) If the property stolen is anhydrous ammonia.

(c) In addition to the penalties described in division (b) of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:

(1) Unless division (c)(2) of this section applies, suspend for not more than six months the 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 months.

(d) 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. Chapter 4510.
(R.C. § 2913.02)
Statutory reference:

Felony theft provisions, see R.C. § 2913.02(B)

§ 672.02 RECEIVING STOLEN PROPERTY.

(a) 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.

(b) 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) 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 $500 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; or

(5) The property involved is any dangerous drug, as defined in R.C. § 4729.01. (R.C. § 2913.51)

§ 672.03 DETERMINING PROPERTY VALUE IN THEFT OFFENSE.

(a) If more than one item of property or services is involved in a theft offense or in a violation of R.C. § 1716.14(A) involving a victim who is an elderly person or disabled adult, or any substantially equivalent municipal ordinance, the value of the property or services involved for the purpose of determining the value as required by R.C. § 2913.61(A) is the aggregate value of all property or services involved in the offense.

(b) (1) When a series of offenses under R.C. § 2913.02, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of R.C. § 1716.14(A), § 2913.02, § 2913.03 or § 2913.04, § 2913.21(B)(1) or (B)(2), or § 2913.31 or § 2913.43 involving a victim who is an elderly person or disabled adult, or any substantially equivalent municipal ordinance to any of these offenses, is committed by the offender in the offender's same employment, capacity or relationship to another, all of those offenses shall be tried as a single offense. The value of the property or services involved in the series of offenses for the purpose of determining the value as required by R.C. § 2913.61(A) is the aggregate value of all property and services involved in all offenses in the series.

(2) If an offender commits a series of offenses under R.C. § 2913.02 that involves a common course of conduct to defraud multiple victims, all of the offenses may be tried as a single offense. If an offender is being tried for the commission of a series

of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of R.C. § 1716.14(A), § 2913.02, § 2913.03 or § 2913.04, § 2913.21(B)(1) or (B)(2), or § 2913.31 or § 2913.43, whether committed against one victim or more than one victim, involving a victim who is an elderly person or disabled adult, or any substantially equivalent municipal ordinance to any of these offenses, pursuant to a scheme or course of conduct, all of those offenses may be tried as a single offense. If the offenses are tried as a single offense, the value of the property or services involved for the purpose of determining the value as required by R.C. § 2913.61(A) is the aggregate value of all property and services involved in all of the offenses in the course of conduct.

(3) When a series of two or more offenses under R.C. § 2921.41 is committed by the offender in the offender's same employment, capacity or relationship to another, all of those offenses may be tried as a single offense. If the offenses are tried as a single offense, the value of the property or services involved for the purpose of determining the value as required by R.C. § 2913.61(A) is the aggregate value of all property and services involved in all of the offenses in the series of two or more offenses.

(4) In prosecuting a single offense under division (b)(1), (b)(2) or (b)(3) of this section, it is not necessary to separately allege and prove each offense in the series. Rather, it is sufficient to allege and prove that the offender, within a given span of time, committed one or more theft offenses or violations of R.C. § 2921.41 in the offender's same employment, capacity, or relationship to another as described in division (b)(1) or (b)(3) of this section, or committed one or more theft offenses that involve a common course of conduct to defraud multiple victims or a scheme or course of conduct as described in division (b)(2) of this section.

(c) The following criteria shall be used in determining the value of property or services

involved in a theft offense:

(1) The value of an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that has intrinsic worth to its owner and that either is irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, is the amount which would compensate the owner for its loss.

(2) The value of personal effects and household goods, and of materials, supplies, equipment and fixtures used in the profession, business, trade, occupation, or avocation of its owner, which property is not covered under division (c)(1) of this section, and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing the property with new property of like kind and quality.

(3) The value of any real or personal property that is not covered under division (c)(1) or (c)(2) of this section, and the value of services, is the fair market value of the property or services. As used in this section, Afair market value is the money consideration which a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.

(d) Without limitation on the evidence which may be used to establish the value of property or services involved in a theft offense:

(1) When the property involved is personal property held for sale at wholesale or retail, the price at which the property was held for sale is prima facie evidence of its value.

(2) When the property involved is a security or commodity traded on an exchange, the closing price or, if there is no closing price, the asked price, given in the latest marked quotation prior to the offense, is prima facie evidence of the value of the

security or commodity.

(3) When the property involved is livestock, poultry or raw agricultural products for which a local market price is available, the latest local market price prior to the offense is prima facie evidence of the value of the livestock, poultry or products.

(4) When the property involved is a negotiable instrument, the face value is prima facie evidence of the value of the instrument.

(5) When the property involved is a warehouse receipt, bill of lading, pawn ticket, claim check or other instrument entitling the holder or bearer to receive property, the face value or, if there is no face value, the value of the property covered by the instrument less any payment necessary to receive the property, is prima facie evidence of the value of the instrument.

(6) When the property involved is a ticket of admission, ticket for transportation, coupon, token or other instrument entitling the holder or bearer to receive property or services, the face value or, if there is no face value, the value of the property or services which may be received by the instrument is prima facie evidence of the value of the instrument.

(7) When the services involved are gas, electricity, water, telephone, transportation, shipping or other services for which the rate is established by law, the duly established rate is prima facie evidence of the value of the services.

(8) When the services involved are services for which the rate is not established by law, and the offender has been notified prior to the offense of the rate for the services, either in writing or orally, or by posting in a manner reasonably calculated to come to the attention of potential offenders, the rate contained in the notice is prima facie evidence of the value of the services.

(R.C. § 2913.61(B) - (E))

§ 672.04 DEGREE OF OFFENSE WHEN CERTAIN PROPERTY INVOLVED.

Regardless of the value of the property involved, and regardless of whether the offender previously has been convicted of a theft offense, a violation of § 672.01 or § 672.02 is a felony to be prosecuted under appropriate state law if the property involved is any of the following:

(a) A credit card;

(b) A printed form for a check or other negotiable instrument, that on its face identifies the drawer or maker for whose use it is designed or identifies the account on which it is to be drawn, and that has not been executed by the drawer or maker or on which the amount is blank;

(c) A motor vehicle identification license plate as prescribed by R.C. § 4503.22, a temporary license placard or windshield sticker as prescribed by R.C. § 4503.182, or any comparable license plate, placard, or sticker as prescribed by the applicable law of another state or the United States;

(d) A blank form for a certificate of title or a manufacturer's or importer's certificate to a motor vehicle, as prescribed by R.C. § 4505.07;

(e) A blank form for any license listed in R.C. § 4507.01.

(R.C. § 2913.71)

§ 672.05 EVIDENCE OF THEFT OF RENTED PROPERTY.

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

(1) Rentee. A person who pays consideration to a renter for the use of rented property.

(2) Renter. A person who owns rented property.

(b) Each of the following shall be considered evidence of intent to commit theft of rented property:

(1) At the time of entering into the rental contract, the rentee presented the renter with identification that was materially false, fictitious or not current with respect to name, address, place of employment or other relevant information.

(2) After receiving a notice demanding the return of the rented property as provided in division (c) of this section, the rentee neither returned the rented property nor made arrangements acceptable with the renter to return the rented property.

(c) To establish that a rentee has an intent to commit theft of rented property under division (b)(2) above, a renter may issue a notice to a rentee demanding the return of the rented property. The renter shall mail the notice by certified mail, return receipt requested, to the rentee at the address the rentee gave when the rental contract was executed, or to the rentee at the last address the rentee or the rentee's agent furnished in writing to the renter.

(d) A demand for the return of the rented property is not a prerequisite for the prosecution of a rentee for theft of rented property. The evidence specified in division (b) above does not constitute the only evidence that may be considered as evidence of intent to commit theft of rented property.

(R.C. § 2913.72)

§ 672.06 TAMPERING WITH COIN MACHINES.

(a) No person, with purpose to commit theft or to defraud, shall knowingly enter, force an entrance into, tamper with or insert any part of an instrument into any coin machine.

(b) Whoever violates this section is guilty of tampering with coin machines, a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section or of any theft offense as defined in R.C. § 2913.01, tampering with coin machines is a felony to be prosecuted under appropriate state law.
(R.C. § 2911.32)

§ 672.07 PROSECUTIONS FOR THEFT OF UTILITIES.

(a) In a prosecution for a theft offense, as defined in R.C. § 2913.01, that involves alleged tampering with a gas, electric, steam or water meter, conduit or attachment of a utility that has been disconnected by the utility, proof that a meter, conduit or attachment of a utility has been tampered with is prima facie evidence that the person who is obligated to pay for the service rendered through the meter, conduit or attachment, and who is in possession or control of the meter, conduit or attachment at the time the tampering occurred has caused the tampering with intent to commit a theft offense.

(b) In a prosecution for a theft offense, as defined in R.C. § 2913.01, that involves the alleged reconnection of a gas, electric, steam or water meter, conduit or attachment of a utility that has

been disconnected by the utility, proof that a meter, conduit or attachment disconnected by a utility has been reconnected without the consent of the utility is prima facie evidence that the person in possession or control of the meter, conduit or attachment at the time of the reconnection has reconnected the meter, conduit or attachment with intent to commit a theft offense.

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

(1) ATamper. To interfere with, damage or bypass a utility meter, conduit or attachment with the intent to impede the correct registration of a meter or the proper functions of a conduit or attachment so as to reduce the amount of utility service that is registered on the meter.
(R.C. § 4933.18)

(2) AUtility. Any electric light company, gas company, natural gas company, pipe-line company, water-works company or heating or cooling company, as defined in R.C. § 4905.03, its lessees, trustees or receivers, or any similar utility owned or operated by a political subdivision.

(d) Each electric light company, gas company, natural gas company, pipeline company, waterworks company or heating or cooling company, as defined by R.C. § 4905.03, or its lessees, trustees or receivers, and each similar utility owned or operated by a political subdivision, shall notify its customers, on an annual basis, that tampering with or bypassing a meter constitutes a theft offense that could result in the imposition of criminal sanctions.
(R.C. § 4933.19)

§ 672.08 MISCONDUCT INVOLVING A PUBLIC TRANSPORTATION SYSTEM.

(a) As used in this section, Apublic transportation system means a county transit system operated in accordance with R.C. §§ 306.01 to 306.13, a regional transit authority operated in accordance with R.C. §§ 306.30 to 306.71, or a regional transit commission operated in accordance with R.C. §§ 306.80 to 306.90.

(b) No person shall evade the payment of the known fares of a public transportation system.

(c) No person shall alter any transfer, pass, ticket or token of a public transportation system with the purpose of evading the payment of fares or of defrauding the system.

(d) No person shall do any of the following while in any facility or on any vehicle of a public transportation system:

(1) Play sound equipment without the proper use of a private earphone;

(2) Smoke, eat or drink in any area where the activity is clearly marked as being prohibited; or

(3) Expectorate upon a person, facility or vehicle.

(e) No person shall write, deface, draw or otherwise mark on any facility or vehicle of a public transportation system.

(f) No person shall fail to comply with a lawful order of a public transportation system police officer, and no person shall resist, obstruct or abuse a public transportation police officer in the performance of the officer's duties.

(g) Whoever violates any of the provisions of this section is guilty of misconduct involving a public transportation system.

(1) A violation of division (b), (c) or (f) of this section is a misdemeanor of the fourth degree.

(2) A violation of division (d) of this section is a minor misdemeanor on a first offense. If a person previously has been convicted of or pleaded guilty to a violation of any division of this section or of a municipal ordinance that is substantially equivalent to any division of this section, a violation of division (d) of this section is a misdemeanor of the fourth degree.

(3) A violation of division (e) of this section is a misdemeanor of the third degree.

(h) Notwithstanding any other provision of law, 75% of each fine paid to satisfy a sentence imposed for a violation of any of the provisions of this section shall be deposited into the Treasury of the county and 25% shall be deposited with the county transit board, regional transit authority or regional transit commission that operates the public transportation system involved in the violation, unless the Board of County Commissioners operates the public transportation system, in which case 100% of each fine shall be deposited into the Treasury of the county.
(R.C. § 2917.41)

§ 672.09 UNAUTHORIZED USE OF A VEHICLE; VEHICLE TRESPASS.

(a) No person shall knowingly use or operate an aircraft, motor vehicle, motorcycle, motorboat or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(b) No person shall knowingly use or operate an aircraft, motor vehicle, motorboat or other motor-propelled vehicle without the consent of the owner or person authorized to give consent, and either remove it from this state or keep possession of it for more than 48 hours.

(c) The following are affirmative defenses to a charge under this section:

(1) At the time of the alleged offense, the actor, though mistaken, reasonably believed that he or she was authorized to use or operate the property.

(2) At the time of the alleged offense, the actor reasonably believed that the owner or person empowered to give consent would authorize the actor to use or operate the property.

(d) Whoever violates this section is guilty of unauthorized use of a vehicle.

(1) Except as otherwise provided in this division (d)(1), a violation of division (a) of this section is a misdemeanor of the first degree. If the victim of the offense is an elderly
person or disabled adult and if the victim incurs a loss as a result of the violation, a violation of division (a) of this section is a felony to be prosecuted under appropriate state law.

(2) A violation of division (b) of this section is a felony to be prosecuted under appropriate state law.
(R.C. § 2913.03)

Statutory reference:

Theft offense involving motor vehicle, offender to pay towing and storage fees, see R.C. § 2913.82

§ 672.10 PASSING BAD CHECKS.

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

(1) ACheck. Includes any form of debit from a demand deposit account, including but not limited to any of the following:

A. A check, bill of exchange, draft, order of withdrawal, or similar negotiable or non-negotiable instrument;

B. An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check or any form of automated clearing house transaction.

(2) AIssue a check. Causing any form of debit from a demand deposit account.

(b) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored or knowing that a person has ordered or will order stop payment on the check or other negotiable instrument.

(c) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored if either of the following occurs:

(1) The drawer has no account with the drawee at the time of issue or the stated date, whichever is later.

(2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within 30 days after issue or the stated date, whichever is later, and the liability of the drawer, endorser, or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.

(d) For purposes of this section, a person who issues or transfers a check, bill of exchange or other draft is presumed to have the purpose to defraud if the drawer fails to comply with R.C. § 1349.16 by doing any of the following when opening a checking account intended for personal,

family, or household purposes at a financial institution:

(1) Falsely stating that he or she has not been issued a valid driver's or commercial driver's license or identification card issued under R.C. § 4507.50;

(2) Furnishing the license or card, or another identification document that contains false information;

(3) Making a false statement with respect to the drawer's current address or any additional relevant information reasonably required by the financial institution.

(e) In determining the value of the payment for purposes of division (f) of this section, the court may aggregate all checks and other negotiable instruments that the offender issued or transferred or caused to be issued or transferred in violation of division (b) of this section within a period of 180 consecutive days.

(f) Whoever violates this section is guilty of passing bad checks. Except as otherwise provided in this division, passing bad checks is a misdemeanor of the first degree. If the check or checks or other negotiable instrument or instruments are issued or transferred to a single vendor or single other person for the payment of $500 or more, or if the check or checks or other negotiable instrument or instruments are issued or transferred to multiple vendors or persons for the payment of $1,000 or more, passing bad checks is a felony to be prosecuted under appropriate state law. (R.C. § 2913.11)

§ 672.11 MISUSE OF CREDIT CARDS.

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

(1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;

(2) Knowingly buy or sell a credit card from or to a person other than the issuer.

(b) No person, with purpose to defraud, shall do any of the following:

(1) Obtain control over a credit card as security for a debt;

(2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained or is being used in violation of law;

(3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;

(4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that the representation is false.

(c) No person, with purpose to violate this section, shall receive, possess, control or dispose of a credit card.

(d) Whoever violates this section is guilty of misuse of credit cards.

(1) Except as otherwise provided in division (d)(3) of this section, a violation of division (a), (b)(1) or (c) of this section is a misdemeanor of the first degree.

(2) Except as otherwise provided in this division or division (d)(3) of this section, a violation of division (b)(2), (b)(3) or (b)(4) of this section is a misdemeanor of the first degree. If the cumulative retail value of the property and services involved in one or more violations of division (b)(2), (b)(3) or (b)(4) of this section which violations involve one or more credit card accounts and occur within a period of 90 consecutive days commencing on the date of the first violation, is $500 or more, misuse of credit cards is a felony to be prosecuted under appropriate state law.

(3) If the victim of the offense is an elderly person or disabled adult, and if the offense involves a violation of division (b)(1) or (b)(2) of this section, misuse of credit cards

is a felony to be prosecuted under appropriate state law.
(R.C. § 2913.21)

§ 672.12 RECORDING CREDIT CARD, TELEPHONE OR SOCIAL SECURITY NUMBERS.

(a) No person shall record or cause to be recorded either of the following:

(1) A credit card account number of the other party to a transaction, when a check, bill of exchange or other draft is presented for payment; or

(2) The telephone number or Social Security account number of the other party to a transaction, when payment is made by credit card charge agreement, check, bill of exchange or other draft.

(b) Division (a) of this section does not apply to a transaction, if all of the following conditions are met:

(1) The credit card account number, Social Security account number or telephone number is recorded for a legitimate business purpose, including collection purposes.

(2) The other party to the transaction consents to the recording of the credit card account number, Social Security account number or telephone number.

(3) The credit card account number, Social Security account number or telephone number that is recorded during the course of the transaction is not disclosed to any third party for any purposes other than collection purposes and is not used to market goods or services unrelated to the goods or services purchased in the transaction.

(c) Nothing in this section prohibits the recording of the number of a credit card account when given in lieu of a deposit to secure payment in the event of default, loss, damage or other occurrence, or requires a person to accept a check presented for payment, if the other party to the

transaction refuses to consent to the recording of the number of the party's Social Security account or license to operate a motor vehicle. (R.C. § 1349.17)

(d) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. (R.C. § 1349.99)

§ 672.13 FORGING OR SELLING FORGED IDENTIFICATION CARDS.

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

(1) Forge an identification card.

(2) Sell or otherwise distribute a card that purports to be an identification card, knowing it was forged.

(b) As used in this section, Aidentification card means a card that includes personal information or characteristics of an individual, a purpose of which is to establish the identity of the bearer described on the card, whether the words Aidentity , Aidentification , Aidentification card or other similar words appear on the card.

(c) Whoever violates this section is guilty of forging identification cards or selling or distributing forged identification cards. Except as otherwise provided in this division, forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (a) of this section or a substantially equivalent state law or municipal ordinance, forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree and, in addition, the court shall impose upon the offender a fine not less than $250.
(R.C. § 2913.31(B), (C)(2))

Statutory reference:

Forgery, felony provisions, see R.C. § 2913.31(A), (C)(1)

Forgery of originating address or other routing information in connection with the transmission of an electronic mail advertisement, felony provisions, see R.C. § 2307.64

§ 672.14 CRIMINAL SIMULATION.

(a) No person, with purpose to defraud, or knowing that the person is facilitating a fraud, shall do any of the following:

(1) Make or alter any object so that it appears to have value because of antiquity, rarity, curiosity, source or authorship, which it does not in fact possess.

(2) Practice deception in making, retouching, editing or reproducing any photograph, movie film, video tape, phonograph record or recording tape.

(3) Falsely or fraudulently make, simulate, forge, alter or counterfeit any wrapper, label, stamp, cork or cap prescribed by the Liquor Control Commission under R.C. Chapters 4301 and 4303, falsely or fraudulently cause to be made, simulated, forged, altered or counterfeited any wrapper, label, stamp, cork or cap prescribed by the Liquor Control Commission under R.C. Chapters 4301 and 4303, or use more than once any wrapper, label, stamp, cork or cap prescribed by the Liquor Control Commission under R.C. Chapters 4301 and 4303.

(4) Offer, or possess with the purpose to offer, any object that the person knows to have been simulated as provided in divisions (a)(1), (a)(2) or (a)(3) of this section.

(b) Whoever violates this section is guilty of criminal simulation. Except as otherwise provided in this division, criminal simulation is a misdemeanor of the first degree. If the loss to the victim is $500 or more, criminal simulation is a felony to be prosecuted under appropriate state law.

(R.C. § 2913.32)

§ 672.15 MAKING OR USING SLUGS.

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

(1) Insert or deposit a slug in a coin machine, with purpose to defraud;

(2) Make, possess or dispose of a slug, with purpose of enabling another to defraud by inserting or depositing it in a coin machine.

(b) Whoever violates this section is guilty of making or using slugs, a misdemeanor of the second degree.

(R.C. § 2913.33)

§ 672.16 PRIMA FACIE EVIDENCE OF PURPOSE TO DEFRAUD.

In a prosecution of a person for a theft offense that alleges that the person, with purpose to defraud or knowing that he or she was facilitating a fraud, hired or rented an aircraft, motor vehicle, motorcycle, motorboat, sailboat, camper, trailer, horse, buggy or other property or equipment, kept or operated any of the same that has been hired or rented, or engaged accommodations at a hotel, motel, inn, campground or other hostelry, it is prima facie evidence of purpose to defraud if the person did any of the following:

(a) Used deception to induce the rental agency to furnish the person with the aircraft, motor vehicle, motorcycle, motorboat, sailboat, camper, trailer, horse, buggy or other property or equipment, or used deception to induce the hostelry to furnish the person with accommodations;

(b) Hired or rented any aircraft, motor vehicle, motorcycle, motorboat, sailboat, camper, trailer, horse, buggy or other property or equipment, or engaged accommodations, knowing that

he or she is without sufficient means to pay the hire or rental;

(c) Absconded without paying the hire or rental;

(d) Knowingly failed to pay the hire or rental as required by the contract of hire or rental, without reasonable excuse for the failure;

(e) Knowingly failed to return hired or rented property as required by the contract of hire or rental, without reasonable excuse for the failure.

(R.C. § 2913.41)

§ 672.17 TAMPERING WITH RECORDS.

(a) No person, knowing that he or she has no privilege to do so, and with purpose to defraud or knowing that he or she is facilitating a fraud, shall do any of the following:

(1) Falsify, destroy, remove, conceal, alter, deface or mutilate any writing, computer software, data or record;

(2) Utter any writing or record, knowing it to have been tampered with as provided in division (a)(1) of this section.

(b) Whoever violates this section is guilty of tampering with records.

(1) Except as provided in division (b)(3) of this section, if the offense does not involve data or computer software, tampering with records is whichever of the following is applicable:

A. If division (b)(1)B. of this section does not apply, it is a misdemeanor of the first degree.

B. If the writing or record is a will unrevoked at the time of the offense, it is a felony to be prosecuted under appropriate state law.

(2) Except as provided in division (b)(3) of this section, if the offense involves a

violation of division (a) of this section involving data or computer software, tampering with records is whichever of the following is applicable:

A. Except as otherwise provided in division (b)(2)B. of this section, it is a misdemeanor of the first degree;

B. If the value of the data or computer software involved in the offense or the loss to the victim is $500 or more or if the offense is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services and the value of the property or services or the loss to the victim is $5,000 or more, it is a felony to be prosecuted under appropriate state law.

(3) If the writing, data, computer software or record is kept by or belongs to a local, state or federal governmental entity, it is a felony to be prosecuted under appropriate state law.

(R.C. § 2913.42)

§ 672.18 SECURING WRITINGS BY DECEPTION.

(a) No person, by deception, shall cause another to execute any writing that disposes of or encumbers property, or by which a pecuniary obligation is incurred.

(b) Whoever violates this section is guilty of securing writings by deception. Except as otherwise provided in this division, securing writings by deception is a misdemeanor of the first degree. If the value of the property or the obligation involved is $500 or more, securing writings by deception is a felony to be prosecuted under appropriate to state law. If the victim of the offense is an elderly person or disabled adult, securing writings by deception is a felony to be prosecuted under appropriate state law.

(R.C. § 2913.43)

§ 672.19 PERSONATING AN OFFICER.

(a) No person, with purpose to defraud or knowing that he or she is facilitating a fraud, or with purpose to induce another to purchase property or services, shall personate a law enforcement officer, or an inspector, investigator or agent of any governmental agency.

(b) Whoever violates this section is guilty of personating an officer, a misdemeanor of the first degree.
(R.C. § 2913.44)

§ 672.20 DEFRAUDING CREDITORS.

(a) No person, with purpose to defraud one or more of his or her creditors, shall do any of the following:

(1) Remove, conceal, destroy, encumber, convey or otherwise deal with any of his or her property;

(2) Misrepresent or refuse to disclose to a fiduciary appointed to administer or manage his or her affairs or estate, the existence, amount or location of any of his or her property, or any other information regarding the property which he or she is legally required to furnish to the fiduciary.

(b) Whoever violates this section is guilty of defrauding creditors. Except as otherwise provided in this division, defrauding creditors is a misdemeanor of the first degree. If the value of the property involved is $500 or more, defrauding creditors is a felony to be prosecuted under appropriate state law.
(R.C. § 2913.45)

§ 672.21 INSURANCE FRAUD.

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

(1) Data. Has the same meaning as in R.C. § 2913.01 and additionally includes any other representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner.

(2) Deceptive. A statement, in whole or in part, would cause another to be deceived because it contains a misleading representation, withholds information, prevents the acquisition of information, or by any other conduct, act or omission creates, confirms or perpetuates a false impression, including but not limited to a false impression as to law, value, state of mind or other objective or subjective fact.

(3) Insurer. Any person that is authorized to engage in the business of insurance in this state under R.C. Title 39, the Ohio Fair Plan Underwriting Association created under R.C. § 3929.43, any health insuring corporation, and any legal entity that is self-insured and provides benefits to its employees or members.

(4) Policy. A policy, certificate, contract or plan that is issued by an insurer.

(5) Statement. Includes but is not limited to any notice, letter, or memorandum; proof of loss; bill of lading; receipt for payment; invoice, account or other financial statement; estimate of property damage; bill for services; diagnosis or prognosis; prescription; hospital, medical or dental chart or other record; x-ray, photograph, videotape or movie film; test result; other evidence of loss, injury or expense; computer-generated document; and data in any form.

(b) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall

do either of the following:

(1) Present to, or cause to be presented to, an insurer any written or oral statement that is part of, or in support of, an application for insurance, a claim for payment pursuant to a policy, or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive;

(2) Assist, aid, abet, solicit, procure or conspire with another to prepare or make any written or oral statement that is intended to be presented to an insurer as part of, or in support of, an application for insurance, a claim for payment pursuant to a policy, or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive.

(c) Whoever violates this section is guilty of insurance fraud. Except as otherwise provided in this division, insurance fraud is a misdemeanor of the first degree. If the amount of the claim that is false or deceptive is $500 or more, insurance fraud is a felony to be prosecuted under appropriate state law.

(d) This section shall not be construed to abrogate, waive or modify R.C. § 2317.02(A). (R.C. § 2913.47)

§ 672.22 WORKER'S COMPENSATION FRAUD.

(a) No person, with purpose to defraud or knowing that the person is facilitating a fraud shall do any of the following:

(1) Receive workers' compensation benefits to which the person is not entitled;

(2) Make or present or cause to be made or presented a false or misleading statement with the purpose to secure payment for goods or services rendered under R.C. Chapter 4121, Chapter 4123, Chapter 4127 or Chapter 4131 or to secure workers'

compensation benefits;

(3) Alter, falsify, destroy, conceal or remove any record or document that is necessary to fully establish the validity of any claim filed with, or necessary to establish the nature and validity of all goods and services for which reimbursement or payment was received or is requested from the Bureau of Workers' Compensation, or a self-insuring employer under R.C. Chapter 4121, Chapter 4123, Chapter 4127 or Chapter 4131;

(4) Enter into an agreement or conspiracy to defraud the Bureau of Workers' Compensation or a self-insuring employer by making or presenting or causing to be made or presented a false claim for workers' compensation benefits;

(5) Make or present or cause to be made or presented a false statement concerning manual codes, classification or employees, payroll, paid compensation or number of personnel, when information of that nature is necessary to determine the actual workers' compensation premium or assessment owed to the Bureau by an employer;

(6) Alter, forge or create a workers' compensation certificate or falsely show current or correct workers' compensation coverage;

(7) Fail to secure or maintain workers' compensation coverage as required by R.C. Chapter 4123 with the intent to defraud the Bureau of Workers' Compensation.

(b) Whoever violates this section is guilty of workers' compensation fraud. Except as otherwise provided in this division, workers' compensation fraud is a misdemeanor of the first degree. If the value of premiums and assessments unpaid pursuant to actions described in division (a)(5), (a)(6) or (a)(7) of this section, or goods, services, property or money stolen is $500 or more, workers' compensation fraud is a felony to be prosecuted under appropriate state law.

(c) Upon application of the governmental body that conducted the investigation and

prosecution of a violation of this section, the court shall order the person who is convicted of the violation to pay the governmental body its costs of investigating and prosecuting the case. These costs are in addition to any other costs or penalty provided under federal, state or local law.

(d) The remedies and penalties provided in this section are not exclusive remedies and penalties and do not preclude the use of any other criminal or civil remedy or penalty for any act that is in violation of this section.

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

(1) Claim. Any attempt to cause the Bureau of Workers' Compensation, an independent third party with whom the administrator or an employer contracts under R.C. § 4121.44, or a self-insuring employer to make payment or reimbursement for workers' compensation benefits.

(2) Employer, employee, and self-insuring employer. Have the same meanings as in R.C. § 4123.01.

(3) Employment. Participating in any trade, occupation, business, service or profession for substantial gainful remuneration.

(4) False. Wholly or partially untrue or deceptive.

(5) Goods. Includes but is not limited to medical supplies, appliances, rehabilitative equipment and any other apparatus or furnishing provided or used in the care, treatment or rehabilitation of a claimant for workers' compensation benefits.

(6) Records. Any medical, professional, financial or business record relating to the treatment or care of any person, to goods or services provided to any person, or to rates paid for goods or services provided to any person, or any record that the administrator of workers' compensation requires pursuant to rule.

(7) Remuneration. Includes but is not limited to wages, commissions, rebates and any other reward or consideration.

(8) Services. Includes but is not limited to any service provided by any health care provider to a claimant for workers' compensation benefits and any and all services provided by the Bureau as part of workers' compensation insurance coverage.

(9) Statement. Includes but is not limited to any oral, written, electronic, electronic impulse or magnetic communication notice, letter, memorandum, receipt for payment, invoice, account, financial statement or bill for services; a diagnosis, prognosis, prescription, hospital, medical or dental chart or other record; and a computer generated document.

(10) Workers' compensation benefits. Any compensation or benefits payable under R.C. Chapter 4121, Chapter 4123, Chapter 4127 or Chapter 4131.

(R.C. § 2913.48)

§ 672.23 MEDICAID FRAUD.

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

(1) Medical assistance program. The program established by the Ohio Department of Job and Family Services to provide medical assistance under R.C. § 5111.01 and the Medicaid program of Title XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(2) Provider. Any person who has signed a provider agreement with the Ohio Department of Job and Family Services to provide goods or services pursuant to the medical assistance program or any person who has signed an agreement with a party to such a provider agreement under which the person agrees to provide goods or services

that are reimbursable under the medical assistance program.

(3) Provider agreement. An oral or written agreement between the Ohio Department of Job and Family Services and a person in which the person agrees to provide goods or services under the medical assistance program.

(4) Recipient. Any individual who receives goods or services from a provider under the medical assistance program.

(5) Records. Any medical, professional, financial or business records relating to the treatment or care of any recipient, to goods or services provided to any recipient, or to rates paid for goods or services provided to any recipient, and any records that are required by the rules of the Ohio Director of Job and Family Services to be kept for the medical assistance program.

(6) Statement or representation. Any oral, written, electronic, electronic impulse or magnetic communication that is used to identify an item of goods or a service for which reimbursement may be made under the medical assistance program or that states income and expense and is or may be used to determine a rate of reimbursement under the medical assistance program.

(b) No person shall knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from the medical assistance program.

(c) No person, with purpose to commit fraud or knowing that the person is facilitating a fraud, shall do either of the following:

(1) Contrary to the terms of the person's provider agreement, charge, solicit, accept or receive for goods or services that the person provides under the medical assistance program any property, money or other consideration in addition to the amount of reimbursement under the medical assistance program and the person's provider

agreement for the goods or services and any cost-sharing expenses authorized by R.C. § 5111.0112 or rules adopted pursuant to R.C. § 5111.01, § 5111.011 or § 5111.02.

(2) Solicit, offer or receive any remuneration, other than any cost-sharing expenses authorized by R.C. § 5111.0112 or rules adopted under R.C. § 5111.01, § 5111.011 or § 5111.02, in cash or in kind, including but not limited to a kickback or rebate, in connection with the furnishing of goods or services for which whole or partial reimbursement is or may be made under the medical assistance program.

(d) No person, having submitted a claim for or provided goods or services under the medical assistance program, shall do either of the following for a period of at least six years after a reimbursement pursuant to that claim, or a reimbursement for those goods or services, is received under the medical assistance program:

(1) Knowingly alter, falsify, destroy, conceal or remove any records that are necessary to fully disclose the nature of all goods or services for which the claim was submitted, or for which reimbursement was received, by the person; or

(2) Knowingly alter, falsify, destroy, conceal or remove any records that are necessary to disclose fully all income and expenditures upon which rates of reimbursements were based for the person.

(e) Whoever violates this section is guilty of Medicaid fraud. Except as otherwise provided in this division, Medicaid fraud is a misdemeanor of the first degree. If the value of the property, services or funds obtained in violation of this section is $500 or more, Medicaid fraud is a felony to be prosecuted under appropriate state law.

(f) Upon application of the governmental agency, office or other entity that conducted the investigation and prosecution in a case under this section, the court shall order any person who is

convicted of a violation of this section for receiving any reimbursement for furnishing goods or services under the medical assistance program to which the person is not entitled to pay to the applicant its cost of investigating and prosecuting the case. The costs of investigation and prosecution that a defendant is ordered to pay pursuant to this division shall be in addition to any other penalties for the receipt of that reimbursement that are provided in this section, R.C. § 2913.40 or § 5111.03, 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. (R.C. § 2913.40)

(h) *Medicaid eligibility fraud.*

(1) No person shall knowingly do any of the following in an application for Medicaid benefits or in a document that requires a disclosure of assets for the purpose of determining eligibility to receive Medicaid benefits:

A. Make or cause to be made a false or misleading statement;

B. Conceal an interest in property;

C. 1. Except as provided in division (h)(1)C.2. of this section, fail to disclose a transfer of property that occurred during the period beginning 36 months before submission of the application or document and ending on the date the application or document was submitted;

2. Fail to disclose a transfer of property that occurred during the period beginning 60 months before submission of the application or document and ending on the date the application or document was submitted and that was made to an irrevocable trust a portion of which is not distributable to the applicant for Medicaid benefits or the recipient of Medicaid benefits or

to a revocable trust.

(2) A. Whoever violates this division (h) is guilty of Medicaid eligibility fraud. Except as otherwise provided in this division, a violation of this division (h) is a misdemeanor of the first degree. If the value of the Medicaid benefits paid as a result of the violation is $500 or more, a violation of this division (h) is a felony to be prosecuted under appropriate state law.

B. In addition to imposing a sentence under division (h)(2)A. of this section, the court shall order that a person who is guilty of Medicaid eligibility fraud make restitution in the full amount of any Medicaid benefits paid on behalf of an applicant for or recipient of Medicaid benefits for which the applicant or recipient was not eligible, plus interest at the rate applicable to judgments on unreimbursed amounts from the date on which the benefits were paid to the date on which restitution is made.

C. The remedies and penalties provided in this division (h) are not exclusive and do not preclude the use of any other criminal or civil remedy for any act that is in violation of this division (h).

(3) This division (h) does not apply to a person who fully disclosed in an application for Medicaid benefits or in a document that requires a disclosure of assets for the purpose of determining eligibility to receive Medicaid benefits all of the interests in property of the applicant for or recipient of Medicaid benefits, all transfers of property by the applicant for or recipient of Medicaid benefits, and the circumstances of all those transfers.

(4) Any amounts of Medicaid benefits recovered as restitution under this division (h) and any interest on those amounts shall be credited to the General Revenue Fund, and any applicable federal share shall be returned to the appropriate agency or department of the United States.

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

A. Medicaid benefits. Benefits under the medical assistance program established under R.C. Chapter 5111.

B. AProperty. Any real or personal property or other asset in which a person has any legal title or interest.

(R.C. § 2913.401)

§ 672.24 DIMINISHING OR INTERFERING WITH FORFEITABLE PROPERTY.

(a) No person shall destroy, damage, remove or transfer property that is subject to forfeiture or otherwise take any action in regard to property that is subject to forfeiture with purpose to do any of the following:

(1) Prevent or impair the state's or political subdivision's lawful authority to take the property into its custody or control under R.C. Chapter 2981 or to continue holding the property under its lawful custody or control;

(2) Impair or defeat the court's continuing jurisdiction over the person and property;

(3) Devalue property that the person knows, or has reasonable cause to believe, is subject to forfeiture proceedings under R.C. Chapter 2981.

(b) Whoever violates this section is guilty of interference with or diminishing forfeitable property. Except as otherwise provided in this division (b), interference with or diminishing forfeitable property is a misdemeanor of the first degree. If the value of the property is $500 or more, interference with or diminishing forfeitable property is a felony to be prosecuted under appropriate state law.

(R.C. § 2981.07)

§ 672.25 MOTION PICTURE PIRACY.

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

(1) Audiovisual recording function means the capability of a device to record or transmit a motion picture or any part of a motion picture by means of any technology existing on, or developed after, March 9, 2004.

(2) Facility means a movie theater.

(b) No person, without the written consent of the owner or lessee of the facility and of the licensor of the motion picture, shall knowingly operate an audiovisual recording function of a device in a facility in which the motion picture is being shown.

(c) Whoever violates division (b) of this section is guilty of motion picture piracy, a misdemeanor of the first degree on the first offense and a felony to be prosecuted under appropriate state law on each subsequent offense.

(d) This section does not prohibit or restrict a lawfully authorized investigative, law enforcement, protective or intelligence gathering employee or agent of the government of this state or a political subdivision of this state, or of the federal government, when acting in an official capacity, from operating an audiovisual recording function of a device in any facility in which a motion picture is being shown.

(e) Division (b) of this section does not limit or affect the application of any other prohibition in this code or the Ohio Revised Code. Any act that is a violation of both division (b) of this section

and another provision of this code or the Ohio Revised Code may be prosecuted under this section, under the other provision of this code or the Ohio Revised Code, or under both this section and the other provision of this code or the Ohio Revised Code.
(R.C. § 2913.07)

CHAPTER 678: WEAPONS AND EXPLOSIVES

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Statutory reference:

Prohibiting sales of firearms and explosives in riot areas, see R.C. § 3761.16

§ 678.01 DEFINITIONS.

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

(a) Automatic firearm. Any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. AAutomatic firearm also means any semi-automatic firearm designed or specially adapted to fire more than 31 cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.

(b) Ballistic knife. A knife with a detachable blade that is propelled by a spring-operated mechanism.

(c) Dangerous ordnance.

(1) Any of the following, except as provided in division (2) of this definition:

A. Any automatic or sawed-off firearm, zip-gun or ballistic knife.

B. Any explosive device or incendiary device.

C. Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid, and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, cyclotol and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions.

D. Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes,

and the ammunition for that weapon.

E. Any firearm muffler or silencer.

F. Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.

(2) Dangerous ordnance does not include any of the following:

A. Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder.

B. Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon, unless the firearm is an automatic or sawed-off firearm.

C. Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder.

D. Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in division (2)C. of this definition during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition.

E. Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio or museum piece.

F. Any device that is expressly excepted from the definition of a destructive device

pursuant to the Gun Control Act of 1968, 18 U.S.C. 921(a)(4), as amended, and regulations issued under that Act.

(d) Deadly weapon. Any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.

(e) Explosive. Any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion. Explosive includes all materials that have been classified as division 1.1, division 1.2, division 1.3 or division 1.4 explosives by the United States Department of Transportation in its regulations and includes but is not limited to dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. Explosives does not include fireworks, as defined in R.C. § 3743.01, or any substance or material otherwise meeting the definition of Aexplosive set forth in this section that is manufactured, sold, possessed, transported, stored or used in any activity described in R.C. § 3743.80, provided the activity is conducted in accordance with all applicable laws, rules and regulations, including but not limited to the provisions of R.C. § 3743.80 and the rules of the Fire Marshal adopted pursuant to R.C. § 3737.82.

(f) Explosive device. Any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. Explosive device includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge and any pressure vessel that has been knowingly tampered with or arranged so as to explode.

(g) Firearm.

(1) Any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. Firearm includes an unloaded

firearm, and any firearm that is inoperable but that can readily be rendered operable.

(2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including but not limited to the representations and actions of the individual exercising control over the firearm.

(h) Handgun. Any of the following:

(1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;

(2) Any combination of parts from which a firearm of a type described in division (1) of this definition can be assembled.

(i) Incendiary device. Any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agent and a means to ignite it.

(j) Sawed-off firearm. A shotgun with a barrel less than 18 inches long, or a rifle with a barrel less than 16 inches long, or a shotgun or rifle less than 26 inches long overall.

(k) Semi-automatic firearm. Any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(l) Zip-gun. Any of the following:

(1) Any firearm of crude and extemporized manufacture.

(2) Any device, including without limitation a starter's pistol, not designed as a firearm, but that is specially adapted for use as a firearm.

(3) Any industrial tool, signalling device or safety device, not designed as a firearm, but that as designed is capable of use as such, when possessed, carried or used as a firearm.

(R.C. § 2923.11)

§ 678.02 CARRYING CONCEALED WEAPONS.

(a) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:

(1) A deadly weapon other than a handgun;

(2) A handgun other than a dangerous ordnance;

(3) A dangerous ordnance.

(b) No person who has been issued a license or temporary emergency license to carry a concealed handgun under R.C. § 2923.125 or § 2923.1213 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69 shall do any of the following:

(1) If the person is stopped for a law enforcement purpose, and is carrying a concealed handgun, fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a license or temporary emergency license to carry a concealed handgun and that the person then is carrying a concealed handgun;

(2) If the person is stopped for a law enforcement purpose and if the person is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;

(3) If the person is stopped for a law enforcement purpose, if the person is carrying a concealed handgun, and if the person is approached by any law enforcement officer while stopped, knowingly remove or attempt to remove the loaded handgun from the

holster, pocket or other place in which the person is carrying it, knowingly grasp or hold the loaded handgun, or knowingly have contact with the loaded handgun by touching it with the person's hands or fingers at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person removes, attempts to remove, grasps, holds or has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer;

(4) If the person is stopped for a law enforcement purpose and if the person is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including but not limited to a specific order to the person to keep the person's hands in plain sight.

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

A. An officer, agent or employee of this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns and is acting within the scope of the officer's, agent's or employee's duties;

B. Any person who is employed in this state, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, and who is subject to and in compliance with the requirements of R.C. § 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in this division (c)(1)B. does not apply to the person.;

C. A person's transportation or storage of a firearm, other than a firearm described in R.C. § 2923.11(G) to (M), in a motor vehicle for any lawful purpose if the firearm is not on the actor's person;

D. A person's storage or possession of a firearm, other than a firearm described in

R.C. § 2923.11(G) to (M), in the actor's own home for any lawful purpose.

(2) Division (a)(2) of this section does not apply to any person who, at the time of the alleged carrying or possession of a handgun, is carrying a valid license or temporary emergency license to carry a concealed handgun issued to the person under R.C. § 2923.125 or § 2923.1213 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69, unless the person knowingly is in a place described in R.C. § 2923.126(B).

(d) It is an affirmative defense to a charge under division (a)(1) of this section of carrying or having control of a weapon other than a handgun and other than a dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following applies:

(1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.

(2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.

(3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.

(e) No person who is charged with a violation of this section shall be required to obtain a

license or temporary emergency license to carry a concealed handgun under R.C. § 2923.125 or § 2923.1213 as a condition for the dismissal of the charge.

(f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this division or division (f)(2) of this section, carrying concealed weapons in violation of division (a) of this section is a misdemeanor of the first degree. Except as otherwise provided in this division or division (f)(2) of this section, if the offender previously has been convicted of a violation of this section or any substantially equivalent state law or municipal ordinance or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of division (a) of this section is a felony to be prosecuted under appropriate state law. Except as otherwise provided in division (f)(2) of this section, if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of division (a) of this section is a felony to be prosecuted under appropriate state law.

(2) If a person being arrested for a violation of division (a)(2) of this section promptly produces a valid license or temporary emergency license to carry a concealed handgun issued under R.C. § 2923.125 or § 2923.1213 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69, and if at the time of the violation the person was not knowingly in a place described in R.C. § 2923.126(B), the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce any of those types of license and if the person is not in a place described in that section, the officer may arrest the person

for a violation of that division, and the offender shall be punished as follows:

A. The offender shall be guilty of a minor misdemeanor if both of the following apply:

1. Within ten days after the arrest, the offender presents a license or temporary emergency license to carry a concealed handgun issued under R.C. § 2923.125 or § 2923.1213 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.
2. At the time of the arrest, the offender was not knowingly in a place described in R.C. § 2923.126(B).

B. The offender shall be guilty of a misdemeanor and shall be fined $500 if all of the following apply:

1. The offender previously had been issued a license to carry a concealed handgun under R.C. § 2923.125 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69 and that was similar in nature to a license issued under R.C. § 2923.125, and that license expired within the two years immediately preceding the arrest.
2. Within 45 days after the arrest, the offender presents any type of license identified in division (f)(2)A.1. of this section to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in R.C. § 2945.71.
3. At the time of the commission of the offense, the offender was not

knowingly in a place described in R.C. § 2923.126(B).

C. If neither division (f)(2)A. nor (f)(2)B. of this section applies, the offender shall be punished under division (f)(1) of this section.

(3) Except as otherwise provided in this division, carrying concealed weapons in violation of division (b)(1) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for a violation of division (b)(1) of this section, the offender's license or temporary emergency license to carry a concealed handgun shall be suspended pursuant to R.C. § 2923.128(A)(2). If, at the time of the stop of the offender for a law enforcement purpose that was the basis of the violation, any law enforcement officer involved with the stop had actual knowledge that the offender has been issued a license or temporary emergency license to carry a concealed handgun, carrying concealed weapons in violation of division (b)(1) of this section is a minor misdemeanor, and the offender's license or temporary emergency license to carry a concealed handgun shall not be suspended pursuant to R.C. § 2923.128(A)(2).

(4) Carrying concealed weapons in violation of division (b)(2) or (b)(4) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of division (b)(2) or (b)(4) of this section or any substantially equivalent state law or municipal ordinance, a felony to be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a misdemeanor violation of division (b)(2) or (b)(4) of this section, the offender's license or temporary emergency license to carry a concealed handgun shall be suspended pursuant to R.C. § 2923.128(A)(2).

(5) Carrying concealed weapons in violation of division (b)(3) of this section is a felony to be prosecuted under appropriate state law.

(g) If a law enforcement officer stops a person to question the person regarding a possible violation of this section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division, R.C. § 2923.163(B) applies.
(R.C. § 2923.12)

Statutory reference:

Carrying concealed handguns, licensing through County Sheriff, see R.C. §§ 2923.124 et seq.

Conveyance or possession of deadly weapons or dangerous ordnance on school premises, felony offense, see R.C. § 2923.122

Conveyance, possession, or control of deadly weapon or dangerous ordinance in a courthouse, felony offense, see R.C. § 2923.123

Possession of deadly weapon while under detention, felony offense, see R.C. § 2923.131

Possession of firearm in liquor permit premises, felony offense, see R.C. § 2923.121

§ 678.03 POSSESSION OF DEADLY WEAPON WHILE UNDER DETENTION.

(a) Detention and detention facility have the same meanings as in R.C. § 2921.01.

(b) No person under detention at a detention facility shall possess a deadly weapon.

(c) Whoever violates this section is guilty of possession of a deadly weapon while under

detention.

(1) Except as otherwise provided in division (c)(2) of this section, possession of a deadly weapon while under detention is a felony to be prosecuted under state law.

(2) If the offender, at the time of the commission of the offense, was under detention as an alleged or adjudicated delinquent child or unruly child and if at the time the offender commits the act for which the offender was under detention it would not be a felony if committed by an adult, possession of a deadly weapon while under detention is a misdemeanor of the first degree.

(R.C. § 2923.131)

Statutory reference:

Possession of deadly weapon while under detention, felony offenses, see R.C. § 2923.131

§ 678.04 USING WEAPONS WHILE INTOXICATED.

(a) No person, while under the influence of alcohol or any drug of abuse, shall carry or use any firearm or dangerous ordnance.

(b) Whoever violates this section is guilty of using weapons while intoxicated, a misdemeanor of the first degree.

(R.C. § 2923.15)

§ 678.05 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.

(a) No person shall knowingly discharge a firearm while in or on a motor vehicle.

(b) No person shall knowingly transport or have a loaded firearm in a motor vehicle in such a

manner that the firearm is accessible to the operator or any passenger without leaving the vehicle.

(c) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:

(1) In a closed package, box or case.

(2) In a compartment that can be reached only by leaving the vehicle.

(3) In plain sight and secured in a rack or holder made for the purpose.

(4) If the firearm is at least 24 inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least 18 inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

(d) No person shall knowingly transport or have a loaded handgun in a motor vehicle if, at the time of that transportation or possession, any of the following applies:

(1) The person is under the influence of alcohol, a drug of abuse, or a combination of them.

(2) The person's whole blood, blood serum or plasma, breath, or urine contains a concentration of alcohol, a listed controlled substance, or a listed metabolite of a controlled substance prohibited for persons operating a vehicle, as specified in R.C. § 4511.19(A), regardless of whether the person at the time of the transportation or possession as described in this division is the operator of or a passenger in the motor vehicle.

(e) No person who has been issued a license or temporary emergency license to carry a

concealed handgun under R.C. § 2923.125 or § 2923.1213 shall do any of the following:

(1) Knowingly transport or have a loaded handgun in a motor vehicle unless one of the following applies:

A. The loaded handgun is in a holster on the person's person.

B. The loaded handgun is in a closed case, bag, box or other container that is in plain sight and that has a lid, a cover or a closing mechanism with a zipper, snap or buckle, which lid, cover or closing mechanism must be opened for a person to gain access to the handgun.

C. The loaded handgun is securely encased by being stored in a closed glove compartment or vehicle console or in a case that is locked.

(2) If the person is transporting or has a loaded handgun in a motor vehicle in a manner authorized under division (e)(1) of this section, knowingly remove or attempt to remove the loaded handgun from the holster, case, bag, box, container or glove compartment, knowingly grasp or hold the loaded handgun, or knowingly have contact with the loaded handgun by touching it with the person's hands or fingers while the motor vehicle is being operated on a street, highway or public property unless the person removes, attempts to remove, grasps, holds or has the contact with the loaded handgun pursuant to and in accordance with directions given by a law enforcement officer.

(3) If the person is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in R.C. § 5503.34, and if the person is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, fail to do any of the following that is applicable:

A. If the person is the driver or an occupant of a motor vehicle stopped as a result

of a traffic stop or a stop for another law enforcement purpose, fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a license or temporary emergency license to carry a concealed handgun and that the person then possesses or has a loaded handgun in the motor vehicle;

B. If the person is the driver or an occupant of a commercial motor vehicle stopped by an employee of the motor carrier enforcement unit for any of the defined purposes, fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a license or temporary emergency license to carry a concealed handgun and that the person then possesses or has a loaded handgun in the commercial motor vehicle.

(4) If the person is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose and if the person is transporting or has a loaded handgun in the motor vehicle in any manner, knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer.

(5) If the person is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose, if the person is transporting or has a loaded handgun in the motor vehicle in a manner authorized under division (e)(1) of this section, and if the person is approached by any law enforcement officer while stopped, knowingly remove or attempt to remove the loaded handgun from the holster, case, bag, box, container or glove compartment, knowingly grasp or hold the loaded handgun, or knowingly have contact with the loaded

handgun by touching it with the person's hands or fingers in the motor vehicle at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person removes, attempts to remove, grasps, holds or has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer.

(6) If the person is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose and if the person is transporting or has a loaded handgun in the motor vehicle in any manner, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including but not limited to a specific order to the person to keep the person's hands in plain sight.

(f) (1) Divisions (a), (b), (c) and (e) of this section do not apply to any of the following:

A. An officer, agent or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's or employee's duties;

B. Any person who is employed in this state, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of R.C. § 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in this division (f)(1)B. does not apply to the person.

(2) Division (a) of this section does not apply to a person if all of the following circumstances apply:

A. The person discharges a firearm from a motor vehicle at a coyote or groundhog, the discharge is not during the deer gun hunting season as set by the Chief of

the Division of Wildlife of the Department of Natural Resources, and the discharge at the coyote or groundhog, but for the operation of this section, is lawful.

B. The motor vehicle from which the person discharges the firearm is on real property that is located in an unincorporated area of a township and that is either zoned for agriculture or is used for agriculture.

C. The person owns the real property described in division (f)(2)B. of this section, is the spouse or a child of another person who owns that real property, is a tenant of another person who owns that real property, or is the spouse or a child of a tenant of another person who owns that real property.

D. The person does not discharge the firearm in any of the following manners:

1. While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;
2. In the direction of a street, highway or other public or private property used by the public for vehicular traffic or parking;
3. At or into an occupied structure that is a permanent or temporary habitation;
4. In the commission of any violation of law, including but not limited to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.

(3) Division (a) of this section does not apply to a person if all of the following apply:

A. The person possesses a valid electric-powered all-purpose vehicle permit issued under R.C. § 1533.103 by the Chief of the Division of Wildlife.

B. The person discharges a firearm at a wild quadruped or game bird as defined in R.C. § 1531.01 during the open hunting season for the applicable wild

quadruped or game bird.

C. The person discharges a firearm from a stationary electric-powered all-purpose vehicle as defined in R.C. § 1531.01 or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife, provided that the road is identified by an electric-powered all-purpose vehicle sign.

D. The person does not discharge the firearm in any of the following manners:

1. While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;
2. In the direction of a street, a highway or other public or private property that is used by the public for vehicular traffic or parking;
3. At or into an occupied structure that is a permanent or temporary habitation;
4. In the commission of any violation of law, including but not limited to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.

(4) Divisions (b) and (c) of this section do not apply to a person if all of the following circumstances apply:

A. At the time of the alleged violation of either of those divisions, the person is the operator of or a passenger in a motor vehicle.

B. The motor vehicle is on real property that is located in an unincorporated area of a township and that is either zoned for agriculture or is used for agriculture.

C. The person owns the real property described in division (f)(4)B. of this section, is the spouse or a child of another person who owns that real property, is a tenant of another person who owns that real property, or is the spouse or a child of a tenant of another person who owns that real property.

D. The person, prior to arriving at the real property described in division (f)(4)B. of this section, did not transport or possess a firearm in the motor vehicle in a manner prohibited by division (b) or (c) of this section while the motor vehicle was being operated on a street, highway or other public or private property used by the public for vehicular traffic or parking.

(5) Divisions (b) and (c) of this section do not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, all of the following apply:

A. The person transporting or possessing the handgun is carrying a valid license or temporary emergency license to carry a concealed handgun issued to the person under R.C. § 2923.125 or § 2923.1213 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69.

B. The person transporting or possessing the handgun is not knowingly in a place described in R.C. § 2923.126(B).

C. One of the following applies:

1. The handgun is in a holster on the person's person.
2. The handgun is in a closed case, bag, box or other container that is in plain sight and that has a lid, a cover or a closing mechanism with a zipper, snap or buckle, which lid, cover or closing mechanism must be opened for a person to gain access to the handgun.
3. The handgun is securely encased by being stored in a closed glove compartment or vehicle console or in a case that is locked.

(6) Divisions (b) and (c) of this section do not apply to a person if all of the following apply:

A. The person possesses a valid electric-powered all-purpose vehicle permit issued

under R.C. § 1533.103 by the Chief of the Division of Wildlife.

B. The person is on or in an electric-powered all-purpose vehicle as defined in R.C. § 1531.01 or a motor vehicle during the open hunting season for a wild quadruped or game bird.

C. The person is on or in an electric-powered all-purpose vehicle as defined in R.C. § 1531.01 or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife, provided that the road is identified by an electric-powered all-purpose vehicle sign.

(g) (1) The affirmative defenses authorized in R.C. § 2923.12(D)(1) and (D)(2) are affirmative defenses to a charge under division (b) or (c) of this section that involves a firearm other than a handgun.

(2) It is an affirmative defense to a charge under division (b) or (c) of this section of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that this affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by division (b) or (c) of this section while the motor vehicle was being operated on a street, highway or other public or private property used by the public for vehicular traffic.

(h) No person who is charged with a violation of division (b), (c) or (d) of this section shall be required to obtain a license or temporary emergency license to carry a concealed handgun under R.C. § 2923.125 or § 2923.1213 as a condition for the dismissal of the charge.

(i) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle.

Violation of division (a) of this section is a felony to be prosecuted under appropriate state law. Violation of division (c) of this section is a misdemeanor of the fourth degree. A violation of division (d) of this section is a felony to be prosecuted under appropriate state law and, if the loaded handgun is concealed on the person's person, it is also a felony to be prosecuted under appropriate state law. Except as otherwise provided in this division, a violation of division (e)(3) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for the violation, the offender's license or temporary emergency license to carry a concealed handgun shall be suspended pursuant to R.C. § 2923.128(A)(2). If at the time of the stop of the offender for a traffic stop, for another law enforcement purpose, or for a purpose defined in R.C. § 5503.34 that was the basis of the violation any law enforcement officer involved with the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the offender's status as a licensee, a violation of division (e)(3) of this section is a minor misdemeanor, and the offender's license or temporary emergency license to carry a concealed handgun shall not be suspended pursuant to R.C. § 2923.128(A)(2). A violation of division (e)(1), (e)(2) or (e)(5) of this section is a felony to be prosecuted under appropriate state law. A violation of division (e)(4) or (e)(6) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of division (e)(4) or (e)(6) of this section or any substantially equivalent state law or municipal ordinance, a felony to be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a misdemeanor violation of division (e)(4) or (e)(6) of this section, the offender's license or temporary emergency license to carry a concealed handgun shall be suspended pursuant to R.C. § 2923.128(A)(2). A violation of division (b) of this section is whichever of the following is applicable:

(1) If, at the time of the transportation or possession in violation of division (b) of this section, the offender was carrying a valid license or temporary emergency license to carry a concealed handgun issued to the offender under R.C. § 2923.125 or § 2923.1213 or a license to carry a concealed handgun that was issued by another

state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69 and the offender was not knowingly in a place described in R.C. § 2923.126(B), the violation is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of division (b) of this section or any substantially equivalent state law or municipal ordinance, a felony to be prosecuted under appropriate state law.

(2) If division (i)(1) of this section does not apply, a felony to be prosecuted under appropriate state law.

(j) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division, R.C. § 2923.163(B) applies.

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

(1) Agriculture. Has the same meaning as in R.C. § 519.01.

(2) Commercial motor vehicle. Has the same meaning as in R.C. § 4506.25(A).

(3) Motor carrier enforcement unit. The Motor Carrier Enforcement Unit in the Department of Public Safety, Division of State Highway Patrol, that is created by R.C. § 5503.34.

(4) Motor vehicle, street and highway. Have the same meaning as in R.C. § 4511.01.

(5) Occupied structure. Has the same meaning as in R.C. § 2909.01.

(6) Tenant. Has the same meaning as in R.C. § 1531.01.

(7) Unloaded. Any of the following:

A. No ammunition is in the firearm in question, and no ammunition is loaded into a magazine or speed loader that may be used with the firearm in question and that is located anywhere within the vehicle in question, without regard to where ammunition otherwise is located within the vehicle in question.

B. With respect to a firearm employing a percussion cap, flintlock or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.

(R.C. § 2923.16)

Statutory reference:

Return of surrendered firearms by law enforcement, see R.C. § 2923.163

§ 678.06 LICENSE OR PERMIT TO POSSESS DANGEROUS ORDNANCE.

(a) Upon application to the Sheriff of the county or Safety Director or Police Chief of the municipality where the applicant resides or has his or her principal place of business, and upon payment of the fee specified in division (b) of this section, a license or temporary permit shall be issued to qualified applicants to acquire, possess, carry or use a dangerous ordnance for the following purposes:

(1) Contractors, wreckers, quarry workers, mine operators and other persons regularly employing explosives in the course of a legitimate business, with respect to explosives and explosive devices acquired, possessed, carried or used in the course of the business.

(2) Farmers, with respect to explosives and explosive devices acquired, possessed, carried or used for agricultural purposes on lands farmed by them.

(3) Scientists, engineers and instructors, with respect to a dangerous ordnance acquired, possessed, carried or used in the course of bona fide research or instruction.

(4) Financial institutions and armored car company guards, with respect to automatic firearms lawfully acquired, possessed, carried or used by any such person while acting within the scope of his or her duties.

(5) In the discretion of the issuing authority, any responsible person, with respect to a dangerous ordnance lawfully acquired, possessed, carried or used for a legitimate research, scientific, educational, industrial or other proper purpose.

(b) Application for a license or temporary permit under this section shall be in writing under oath to the Sheriff of the county or Safety Director or Police Chief of the municipality where the applicant resides or has his or her principal place of business. The application shall be accompanied by an application fee of $50 when the application is for a license, and an application fee of $5 when the application is for a temporary permit. The fees shall be paid into the General Revenue Fund of the county or municipality. The application shall contain the following information:

(1) The name, age, address, occupation and business address of the applicant, if he or she is a natural person, or the name, address and principal place of business of the applicant if the applicant is a corporation.

(2) A description of the dangerous ordnance for which a permit is requested.

(3) A description of the places where and the manner in which the dangerous ordnance is to be kept, carried and used.

(4) A statement of the purposes for which the dangerous ordnance is to be acquired, possessed, carried or used.

(5) Any other information as the issuing authority may require in giving effect to this section.

(c) Upon investigation, the issuing authority shall issue a license or temporary permit only if all of the following apply:

(1) The applicant is not otherwise prohibited by law from acquiring, having, carrying or using a dangerous ordnance.

(2) The applicant is 21 years of age or over, if the applicant is a natural person.

(3) It appears that the applicant has sufficient competence to safely acquire, possess, carry or use the dangerous ordnance, and that proper precautions will be taken to protect the security of the dangerous ordnance and ensure the safety of persons and property.

(4) It appears that the dangerous ordnance will be lawfully acquired, possessed, carried and used by the applicant for a legitimate purpose.

(d) The license or temporary permit shall identify the person to whom it is issued, identify the dangerous ordnance involved and state the purposes for which the license or temporary permit is issued, state the expiration date, if any, and list the restrictions on the acquisition, possession, carriage or use of the dangerous ordnance as the issuing authority considers advisable to protect the security of the dangerous ordnance and ensure the safety of persons and property.

(e) A temporary permit shall be issued for the casual use of explosives and explosive devices, and other consumable dangerous ordnance, and shall expire within 30 days of its issuance. A license shall be issued for the regular use of a consumable dangerous ordnance, which license need not specify an expiration date, but the issuing authority may specify the expiration date, not earlier than one year from the date of issuance, as it considers advisable in view of the nature of the dangerous ordnance and the purposes for which the license is issued.

(f) The dangerous ordnance specified in a license or temporary permit may be obtained by the holder anywhere in the state. Pursuant to R.C. § 2923.18(F), the holder of a license may use

the dangerous ordnance anywhere in the state. The holder of a temporary permit may use the dangerous ordnance only within the territorial jurisdiction of the issuing authority.

(g) The issuing authority shall forward to the State Fire Marshal a copy of each license or temporary permit issued pursuant to this section, and a copy of each record of a transaction in a dangerous ordnance and of each report of a lost or stolen dangerous ordnance, given to the local law enforcement authority as required by R.C. § 2923.20(A)(4) and (A)(5) or a substantially equivalent municipal ordinance. The State Fire Marshal will keep a permanent file of all licenses and temporary permits issued pursuant to this section, and of all records of transactions in, and losses or thefts of a dangerous ordnance forwarded by local law enforcement authorities pursuant to this section.
(R.C. § 2923.18)

§ 678.07 FAILURE TO SECURE DANGEROUS ORDNANCE.

(a) No person, in acquiring, possessing, carrying or using any dangerous ordnance, shall negligently fail to take proper precautions:

(1) To secure the dangerous ordnance against theft, or against its acquisition or use by any unauthorized or incompetent person.

(2) To ensure the safety of persons and property.

(b) Whoever violates this section is guilty of failure to a secure dangerous ordnance, a misdemeanor of the second degree.
(R.C. § 2923.19)

§ 678.08 UNLAWFUL TRANSACTIONS IN WEAPONS.

(a) No person shall:

(1) Recklessly sell, lend, give or furnish any firearm to any person prohibited by R.C. § 2923.13 or § 2923.15, or a substantially equivalent municipal ordinance, from acquiring or using any firearm, or recklessly sell, lend, give or furnish any dangerous ordnance to any person prohibited by R.C. § 2923.13, § 2923.15 or § 2923.17, or a substantially equivalent municipal ordinance, from acquiring or using any dangerous ordnance;

(2) Possess any firearm or dangerous ordnance with purpose to dispose of it in violation of division (a)(1) of this section;

(3) Manufacture, possess for sale, sell or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife or similar weapon;

(4) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit the identification, license or permit showing him or her to be authorized to acquire dangerous ordnance pursuant to R.C. § 2923.17, or negligently fail to take a complete record of the transaction and forthwith forward a copy of the record to the Sheriff of the county or Safety Director or Police Chief of the municipality where the transaction takes place;

(5) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession and under his or her control.

(b) Whoever violates this section is guilty of unlawful transactions in weapons. A violation of division (a)(1) or (a)(2) of this section is a felony to be prosecuted under appropriate state law. A

violation of division (a)(3) or (a)(4) of this section is a misdemeanor of the second degree. A violation of division (a)(5) of this section is a misdemeanor of the fourth degree.
(R.C. § 2923.20)

§ 678.09 UNDERAGE PURCHASE OF A FIREARM OR HANDGUN.

(a) No person under 18 years of age shall purchase or attempt to purchase a firearm.

(b) No person under 21 years of age shall purchase or attempt to purchase a handgun; provided, that this division does not apply to the purchase or attempted purchase of a handgun by a person 18 years of age or older and under 21 years of age, if the person 18 years of age or older and under 21 years of age is a law enforcement officer and has received firearms training approved by the Ohio Peace Officer Training Council or equivalent firearms training.

(c) Whoever violates division (a) of this section is guilty of underage purchase of a firearm, a delinquent act that would be a felony to be prosecuted under appropriate state law if it could be committed by an adult. Whoever violates division (b) of this section is guilty of underage purchase of a handgun, a misdemeanor of the second degree.
(R.C. § 2923.211)

§ 678.10 POINTING AND DISCHARGING FIREARMS AND OTHER WEAPONS.

(a) Except as provided in divisions (c) and (d) of this section, no person shall discharge any air gun, rifle, shotgun, revolver, pistol or other firearm, or make use of any sling or arrow, within the corporate limits of the municipality.

(b) No person shall, intentionally and without malice, point or aim a firearm at or toward

another or discharge a firearm so pointed or aimed.

(c) This section does not extend to cases in which firearms, slings or arrows are used in self-defense, in the discharge of official duty or in justifiable homicide.

(d) This section does not extend to cases in which BB guns and other air guns, or slings or arrows, are used in the confines of dwellings, provided the use is under adult supervision and is approved by the Chief of Police.

(e) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the fourth degree.

§ 678.11 DISCHARGE OF A FIREARM ON OR NEAR PROHIBITED PREMISES.

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

(1) Without permission from the proper officials and subject to division (b)(1) of this section, discharge a firearm upon or over a cemetery or within 100 yards of a cemetery;

(2) Subject to division (b)(2) of this section, discharge of a firearm on a lawn, park, pleasure ground, orchard or other ground appurtenant to a schoolhouse, church or inhabited dwelling, the property of another or a charitable institution;

(3) Discharge a firearm upon or over a public road or highway.

(b) (1) Division (a)(1) of this section does not apply to a person who while on the person's own land, discharges a firearm.

(2) Division (a)(2) of this section does not apply to a person who owns any type of

property described in that division and who, while on the person's own enclosure, discharges a firearm.

(c) Whoever violates division (a) of this section is guilty of discharge of a firearm on or near prohibited premises. A violation of division (a)(1) or (a)(2) of this section is a misdemeanor of the fourth degree. A violation of division (a)(3) of this section shall be punished as follows:

(1) Except as otherwise provided in division (c)(2) of this section, a violation of division (a)(3) of this section is a misdemeanor of the first degree.

(2) If the violation created a substantial risk of physical harm to any person, caused serious physical harm to property, caused physical harm to any person, or caused serious physical harm to any person, a violation of division (a)(3) is a felony to be prosecuted under appropriate state law.

(R.C. § 2923.162)

§ 678.12 FIREWORKS.

(a) *Definitions.* Unless otherwise provided, for the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) 1.3G fireworks. Display fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation ADivision 1.3" in Title 49 of the Code of Federal Regulations.

(2) 1.4G fireworks. Consumer fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation ADivision 1.4" in Title 49 of the Code of Federal Regulations.

(3) Beer and intoxicating liquor. Have the same meaning as in R.C. § 4301.01.

(4) Booby trap. A small tube that has a string protruding from both ends that has a

friction-sensitive composition and that is ignited by pulling the ends of the string.

(5) Cigarette load. A small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.

(6) Controlled substance. Has the same meaning as in R.C. § 3719.01.

(7) Discharge site. An area immediately surrounding the mortars used to fire aerial shells.

(8) Explosive. Any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion. Explosive includes all materials that have been classified as division 1.1, division 1.2, division 1.3 or division 1.4 explosives by the United States Department of Transportation in its regulations and includes but is not limited to dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. AExplosives does not include Afireworks as defined below, or any substance or material otherwise meeting the definition of Aexplosive set forth in this section that is manufactured, sold, possessed, transported, stored or used in any activity described in R.C. § 3743.80, provided the activity is conducted in accordance with all applicable laws, rules and regulations, including but not limited to the provisions of R.C. § 3743.80 and the rules of the Fire Marshal adopted pursuant to R.C. § 3737.82.

(R.C. § 2923.11)

(9) Fireworks. Any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration or detonation, except ordinary matches and except as provided in R.C. § 3743.80.

(10) Fireworks incident. Any action or omission that occurs at a fireworks exhibition that results in injury or death, or a substantial risk of injury or death, to any person, and

that involves either of the following:

A. The handling or other use, or the results of the handling or other use, of fireworks or associated equipment or other materials;

B. The failure of any person to comply with any applicable requirement imposed by this section or R.C. Chapter 3743, or any applicable rule adopted under this section or R.C. Chapter 3743.

(11) Fireworks incident site. A discharge site or other location at a fireworks exhibition where a fireworks incident occurs, a location where an injury or death associated with a fireworks incident occurs, or a location where evidence of a fireworks incident or an injury or death associated with a fireworks incident is found.

(12) Fireworks plant. All buildings and other structures in which the manufacturing of fireworks, or the storage or sale of manufactured fireworks by a manufacturer, takes place.

(13) Highway. Any public street, road, alley, way, lane or other public thoroughfare.

(14) Licensed building. A building on the licensed premises of a licensed manufacturer or wholesaler of fireworks that is approved for occupancy by the building official having jurisdiction.

(15) Licensed exhibitor of fireworks or licensed exhibitor. A person licensed pursuant to R.C. §§ 3743.50 through 3743.55.

(16) Licensed manufacturer of fireworks or Alicensed manufacturer. A person licensed pursuant to R.C. §§ 3743.02 through 3743.08.

(17) Licensed premises. The real estate upon which a licensed manufacturer or wholesaler of fireworks conducts business.

(18) Licensed wholesaler of fireworks or Alicensed wholesaler. A person licensed pursuant to R.C. §§ 3743.15 through 3743.21.

(19) Manufacturing of fireworks. The making of fireworks from raw materials, none of

which in and of themselves constitute fireworks, or the processing of fireworks.

(20) Novelties and trick noisemakers.

A. Devices that produce a small report intended to surprise the user, including but not limited to booby traps, cigarette loads, party poppers and snappers;

B. Snakes or glow worms;

C. Smoke devices;

D. Trick matches.

(21) Party popper. A small plastic or paper item that contains not more than 16 milligrams of friction-sensitive explosive composition that is ignited by pulling a string protruding from the item, and from which paper streamers are expelled when the item is ignited.

(22) Processing of fireworks. The making of fireworks from materials all or part of which in and of themselves constitute fireworks, but does not include the mere packaging or repackaging of fireworks.

(23) Railroad. Any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs and sidings installed and primarily used in serving a mine, quarry or plant.

(24) Retail sale or sell at retail. A sale of fireworks to a purchaser who intends to use the fireworks and not to resell them.

(25) Smoke device. A tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(26) Snake or glow worm. A device that consists of a pressed pellet of pyrotechnic composition that produces a large snake-like ash upon burning, which ash expands in length as the pellet burns.

(27) Snapper. A small paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand and that, when dropped, implodes.

(28) Storage location. A single parcel or contiguous parcels of real estate approved by the Fire Marshal pursuant to R.C. § 3743.04(I) or § 3743.17(G) that are separate from a licensed premises containing a retail showroom, and which parcel or parcels a licensed manufacturer or wholesaler of fireworks may use only for the distribution, possession and storage of fireworks in accordance with this chapter.

(29) Trick match. A kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.

(30) Wholesale sale or sell at wholesale. A sale of fireworks to a purchaser who intends to resell the fireworks so purchased.

(31) Wire sparkler. A sparkler consisting of a wire or stick coated with a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains no more than 100 grams of this mixture.

(R.C. § 3743.01)

(b) *Manufacturing.*

(1) No licensed manufacturer of fireworks shall knowingly fail to comply with the rules adopted by the State Fire Marshal pursuant to R.C. § 3743.05 or the requirements of R.C. § 3743.06.

(2) No licensed manufacturer of fireworks shall fail to maintain complete inventory, wholesale sale and retail records as required by R.C. § 3743.07, or to permit an inspection of these records or the premises of a fireworks plant or the wholesaler pursuant to R.C. § 3743.08.

(3) No licensed manufacturer of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to R.C. § 3743.08(B)(1) within the specified period of time.

(4) No licensed manufacturer of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to R.C. § 3743.08(B)(2) until the nonconformities are

eliminated, corrected or otherwise remedied or the 72-hour period specified in those divisions has expired, whichever occurs first.

(5) No person shall smoke or shall carry a pipe, cigarette or cigar, or a match, lighter, other flame-producing item or open flame on, or shall carry a concealed source of ignition into, the premises of a fireworks plant, except as smoking is authorized in specified lunchrooms or restrooms by a manufacturer pursuant to R.C. § 3743.06(C).

(6) No person shall have possession or control of, or be under the influence of, any intoxicating liquor, beer or controlled substance while on the premises of a fireworks plant.

(R.C. § 3743.60(E) - (J))

(c) *Wholesaling.*

(1) No licensed wholesaler of fireworks shall knowingly fail to comply with the rules adopted by the State Fire Marshal pursuant to R.C. § 3743.18 or the requirements of R.C. § 3743.19.

(2) No licensed wholesaler of fireworks shall fail to maintain complete inventory, wholesale sale and retail records as required by R.C. § 3743.20, or to permit an inspection of these records or the premises of a fireworks plant or the wholesaler pursuant to R.C. § 3743.21.

(3) No licensed wholesaler of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to R.C. § 3743.21(B)(1) within the specified period of time.

(4) No licensed wholesaler of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to R.C. § 3743.21(B)(2) until the nonconformities are eliminated, corrected or otherwise remedied or the 72-hour period specified in those

divisions has expired, whichever occurs first.

(5) No person shall smoke or shall carry a pipe, cigarette or cigar, or a match, lighter, other flame-producing item or open flame on, or shall carry a concealed source of ignition into, the premises of a wholesaler of fireworks, except as smoking is authorized in specified lunchrooms or restrooms by a wholesaler pursuant to R.C. § 3743.19(D).

(6) No person shall have possession or control of, or be under the influence of, any intoxicating liquor, beer or controlled substance while on the premises of a wholesaler of fireworks.

(R.C. § 3743.61(E) - (J))

(d) *Purchasing and transporting.*

(1) No person who resides in another state and purchases fireworks in this state shall obtain possession of the fireworks in this state unless the person complies with R.C. § 3743.44, provided that knowingly making a false statement on the fireworks purchasers form is not a violation of this section but is a violation of R.C. § 2921.13 (Falsification) or a substantially equivalent municipal ordinance.

(2) No person who resides in another state and who purchases fireworks in this state shall obtain possession of fireworks in this state other than from a licensed manufacturer or wholesaler, or fail, when transporting the fireworks, to transport them directly out of this state within 72 hours after the time of their purchase. No such person shall give or sell to any other person in this state fireworks that the person has acquired in this state.

(3) No person who resides in this state and purchases fireworks in this state shall obtain possession of the fireworks in this state unless the person complies with R.C. § 3743.45, provided that knowingly making a false statement on the fireworks

purchasers form is not a violation of this section but is a violation of R.C. § 2921.13 (Falsification) or a substantially equivalent municipal ordinance.

(4) No person who resides in this state and who purchases fireworks in this state under R.C. § 3743.45 shall obtain possession of the fireworks in this state other than from a licensed manufacturer or licensed wholesaler, or fail, when transporting the fireworks, to transport them directly out of this state within 48 hours after the time of their purchase. No such person shall give or sell to any other person in this state fireworks that the person has acquired in this state.
(R.C. § 3743.63)

(e) *Prohibited activities by exhibitors.*

(1) An exhibitor of fireworks licensed under R.C. §§ 3743.50 through 3743.55 who wishes to conduct a public fireworks exhibition shall apply for approval to conduct the exhibition to the Fire Chief or fire prevention officer and to the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, having jurisdiction over the premises.

(2) The approval required by division (e)(1) of this section shall be evidenced by the Fire Chief or fire prevention officer and by the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer, signing a permit for the exhibition. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the State Fire Marshal or, if available, from the Fire Chief, a fire prevention officer, the Police Chief or other similar chief law enforcement officer, or a designee of the Police Chief or other similar chief law enforcement officer.

(3) Before a permit is signed and issued to a licensed exhibitor of fireworks, the Fire Chief or fire prevention officer, in consultation with the Police Chief or other similar

chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, shall inspect the premises on which the exhibition will take place and shall determine that, in fact, the applicant for the permit is a licensed exhibitor of fireworks. Each applicant shall show his or her license as an exhibitor of fireworks to the Fire Chief or fire prevention officer.

(4) The Fire Chief or fire prevention officer and the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, shall give approval to conduct a public fireworks exhibition only if satisfied, based on the inspection, that the premises on which the exhibition will be conducted allow the exhibitor to comply with the rules adopted by the State Fire Marshal pursuant to R.C. § 3743.53(B) and (E) and that the applicant is, in fact, a licensed exhibitor of fireworks. The Fire Chief or fire prevention officer, in consultation with the Police Chief or other similar chief law enforcement officer or with the designee of the Police Chief or other similar chief law enforcement officer, may inspect the premises immediately prior to the exhibition to determine if the exhibitor has complied with the rules, and may revoke a permit for noncompliance with the rules.

(5) If the Council has prescribed a fee for the issuance of a permit for a public fireworks exhibition, the Fire Chief or fire prevention officer and Police Chief or other similar chief law enforcement officer, or their designee, shall not issue a permit until the exhibitor pays the requisite fee.

(6) Each exhibitor shall provide an indemnity bond in the amount of at least $1,000,000 with surety satisfactory to the Fire Chief or fire prevention officer and to the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death

or loss to person or property emanating from the fireworks exhibitor, or proof of insurance coverage of at least $1,000,000 for liability arising from injury, death or loss of persons or property emanating from the fireworks exhibition. The Council may require the exhibitor to provide an indemnity bond or proof of insurance coverage in amounts greater than those required by this division. The Fire Chief or fire prevention officer and Police Chief or other similar chief law enforcement officer, or their designee, shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this division or by the Council.

(7) Each permit for a fireworks exhibition issued by the Fire Chief or fire prevention officer and by the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, shall contain a distinct number, designate the municipality, and identify the certified fire safety inspector, Fire Chief or fire prevention officer who will be present before, during and after the exhibition, where appropriate. A copy of each permit issued shall be forwarded by the Fire Chief or fire prevention officer and by the Police Chief or other similar chief law enforcement officer, or designee of the Police Chief or other similar chief law enforcement officer, issuing it to the State Fire Marshal. A permit is not transferable or assignable.

(8) The Fire Chief or fire prevention officer and Police Chief or other similar chief law enforcement officer, or designee of the Police Chief or other similar chief law enforcement officer, shall keep a record of issued permits for fireworks exhibitions. In this list, the Fire Chief, fire prevention officer, Police Chief or other similar chief law enforcement officer, or designee of the Police Chief or other similar chief law enforcement officer, shall list the name of the exhibitor, his or her license number, the premises on which the exhibition will be conducted, the date and time of the exhibition, and the number and political subdivision designation of the permit issued

to the exhibitor for the exhibition.

(9) The Council shall require that a certified fire safety inspector, Fire Chief or fire prevention officer be present before, during and after the exhibition, and shall require the certified fire safety inspector, Fire Chief or fire prevention officer to inspect the premises where the exhibition is to take place and determine whether the exhibition is in compliance with this section and R.C. Chapter 3743.
(R.C. § 3743.54)

(10) No licensed exhibitor of fireworks shall fail to comply with the applicable requirements of the rules adopted by the State Fire Marshal pursuant to R.C. § 3743.53(B) and (E) or to comply with R.C. § 3743.53(C) and (D).

(11) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to R.C. § 3743.54 or a substantially equivalent municipal ordinance, or if a permit so secured is revoked by a Fire Chief or fire prevention officer, in consultation with a Police Chief or other similar chief law enforcement officer, or with a designee of a Police Chief or other similar chief law enforcement officer, pursuant to those sections.

(12) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with R.C. §§ 3743.54 and 3743.55, or a substantially equivalent municipal ordinance.

(13) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have possession or control of, or be under the influence of, any intoxicating liquor, beer or controlled substance while on the premises on which the exhibition is being conducted.

(14) No licensed exhibitor of fireworks shall permit an employee to assist the licensed exhibitor in conducting fireworks exhibitions unless the employee is registered with the State Fire Marshal under R.C. § 3743.56.

(R.C. § 3743.64)

(f) *Possession, sale, discharge and advertising; falsification.*

(1) No person shall possess fireworks in this municipality or shall possess for sale or sell fireworks in this municipality, except a licensed manufacturer of fireworks as authorized by R.C. §§ 3743.02 through 3743.08, a licensed wholesaler of fireworks as authorized by R.C. §§ 3743.15 through 3743.21, a shipping permit holder as authorized by R.C. § 3743.40, an out-of-state resident as authorized by R.C. § 3743.44, a resident of this state as authorized by R.C. § 3743.45, or a licensed exhibitor of fireworks as authorized by R.C. §§ 3743.50 through 3743.55, or as authorized by any municipal ordinance that is substantially equivalent to any of these statutes, and except as provided in R.C. § 3743.80 or a substantially equivalent municipal ordinance.

(2) Except as provided in R.C. § 3743.80 or a substantially equivalent municipal ordinance, and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to R.C. §§ 3743.50 through 3743.55 or a substantially equivalent

municipal ordinance, no person shall discharge, ignite or explode any fireworks in this municipality.

(3) No person shall use in a theater or public hall what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.

(4) No person shall sell fireworks of any kind to a person under 18 years of age. No person under 18 years of age shall enter a fireworks sales showroom unless that person is accompanied by a parent, legal guardian or other responsible adult. No person under 18 years of age shall touch or possess fireworks on a licensed premises without the consent of the licensee. A licensee may eject any person from

a licensed premises that is in any way disruptive to the safe operation of the premises.

(5) No person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor or shipping permit holder shall possess 1.3G fireworks in this municipality.
(R.C. § 3743.65(A) - (E))

(g) *Transporting and shipping.*

(1) No person shall transport fireworks in this municipality except in accordance with the rules adopted by the State Fire Marshal pursuant to R.C. § 3743.58.

(2) As used in this division, fireworks includes only 1.3G and 1.4G fireworks. No person shall ship fireworks into this municipality by mail, parcel post or common carrier unless the person possesses a valid shipping permit issued under R.C. § 3743.40, and the fireworks are shipped directly to the holder of a license issued under R.C. § 3743.03, § 3743.16 or § 3743.51.

(3) No person shall ship fireworks within this municipality by mail, parcel post or common carrier unless the fireworks are shipped directly to the holder of a license issued under R.C. § 3743.01, § 3743.16 or § 3743.51.
(R.C. § 3743.66)

(h) *Exceptions.* This section does not prohibit or apply to the following:

(1) The manufacture, sale, possession, transportation, storage or use in emergency situations of pyrotechnic signaling devices and distress signals for marine, aviation or highway use;

(2) The manufacture, sale, possession, transportation, storage or use of fusees, torpedoes or other signals necessary for the safe operation of railroads;

(3) The manufacture, sale, possession, transportation, storage or use of blank cartridges

in connection with theaters or shows, or in connection with athletics as signals for ceremonial purposes;

(4) The manufacture for, the transportation, storage, possession or use by, or the sale to the Armed Forces of the United States and the militia of this state of pyrotechnic devices;

(5) The manufacture, sale, possession, transportation, storage or use of toy pistols, toy canes, toy guns or other devices in which paper or plastic caps containing 0.25 grains or less of explosive material are used, provided that they are constructed so that a hand cannot come into contact with a cap when it is in place for explosion, or apply to the manufacture, sale, possession, transportation, storage or use of those caps;

(6) The manufacture, sale, possession, transportation, storage or use of novelties and trick noisemakers, auto burglar alarms or model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models;

(7) The manufacture, sale, possession, transportation, storage or use of wire sparklers;

(8) The conduct of radio-controlled special effect exhibitions that use an explosive black powder charge of not more than one-quarter pound per charge, and that are not connected in any manner to propellant charges; provided, that the exhibition complies with all of the following:

A. No explosive aerial display is conducted in the exhibition;

B. The exhibition is separated from spectators by not less than 200 feet;

C. The person conducting the exhibition complies with regulations of the Bureau of Alcohol, Tobacco and Firearms of the United States Department of the Treasury and the United States Department of Transportation with respect to the storage and transport of the explosive black powder used in the exhibition.

(R.C. § 3743.80)

(i) *Forfeiture and disposal.* Fireworks manufactured, sold, possessed, transported or used in violation of this section shall be forfeited by the offender. The Fire Marshal's office or certified fire safety inspector's office shall dispose of seized fireworks pursuant to the procedures specified in R.C. §§ 2981.11 to 2981.13 for the disposal of forfeited property by law enforcement agencies, and the Fire Marshal or that office is not liable for claims for the loss of or damages to the seized fireworks.
(R.C. § 3743.68(B))

(j) *Penalty.*

(1) Except as otherwise provided in division (j)(2) or (j)(3) of this section, whoever violates any provisions of this section is guilty of a misdemeanor of the first degree.

(2) If the offender previously has been convicted of or pleaded guilty to a violation of R.C. § 3743.60(I) or § 3743.61(I), or a substantially equivalent municipal ordinance, a violation of division (b)(5) of this section or division (c)(5) of this section is a felony to be prosecuted under appropriate state law.

(3) Whoever violates division (e)(10) of this section is guilty of a misdemeanor of the first degree. In addition to any other penalties that may be imposed on a licensed exhibitor of fireworks under this division and unless the third sentence of this division applies, the person's license as an exhibitor of fireworks or as an assistant exhibitor of fireworks shall be suspended, and the person is ineligible to apply for either type of license, for a period of five years. If the violation of division (e)(10) of this section results in serious physical harm to persons or serious physical harm to property, the person's license as an exhibitor of fireworks or as an assistant exhibitor of fireworks shall be revoked, and that person is ineligible to apply for a license as or to be licensed as an exhibitor of fireworks or as an assistant exhibitor of fireworks in

this state.

(R.C. § 3743.99(C), (D))

§ 678.13 ENDANGERING AIRCRAFT AND AIRPORT OPERATIONS.

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

(1) Air gun. A hand pistol or rifle that propels its projectile by means of releasing compressed air, carbon dioxide or other gas.

(2) Airport operational surface. Any surface of land or water that is developed, posted or marked so as to give an observer reasonable notice that the surface is designed and developed for the purpose of storing, parking, taxiing or operating aircraft, or any surface of land or water that is actually being used for any of those purposes.

(3) Firearm. Has the same meaning as in R.C. § 2923.11.

(4) Spring-operated gun. A hand pistol or rifle that propels a projectile not less than four or more than five millimeters in diameter by means of a spring.

(b) No person shall do either of the following:

(1) Knowingly throw an object at, or drop an object upon, any moving aircraft.

(2) Knowingly shoot with a bow and arrow, or knowingly discharge a firearm, air gun or spring-operated gun, at or toward any aircraft.

(c) No person shall knowingly or recklessly shoot with a bow and arrow, or shall knowingly or recklessly discharge a firearm, air gun or spring-operated gun, upon or over any airport operational surface. This division does not apply to the following:

(1) An officer, agent or employee of this or any other state or of the United States, or a law enforcement officer, authorized to discharge firearms and acting within the scope of his or her duties.

(2) A person who, with the consent of the owner or operator of the airport operational

surface or the authorized agent of either, is lawfully engaged in any hunting or sporting activity or is otherwise lawfully discharging a firearm.

(d) Whoever violates division (b) of this section is guilty of endangering aircraft, a misdemeanor of the first degree. If the violation creates any risk of physical harm to any person, or if the aircraft that is the subject of the violation is occupied, endangering aircraft is a felony to be prosecuted under appropriate state law.

(e) Whoever violates division (c) of this section is guilty of endangering airport operations, a misdemeanor of the second degree. If the violation creates a risk of physical harm to any person or substantial risk of serious harm to any person, endangering airport operations is a felony to be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for the violation, the hunting license or permit of a person who violates division (c) of this section while hunting shall be suspended or revoked pursuant to R.C. § 1533.68.
(R.C. § 2909.08(A) - (E))

§ 678.14 POSSESSING CRIMINAL TOOLS.

(a) No person shall possess or have under his or her control any substance, device, instrument or article, with purpose to use it criminally.

(b) Each of the following constitutes prima facie evidence of criminal purpose:

(1) Possession or control of any dangerous ordnance, or the materials or parts for making a dangerous ordnance, in the absence of circumstances indicating the dangerous ordnance, materials or parts are intended for a legitimate use.

(2) Possession or control of any substance, device, instrument or article designed or specially adapted for criminal use.

(3) Possession or control of any substance, device, instrument or article commonly used for criminal purposes, under circumstances indicating the item is intended for criminal use.

(c) Whoever violates this section is guilty of possessing criminal tools. Except as otherwise provided in this division, possessing criminal tools is a misdemeanor of the first degree. If the circumstances indicate that the substance, device, instrument or article involved in the offense was intended for use in the commission of a felony, possessing criminal tools is a felony to be prosecuted under appropriate state law.
(R.C. § 2923.24)

§ 678.15 POSSESSION OF AN OBJECT INDISTINGUISHABLE FROM A FIREARM IN A SCHOOL SAFETY ZONE.

(a) No person shall knowingly possess an object in a school safety zone if both of the following apply:

(1) The object is indistinguishable from a firearm, whether or not the object is capable of being fired.

(2) The person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.

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

A. An officer, agent or employee of this or any other state or the United States, or a law enforcement officer, who is authorized to carry deadly weapons or dangerous ordnance and is acting within the scope of the officer's, agent's or

employee's duties, a security officer employed by a board of education or governing body of a school during the time that the security officer is on duty pursuant to that contract of employment, or any other person who has written authorization from the board of education or governing body of a school to convey deadly weapons or dangerous ordnance into a school safety zone or to possess a deadly weapon or dangerous ordnance in a school safety zone and who conveys or possesses the deadly weapon or dangerous ordnance in accordance with that authorization;

B. Any person who is employed in this state, who is authorized to carry deadly weapons or dangerous ordnance, and who is subject to and in compliance with the requirements of R.C. § 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in this division (b)(1)B. does not apply to the person.

(2) This section does not apply to premises upon which home schooling is conducted. This section also does not apply to a school administrator, teacher or employee who possesses an object that is indistinguishable from a firearm for legitimate school purposes during the course of employment, a student who uses an object that is indistinguishable from a firearm under the direction of a school administrator, teacher or employee, or any other person who, with the express prior approval of a school administrator, possesses an object that is indistinguishable from a firearm for a legitimate purpose, including the use of the object in a ceremonial activity, a play, re-enactment or other dramatic presentation, or a ROTC activity or another similar use of the object.

(3) This section does not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if, at the time of that conveyance, attempted conveyance, or possession of the handgun, all of the

following apply:

A. The person does not enter into a school building or onto school premises and is not at a school activity.

B. The person is carrying a valid license or temporary emergency license to carry a concealed handgun issued to the person under R.C. § 2923.125 or § 2923.1213 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69.

C. The person is in the school safety zone in accordance with 18 U.S.C. 922(q)(2)(B).

D. The person is not knowingly in a place described in R.C. § 2923.126(B)(1) or (B)(3) to (10).

(4) This section does not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if at the time of that conveyance, attempted conveyance, or possession of the handgun all of the following apply:

A. The person is carrying a valid license or temporary emergency license to carry a concealed handgun issued to the person under R.C. § 2923.125 or § 2923.1213 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69.

B. The person is the driver or passenger in a motor vehicle and is in the school safety zone while immediately in the process of picking up or dropping off a child.

C. The person is not in violation of R.C. § 2923.16.

(c) Whoever violates this section is guilty of illegal possession of an object indistinguishable from a firearm in a school safety zone. Except as otherwise provided in this division, illegal possession of an object indistinguishable from a firearm in a school safety zone is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, illegal possession of an object indistinguishable from a firearm in a school safety zone is a felony to be prosecuted under appropriate state law.

(d) (1) In addition to any other penalty imposed upon a person who is convicted of or pleads guilty to a violation of this section, and subject to division (d)(2) of this section, if the offender has not attained 19 years of age, regardless of whether the offender is attending or is enrolled in a school operated by a board of education or for which the State Board of Education prescribes minimum standards under R.C. § 3301.07, the court shall impose upon the offender a class four suspension of the offender's probationary driver's license, restricted license, driver's license, commercial driver's license, temporary instruction permit or probationary commercial driver's license that then is in effect from the range specified in R.C. § 4510.02(A)(4) and shall deny the offender the issuance of any permit or license of that type during the period of the suspension. If the offender is not a resident of this state, the court shall impose a class four suspension of the nonresident operating privilege of the offender from the range specified in R.C. § 4510.02(A)(4).

(2) If the offender shows good cause why the court should not suspend one of the types of licenses, permits or privileges specified in division (d)(1) of this section or deny the issuance of one of the temporary instruction permits specified in division (d)(1) of this section, the court in its discretion may choose not to impose the suspension, revocation or denial required in division (d)(1) of this section.

(e) As used in this section, Aobject that is indistinguishable from a firearm means an object made, constructed or altered so that, to a reasonable person without specialized training in firearms, the object appears to be a firearm.

(R.C. § 2923.122(C) - (G))

Statutory reference:

Conveyance or possession of deadly weapons or dangerous ordnance in a school safety zone, felony offense, see R.C. § 2923.122(A), (B)

§ 678.16 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 license to carry a concealed handgun that was issued and that has been revoked or suspended pursuant to R.C. § 2923.128 or a temporary emergency license to carry a concealed handgun that was issued and that has been revoked pursuant to R.C. § 2923.1213.

(2) Whoever violates this division (a) is guilty of possessing a revoked or suspended concealed handgun license, a misdemeanor of the third degree.

(R.C. § 2923.1211(B), (C))

(b) *Additional restrictions.* Pursuant to R.C. § 2923.126:

(1) A. A license to carry a concealed handgun that is issued under R.C. § 2923.125 on or after March 14, 2007, shall expire five years after the date of issuance, and a license that is so issued prior to March 14, 2007, shall expire four 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 license under R.C. § 2923.125 or § 2923.1213 may carry a concealed handgun anywhere in this state if the licensee also carries a valid license and valid identification when the licensee is in actual possession of a concealed handgun. The licensee shall give notice of any change in the licensee's residence address to the Sheriff who issued the license within 45 days after that change.

B. If a licensee is the driver or an occupant of a motor vehicle that is stopped as the result of a traffic stop or a stop for another law enforcement purpose and if the licensee is transporting or has a loaded handgun in the motor vehicle at that time, the licensee shall promptly inform any law enforcement officer who approaches the vehicle while stopped that the licensee has been issued a license or temporary emergency license to carry a concealed handgun and that the licensee currently possesses or has a loaded handgun; the licensee shall not knowingly disregard or fail to comply with lawful orders of a law enforcement officer given while the motor vehicle is stopped, knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the licensee's hands in plain sight after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves, unless directed otherwise by a law enforcement officer; and the licensee shall not knowingly remove, attempt to remove, grasp or hold the loaded handgun or knowingly have contact with the loaded handgun by touching it with the licensee's hands or fingers, in any manner in violation of R.C. § 2923.16(E), after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves. Additionally, if a licensee is the driver or an occupant of a commercial motor

vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in R.C. § 5503.04 and if the licensee is transporting or has a loaded handgun in the commercial motor vehicle at that time, the licensee shall promptly inform the employee of the unit who approaches the vehicle while stopped that the licensee has been issued a license or temporary emergency license to carry a concealed handgun and that the licensee currently possesses or has a loaded handgun.

C. If a licensee is stopped for a law enforcement purpose and if the licensee is carrying a concealed handgun at the time the officer approaches, the licensee shall promptly inform any law enforcement officer who approaches the licensee while stopped that the licensee has been issued a license or temporary emergency license to carry a concealed handgun and that the licensee currently is carrying a concealed handgun; the licensee shall not knowingly disregard or fail to comply with lawful orders of a law enforcement officer given while the licensee is stopped or knowingly fail to keep the licensee's hands in plain sight after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves, unless directed otherwise by a law enforcement officer; and the licensee shall not knowingly remove, attempt to remove, grasp or hold the loaded handgun or knowingly have contact with the loaded handgun by touching it with the licensee's hands or fingers, in any manner in violation of R.C. § 2923.12(B), after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves.

(2) A valid license issued under R.C. § 2923.125 or § 2923.1213 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, an airport passenger terminal, or an institution that is maintained, operated, managed and governed pursuant to R.C. § 5119.02(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, 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. Chapter 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;

F. Any church, synagogue, mosque or other place of worship, unless the church, synagogue, mosque or other place of worship posts or permits otherwise;

G. A child day-care center, a type A family day-care home, a type B family day-care home, or a type C family day-care home, except that this division does not prohibit a licensee who resides in a type A family day-care home, a type B family day-care home, or a type C family day-care home from carrying a concealed handgun at any time in any part of the home that is not dedicated or used for day-care purposes, or from carrying a concealed handgun in a part of the home that is dedicated or used for day-care purposes at any time during

which no children, other than children of that licensee, are in the home;

H. An aircraft that is in, or intended for operation in, foreign air transportation, interstate air transportation, intrastate air transportation or the transportation of mail by aircraft;

I. Any building that is a government facility of this state or a political subdivision of this state and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located that is subject to division (b)(2)C. of this section;

J. A place in which federal law prohibits the carrying of handguns.

(3) A. Nothing in this division (b) shall negate or restrict a rule, policy or practice of a private employer that is not a private college, university, or other institution of higher education concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer. Nothing in this division (b) shall require a private employer of that nature to adopt a rule, policy or practice concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer.

B. 1. A private employer shall be immune from liability in a civil action for any injury, death or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises or property of the private employer, including motor vehicles owned by the private employer, unless the private employer acted with malicious purpose. A private employer is immune from liability in a civil action for any injury, death or loss to person or property that allegedly was caused by or related to the private employer's decision to permit a licensee to bring, or prohibit

a licensee from bringing, a handgun onto the premises or property of the private employer. As used in this division, private employer includes a private college, university or other institution of higher education.

2. A political subdivision shall be immune from liability in a civil action, to the extent and in the manner provided in R.C. Chapter 2744, for any injury, death or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto any premises or property owned, leased or otherwise under the control of the political subdivision. As used in this division, political subdivision has the same meaning as in R.C. § 2744.01.

C. 1. Except as provided in division (b)(3)C.2. of this section, 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 in violation of R.C. § 2911.21(A)(4) and instead is subject only to a civil cause of action for trespass based on the violation.

2. A landlord may not prohibit or restrict a tenant who is a licensee and who on or after September 9, 2008 enters into a rental agreement with the

landlord for the use of residential premises, and the tenant's guest while the tenant is present, from lawfully carrying or possessing a handgun on those residential premises.

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

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

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

(4) A person who holds a license to carry a concealed handgun that was issued pursuant to the law of another state that is recognized by the Attorney General pursuant to a reciprocity agreement entered into pursuant to R.C. § 109.69 has the same right to carry a concealed handgun in this state as a person who was issued a license to carry a concealed handgun under R.C. § 2923.125 and is subject to the same restrictions that apply to a person who carries a license issued under that section.

(5) A peace officer has the same right to carry a concealed handgun in this state as a person who was issued a license to carry a concealed handgun under R.C. § 2923.125. For purposes of reciprocity with other states, a peace officer shall be considered to be a licensee in this state.

(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 license to carry a concealed handgun under R.C. § 2923.125 and is subject to the same restrictions that apply to a person who

carries a license issued under that section. For purposes of reciprocity with other states, a qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to division (b)(6)B. of this section and a valid firearms requalification certification issued pursuant to division (b)(6)C. of this section shall be considered to be a licensee in this state.

B. 1. Each public agency of this state or of a political subdivision of this state that is served by one or more peace officers shall issue a retired peace officer identification card to any person who retired from service as a peace officer with that agency, if the issuance is in accordance with the agency's policies and procedures and if the person, with respect to the person's service with that agency, satisfies all of the following:

a. The person retired in good standing from service as a peace officer with the public agency, and the retirement was not for reasons of mental instability.

b. Before retiring from service as a peace officer with that agency, the person was authorized to engage in or supervise the prevention, detection, investigation or prosecution of, or the incarceration of any person for, any violation of law and the person had statutory powers of arrest.

c. At the time of the person's retirement as a peace officer with that agency, the person was trained and qualified to carry firearms in the performance of the peace officer's duties.

d. Before retiring from service as a peace officer with that agency, the person was regularly employed as a peace officer for an aggregate of 15 years or more, or, in the alternative, the person retired from service as a peace officer with that agency, after completing any

applicable probationary period of that service, due to a service-connected disability, as determined by the agency.

2. A retired peace officer identification card issued to a person under division (b)(6)B.1. of this section shall identify the person by name, contain a photograph of the person, identify the public agency of this state or of the political subdivision of this state from which the person retired as a peace officer and that is issuing the identification card, and specify that the person retired in good standing from service as a peace officer with the issuing public agency and satisfies the criteria set forth in divisions (b)(6)B.1.a. to (b)(6)B.1.d. of this section. In addition to the required content specified in this division, a retired peace officer identification card issued to a person under division (b)(6)B.1. of this section may include the firearms requalification certification described in division (b)(6)C. of this section, and if the identification card includes that certification, the identification card shall serve as the firearms requalification certification for the retired peace officer. If the issuing public agency issues credentials to active law enforcement officers who serve the agency, the agency may comply with division (b)(6)B.1. of this section by issuing the same credentials to persons who retired from service as a peace officer with the agency and who satisfy the criteria set forth in divisions (b)(6)B.1.a. to (b)(6)B.1.d. of this section, provided that the credentials so issued to retired peace officers are stamped with the word RETIRED.
3. A public agency of this state or of a political subdivision of this state may charge persons who retired from service as a peace officer with the agency a reasonable fee for issuing to the person a retired peace officer identification card pursuant to division (b)(6)B.1. of this section.

C. 1. If a person retired from service as a peace officer with a public agency of this state or of a political subdivision of this state and the person satisfies the criteria set forth in divisions (b)(6)B.1.a. to (b)(6)B.1.d. of this section, the public agency may provide the retired peace officer with the opportunity to attend a firearms requalification program that is approved for purposes of firearms requalification required under 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 years from the date on which the program was successfully completed, and the requalification is valid during that five-year period. If a retired peace officer who satisfies the criteria set forth in divisions (b)(6)B.1.a. to (b)(6)B.1.d. of this section satisfactorily completes such a firearms requalification program, the retired peace officer shall be issued a firearms requalification certification that identifies the retired peace officer by name, identifies the entity that taught the program, specifies that the retired peace officer successfully completed the program, specifies the date on which the course was successfully completed, and specifies that the requalification is valid for five years from that date of successful completion. The firearms requalification certification for a retired peace officer may be included in the retired peace officer identification card issued to the retired peace officer under division (b)(6)B. of this section.

3. A retired peace officer who attends a firearms requalification program that is approved for purposes of firearms requalification required under 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.

A. AGovernment facility of this state or a political subdivision of this state. Any of the following:

1. A building or part of a building that is owned or leased by the government of this state or a political subdivision of this state and where employees of the government of this state or the political subdivision regularly are present for the purpose of performing their official duties as employees of the state or political subdivision;

2. The office of a Deputy Registrar serving pursuant to R.C. Chapter 4503 that is used to perform deputy registrar functions.

B. Qualified retired peace officer. A person who satisfies all of the following:

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

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

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

C. Retired peace officer identification card. An identification card that is issued pursuant to division (b)(6)B. of this section to a person who is a retired peace officer.

(R.C. § 2923.126)

(c) *Posting of signs prohibiting possession.* Pursuant to R.C. § 2923.1212:

(1) The following persons, boards, and entities, or designees, shall post in the following locations a sign that contains a statement in substantially the following form: AUnless 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.

A. The Director of Public Safety or the person or board charged with the erection, maintenance or repair of police stations, municipal jails and the municipal courthouse and courtrooms in a conspicuous location at all police stations, municipal jails and municipal courthouses and courtrooms;

B. The Sheriff or Sheriff's designee who has charge of the Sheriff's office in a conspicuous location in that office;

C. The Superintendent of the State Highway Patrol or the Superintendent's designee in a conspicuous location at all State Highway Patrol stations;

D. Each Sheriff, Chief of Police or person in charge of every county, multi-county, municipal, municipal-county, or multi-county/municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or other local or state correctional institution or detention facility within the state, or that person's designee, in a conspicuous location at that facility under that person's charge;

E. The board of trustees of a regional airport authority, chief administrative officer of an airport facility, or other person in charge of an airport facility in a conspicuous location at each airport facility under that person's control;

F. The officer or officer's designee who has charge of a courthouse or the building or structure in which a courtroom is located in a conspicuous location in that building or structure;

G. The Superintendent of the Bureau of Criminal Identification and Investigation or

the Superintendent's designee in a conspicuous location in all premises controlled by that Bureau;

H. The owner, administrator or operator of a child day-care center, a type A family day-care home, a type B family day-care home, or a type C family day-care home;

I. The officer of this state or of a political subdivision of this state, or the officer's designee, who has charge of a building that is a government facility of this state or the political subdivision of this state, as defined in R.C. § 2923.126, 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 R.C. § 2923.126(B)(3).

(2) The following boards, bodies and persons, or designees, shall post in the following locations a sign that contains a statement in substantially the following form: Unless otherwise authorized by law, pursuant to R.C. § 2923.122, no person shall knowingly possess, have under the person's control, convey or attempt to convey a deadly weapon or dangerous ordnance into a school safety zone.

A. A board of education of a city, local, exempted village or joint vocational school district or that board's designee in a conspicuous location in each building and on each parcel of real property owned or controlled by the board;

B. A governing body of a school for which the State Board of Education prescribes minimum standards under R.C. § 3301.07 or that body's designee in a conspicuous location in each building and on each parcel of real property owned or controlled by the school;

C. The principal or chief administrative officer of a nonpublic school in a conspicuous location on property owned or controlled by that nonpublic school.

(R.C. § 2923.1212)

§ 678.17 DEFACED FIREARMS.

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

(1) Change, alter, remove or obliterate the name of the manufacturer, model, manufacturer's serial number or other mark of identification on a firearm.

(2) Possess a firearm knowing or having reasonable cause to believe that the name of the manufacturer, model, manufacturer's serial number or other mark of identification on the firearm has been changed, altered, removed or obliterated.

(b) (1) Whoever violates division (a)(1) of this section is guilty of defacing identification marks of a firearm. Except as otherwise provided in this division, defacing identification marks of a firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (a)(1) of this section, defacing identification marks of a firearm is a felony to be prosecuted under appropriate state law.

(2) Whoever violates division (a)(2) of this section is guilty of possessing a defaced firearm. Except as otherwise provided in this division, possessing a defaced firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (a)(2) of this section, possessing a defaced firearm is a felony to be prosecuted under appropriate state law.

(c) Division (a) of this section does not apply to any firearm on which no manufacturer's serial number was inscribed at the time of its manufacture.

(R.C. § 2923.201)

CHAPTER 698: PENALTIES AND SENTENCING

698.01 Definitions

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Cross-reference:

Administration, enforcement and public service, see Ch. 654

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Statutory reference:

Burden and degree of proof, see R.C. § 2901.05

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Degree of offense; charge and verdict; prior conviction, see R.C. § 2945.75

Payment of costs and expenses on change of venue, see R.C. § 2931.31

Procedure on change of venue, see R.C. § 2931.29

Satisfaction of fine; credit for time served, see R.C. § 2947.14

Transfer of prisoner on change of venue, see R.C. § 2931.30

Treatment of drug dependent persons in lieu of conviction, see R.C. § 2951.041

Venue, see R.C. § 2901.12

§ 698.01 DEFINITIONS.

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

(a) Dangerous offender. A person who has committed an offense, whose history, character and condition reveal a substantial risk that he or she will be a danger to others, and whose conduct has been characterized by a pattern of repetitive, compulsive or aggressive behavior with heedless indifference to the consequences.

(b) Repeat offender. A person who has a history of persistent criminal activity and whose character and condition reveal a substantial risk that he or she will commit another offense. It is prima facie evidence that a person is a repeat offender if any of the following applies:

(1) Having been convicted of one or more offenses of violence, as defined in R.C. § 2901.01, and having been imprisoned pursuant to sentence for one or more of those offenses, the person commits a subsequent offense of violence;

(2) Having been convicted of one or more sexually oriented offenses, as defined in R.C. § 2950.01, and having been imprisoned pursuant to sentence for one or more of those offenses, the person commits a subsequent sexually oriented offense;

(3) Having been convicted of one or more theft offenses, as defined in R.C. § 2913.01,

and having been imprisoned pursuant to sentence for one or more of those offenses, the person commits a subsequent theft offense;

(4) Having been convicted of one or more felony drug abuse offenses, as defined in R.C. § 2925.01, and having been imprisoned pursuant to sentence for one or more of those offenses, the person commits a subsequent felony drug abuse offense;

(5) Having been convicted of two or more felonies, and having been imprisoned pursuant to sentence for any such offense, the person commits a subsequent offense;

(6) Having been convicted of three or more offenses of any type or degree other than traffic offenses, alcoholic intoxication offenses, or minor misdemeanors, and having been imprisoned pursuant to sentence for any such offense, the person commits a subsequent offense.

(R.C. § 2935.36(E))

§ 698.02 PENALTIES FOR MISDEMEANOR.

(a) *Considerations in misdemeanor sentencing.*

(1) A court that sentences an offender for a misdemeanor or minor misdemeanor violation of any provision of the Ohio Revised Code, or of any municipal ordinance that is substantially equivalent to a misdemeanor or minor misdemeanor violation of a provision of the Ohio Revised Code, shall be guided by the overriding purposes of misdemeanor sentencing. The overriding purposes of misdemeanor sentencing are to protect the public from future crime by the offender and others and to punish the offender. To achieve those purposes, the sentencing court shall consider the impact of the offense upon the victim and the need for changing the offender's behavior, rehabilitating the defender, and making restitution to the victim of the offense, the public, or the victim and the public.

(2) A sentence imposed for a misdemeanor or minor misdemeanor violation of an Ohio Revised Code provision or for a violation of a municipal ordinance that is subject to division (a)(1) of this section shall be reasonably calculated to achieve the two overriding purposes of misdemeanor sentencing set forth in division (a)(1) of this section, commensurate with and not demeaning to the seriousness of the offender's conduct and its impact upon the victim, and consistent with sentences imposed for similar offenses committed by similar offenders.

(3) A court that imposes a sentence upon an offender for a misdemeanor or minor misdemeanor violation of an Ohio Revised Code provision or for a violation of a municipal ordinance that is subject to division (a)(1) of this section shall not base the sentence upon the race, ethnic background, gender or religion of the offender.

(4) Divisions (a)(1) and (a)(2) of this section shall not apply to any offense that is disposed of by a traffic violations bureau of any court pursuant to Traffic Rule 13 and shall not apply to any violation of any provision of the Ohio Revised Code that is a minor misdemeanor and that is disposed of without a court appearance. Divisions (a)(1) to (a)(3) of this section do not affect any penalties established by the municipality for a violation of its ordinances that are not substantially equivalent to a misdemeanor or minor misdemeanor violation of a provision of the Ohio Revised Code.

(R.C. § 2929.21)

(b) *Misdemeanor jail terms.*

(1) Except as provided in § 666.99 or § 698.03 of this code or R.C. § 2929.22 or § 2929.23 or division (b)(5) or (b)(6) of this section and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on

the offender pursuant to this chapter, the court shall impose a definite jail term that shall be one of the following:

A. For a misdemeanor of the first degree, not more than 180 days;

B. For a misdemeanor of the second degree, not more than 90 days;

C. For a misdemeanor of the third degree, not more than 60 days;

D. For a misdemeanor of the fourth degree, not more than 30 days.

(2) A court that sentences an offender to a jail term under division (b) of this section may permit the offender to serve the sentence in intermittent confinement or may authorize a limited release of the offender as provided in division (d)(2) of this section.

(3) If a court sentences an offender to a jail term under division (b) of this section and the court assigns the offender to a County Jail that has established a County Jail Industry Program pursuant to R.C. § 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the County Jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the County Jail Industry Program.

(4) If a person sentenced to a jail term pursuant to division (b) of this section, the court may impose as part of the sentence pursuant to R.C. § 2929.28 a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to R.C. § 307.93, § 341.14, § 341.19, § 341.21, § 341.23, § 753.02, § 753.04, § 753.16, § 2301.56 or § 2947.19 and R.C. § 2929.37, both of the following apply:

A. The court shall specify both of the following as part of the sentence:

1. If the person is presented with an itemized bill pursuant to R.C. § 2929.37 for payment of the costs of confinement, the person is required to pay the

bill in accordance with that section.

2. If the person does not dispute the bill described in division (b)(4)A.1. of this section and does not pay the bill by the times specified in R.C. § 2929.37, the Clerk of the Court may issue a certificate of judgment against the person as described in that section.

B. The sentence automatically includes any certificate of judgment issued as described in division (b)(4)A.2. of this section.

(5) If an offender who is convicted of or pleads guilty to a violation of R.C. § 4511.19(B), or any substantially equivalent municipal ordinance, also is convicted of or also pleads guilty to a specification of the type described in R.C. § 2941.1414 and if the court imposes a jail term on the offender for the underlying offense, the court shall impose upon the offender an additional definite jail term of not more than six months. The additional jail term shall not be reduced pursuant to any provision of the Ohio Revised Code. The offender shall serve the additional jail term consecutively to and prior to the jail term imposed for the underlying offense and consecutively to any other mandatory term imposed in relation to the offense.

(6) A. If an offender is convicted of or pleads guilty to a misdemeanor violation of R.C. § 2907.23, § 2907.24, § 2907.241 or § 2907.25, or any substantially equivalent municipal ordinance, and to a specification of the type described in R.C. § 2941.1421 and if the court imposes a jail term on the offender for the misdemeanor violation, the court may impose upon the offender an additional definite jail term as follows:

1. Subject to division (b)(6)A.2. of this section, an additional definite jail term of not more than 60 days;

2. If the offender previously has been convicted of or pleaded guilty to one or more misdemeanor or felony violations of R.C. § 2907.22, § 2907.23,

§ 2907.24, § 2907.241 or § 2907.25, or any substantially equivalent municipal ordinance, and also was convicted of or pleaded guilty to a specification of the type described in R.C. § 2941.1421 regarding one or more of those violations, an additional definite jail term of not more than 120 days.

B. In lieu of imposing an additional definite jail term under division (b)(6)A. of this section, the court may directly impose on the offender a sanction that requires the offender to wear a real-time processing, continual tracking electronic monitoring device during the period of time specified by the court. The period of time specified by the court shall equal the duration of an additional jail term that the court could have imposed upon the offender under division (b)(6)A. of this section. A sanction imposed under this division shall commence on the date specified by the court, provided that the sanction shall not commence until after the offender has served the jail term imposed for the misdemeanor violation of R.C. § 2907.23, § 2907.24, § 2907.241 or § 2907.25, or any substantially equivalent municipal ordinance, and any residential sanction imposed for the violation under division (d) of this section or R.C. § 2929.26. A sanction imposed under this division shall be considered to be a community control sanction for purposes of division (c) of this section or R.C. § 2929.25, and all provisions of this Code and the Ohio Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

(R.C. § 2929.24)

(c) *Misdemeanor community control sanctions.*

(1) A. Except as provided in §§ 666.99 and 698.03 of this code or R.C. §§ 2929.22 and 2929.23 or when a jail term is required by law, in sentencing an offender for a misdemeanor, other than a minor misdemeanor, the sentencing court may do either of the following:

1. Directly impose a sentence that consists of one or more community control sanctions authorized by divisions (d), (e) or (f) of this section. The court may impose any other conditions of release under a community control sanction that the court considers appropriate. If the court imposes a jail term upon the offender, the court may impose any community control sanction or combination of community control sanctions in addition to the jail term.
2. Impose a jail term under division (b) of this section from the range of jail terms authorized under that division for the offense, suspend all or a portion of the jail term imposed, and place the offender under a community control sanction or combination of community control sanctions authorized under divisions (d), (e) or (f) of this section.

B. The duration of all community control sanctions imposed upon an offender and in effect for an offender at any time shall not exceed five years.

C. At sentencing, if a court directly imposes a community control sanction or combination of community control sanctions pursuant to division (c)(1)A.1. of this section, the court shall state the duration of the community control sanctions imposed and shall notify the offender that if any of the conditions of the community control sanctions are violated the court may do any of the following:

1. Impose a longer time under the same community control sanction if the total time under all of the offender's community control sanctions does not exceed the five-year limit specified in division (c)(1)B. of this section;

2. Impose a more restrictive community control sanction under division (d), (e) or (f) of this section, but the court is not required to impose any particular sanction or sanctions;
3. Impose a definite jail term from the range of jail terms authorized for the offense under division (b) of this section.

(2) A. If a court sentences an offender to any community control sanction or combination of community control sanctions authorized under division (d), (e) or (f) of this section, the court shall place the offender under the general control and supervision of the court or of a Department of Probation in the jurisdiction that serves the court for purposes of reporting to the court a violation of any of the conditions of the sanctions imposed. If the offender resides in another jurisdiction and a department of probation has been established to serve the municipal court or county court in that jurisdiction, the sentencing court may request the municipal court or the county court to receive the offender into the general control and supervision of that department of probation for purposes of reporting to the sentencing court a violation of any of the conditions of the sanctions imposed. The sentencing court retains jurisdiction over any offender whom it sentences for the duration of the sanction or sanctions imposed.

B. The sentencing court shall require as a condition of any community control sanction that the offender abide by the law and not leave the state without the permission of the court or the offender's probation officer. In the interests of doing justice, rehabilitating the offender, and ensuring the offender's good behavior, the court may impose additional requirements on the offender. The offender's compliance with the additional requirements also shall be a condition of the community control sanction imposed upon the offender.

(3) A. If the court imposing sentence upon an offender sentences the offender to any

community control sanction or combination of community control sanctions authorized under division (d), (e) or (f) of this section, and the offender violates any of the conditions of the sanctions, the public or private person or entity that supervises or administers the program or activity that comprises the sanction shall report the violation directly to the sentencing court or to the Department of Probation or probation officer with general control and supervision over the offender. If the public or private person or entity reports the violation to the Department of Probation or probation officer, the department or officer shall report the violation to the sentencing court.

B. If an offender violates any condition of a community control sanction, the sentencing court may impose upon the violator a longer time under the same community control sanction if the total time under all of the community control sanctions imposed on the violator does not exceed the five-year limit specified in division (c)(1)B. of this section or may impose on the violator a more restrictive community control sanction or combination of community control sanctions, including a jail term. If the court imposes a jail term upon a violator pursuant to this division, the total time spent in jail for the misdemeanor offense and the violation of a condition of the community control sanction shall not exceed the maximum jail term available for the offense for which the sanction that was violated was imposed. The court may reduce the longer period of time that the violator is required to spend under the longer sanction or the more restrictive sanction by all or part of the time the violator successfully spent under the sanction that was initially imposed.

(4) Except as otherwise provided in this division, if an offender, for a significant period of time, fulfills the conditions of a community control sanction imposed pursuant to division (d), (e) or (f) of this section in an exemplary manner, the court may reduce

the period of time under the community control sanction or impose a less restrictive community control sanction. Fulfilling the conditions of a community control sanction does not relieve the offender of a duty to make restitution under division (f) of this section.

(R.C. § 2929.25)

(d) *Community residential sanction.*

(1) Except when a mandatory jail term is required by law, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, may impose upon the offender any community residential sanction or combination of community residential sanctions under this division (d). Community residential sanctions include but are not limited to the following:

A. A term of up to 180 days in a halfway house or a term in a halfway house not to exceed the longest jail term available for the offense, whichever is shorter, if the political subdivision that would have responsibility for paying the costs of confining the offender in a jail has entered into a contract with the halfway house for use of the facility for misdemeanor offenders;

B. A term of up to 180 days in an alternative residential facility or a term in an alternative residential facility not to exceed the longest jail term available for the offense, whichever is shorter. The court may specify the level of security in the alternative residential facility that is needed for the offender.

(2) The court that sentences an offender to a community residential sanction under this division (d) may do either or both of the following:

A. Permit the offender to serve the offender's sentence in intermittent confinement, overnight, on weekends or at any other time or times that will allow the offender to continue at the offender' occupation or care for the offender' family;

B. Authorize the offender to be released so that the offender may seek or maintain employment, receive education or training, receive treatment, perform community service, or otherwise fulfill an obligation imposed by law or by the court. A release pursuant to this division shall be only for the duration of time that is needed to fulfill the purpose of the release and for travel that reasonably is necessary to fulfill the purposes of release.

(3) The court may order that a reasonable portion of the income earned by the offender upon a release pursuant to division (d)(2) of this section be applied to any financial sanction imposed under division (f) of this section.

(4) No court shall sentence any person to a prison term for a misdemeanor or to a jail term for a minor misdemeanor.

(5) If a court sentences a person who has been convicted of or pleaded guilty to a misdemeanor to a community residential sanction as described in division (d)(1) of this section, at the time of reception and at other times the person in charge of the operation of the halfway house, alternative residential facility or other place at which the offender will serve the residential sanction determines to be appropriate, the person in charge of the operation of the halfway house, alternative residential facility or other place may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B and C, and other contagious diseases. The person in charge of the operation of the halfway house, alternative residential facility, or other place at which the offender will serve the residential sanction may cause a convicted offender in the halfway house, alternative residential facility, or other place who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B and C, or another contagious disease to be tested and treated involuntarily.

(6) The municipality may enter into a contract with a halfway house for use of the

halfway house to house misdemeanor offenders under a sanction imposed under division (d)(1)A. of this section.

(R.C. § 2929.26)

(e) *Nonresidential sanction where jail term is not mandatory.*

(1) Except when a mandatory jail term is required by law, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, may impose upon the offender any nonresidential sanction or combination of nonresidential sanctions authorized under this division. Nonresidential sanctions include but are not limited to the following:

A. A term of day reporting;

B. A term of house arrest with electronic monitoring or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest without electronic monitoring or continuous alcohol monitoring;

C. A term of community service of up to 500 hours for misdemeanor of the first degree or 200 hours for a misdemeanor of the second, third or fourth degree;

D. A term in a drug treatment program with a level of security for the offender as determined necessary by the court;

E. A term of intensive probation supervision;

F. A term of basic probation supervision;

G. A term of monitored time;

H. A term of drug and alcohol use monitoring, including random drug testing;

I. A curfew term;

J. A requirement that the offender obtain employment;

K. A requirement that the offender obtain education or training;

L. Provided the court obtains the prior approval of the victim, a requirement that the offender participate in victim-offender mediation;

M. If authorized by law, suspension of the offender's privilege to operate a motor vehicle, immobilization or forfeiture of the offender's motor vehicle, a requirement that the offender obtain a valid motor vehicle operator's license, or any other related sanction;

N. A requirement that the offender obtain counseling if the offense is a violation of R.C. § 2919.25 or a substantially equivalent municipal ordinance or a violation of R.C. § 2903.13 or a substantially equivalent municipal ordinance involving a person who was a family or household member at the time of the violation, if the offender committed the offense in the vicinity of one or more children who are not victims of the offense, and if the offender or the victim of the offense is a parent, guardian, custodian or person in loco parentis of one or more of those children. This division does not limit the court in requiring that the offender obtain counseling for any offense or in any circumstance not specified in this division.

(2) In addition to the sanctions authorized under division (e)(1) of this section, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, upon an offender who is not required to serve a mandatory jail term may impose any other sanction that is intended to discourage the offender or other persons from committing a similar offense if the sanction is reasonably related to the overriding purposes and principles of misdemeanor sentencing.

(3) The court imposing a sentence for a minor misdemeanor may impose a term of community service in lieu of all or part of a fine. The term of community service imposed for a minor misdemeanor shall not exceed 30 hours.

(R.C. § 2929.27)

(f) *Financial sanctions.*

(1) In addition to imposing court costs pursuant to R.C. § 2947.23, the court imposing a sentence upon an offender for a misdemeanor, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this division (f). If the court in its discretion imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include but are not limited to the following:

A. *Restitution.*

1. Unless the misdemeanor offense is a minor misdemeanor or could be disposed of by the Traffic Violations Bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based upon the victim's economic loss. The court may not impose restitution as a sanction pursuant to this division if the offense is a minor misdemeanor or could be disposed of by the Traffic Violations Bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the Clerk of the Court on behalf of the victim.
2. If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing

property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim, or survivor disputes the amount of restitution. If the court holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought from the offender.

3. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender.
4. If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than 5% of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.
5. The victim or survivor of the victim may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

B. *Fines.* A fine of the type described in divisions (f)(1)B.1. and (f)(1)B.2. of this section payable to the appropriate entity as required by law:

1. A fine in the following amount:
   a. For a misdemeanor of the first degree, not more than $1,000;
   b. For a misdemeanor of the second degree, not more than $750;
   c. For a misdemeanor of the third degree, not more than $500;
   d. For a misdemeanor of the fourth degree, not more than $250;

e. For a minor misdemeanor, not more than $150.

2. A state fine or cost as defined in R.C. § 2949.111.

C. *Reimbursement.*

1. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including but not limited to the following:

a. All or part of the costs of implementing any community control sanction, including a supervision fee under R.C. § 2951.021;

b. All or part of the costs of confinement in a jail or other residential facility, including but not limited to a per diem fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined;

c. All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under R.C. § 4510.13.

2. The amount of reimbursement under division (f)(1)C.1. of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that division. If the court does not order reimbursement under that division, confinement costs may be assessed pursuant to a repayment policy adopted under R.C. § 2929.37. In addition, the offender may be required to pay the fees specified in R.C. § 2929.38 in accordance with that section.

(2) A. If the court determines a hearing is necessary, the court may hold a hearing to determine whether the offender is able to pay the financial sanction imposed

pursuant to this division (f) or court costs or is likely in the future to be able to pay the sanction or costs.

B. If the court determines that the offender is indigent and unable to pay the financial sanction or court costs, the court shall consider imposing and may impose a term of community service under division (e)(1) of this section in lieu of imposing a financial sanction or court costs. If the court does not determine that the offender is indigent, the court may impose a term of community service under division (e)(1) of this section in lieu of or in addition to imposing a financial sanction under this division (f) and in addition to imposing court costs. The court may order community service for a minor misdemeanor pursuant to division (e)(3) of this section in lieu of or in addition to imposing a financial sanction under this section and in addition to imposing court costs. If a person fails to pay a financial sanction or court costs, the court may order community service in lieu of the financial sanction or court costs.

(3) A. The offender shall pay reimbursements imposed upon the offender pursuant to division (f)(1)C. of this section to pay the costs incurred by a county pursuant to any sanction imposed under division (d), (e) or (f) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (d) of this section to the County Treasurer. The County Treasurer shall deposit the reimbursements in the county's General Fund. The county shall use the amounts deposited in the Fund to pay the costs incurred by the county pursuant to any sanction imposed under division (d), (e) or (f) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (d) of this section.

B. The offender shall pay reimbursements imposed upon the offender pursuant to division (f)(1)C. of this section to pay the costs incurred by a municipal

corporation pursuant to any sanction imposed under division (d), (e) or (f) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (d) of this section to the Treasurer of the municipal corporation. The Treasurer shall deposit the reimbursements in the municipal corporation's General Fund. The municipal corporation shall use the amounts deposited in the Fund to pay the costs incurred by the municipal corporation pursuant to any sanction imposed under division (d), (e) or (f) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (d) of this section.

C. The offender shall pay reimbursements imposed pursuant to division (f)(1)C. of this section for the costs incurred by a private provider pursuant to a sanction imposed under division (d), (e) or (f) of this section to the provider.

(4) A. Except as otherwise provided in this division (f)(4), a financial sanction imposed under division (f)(1) of this section is a judgment in favor of the state or the political subdivision that operates the court that imposed the financial sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (f)(1)C.1.a. of this section upon an offender is a judgment in favor of the entity administering the community control sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (f)(1)C.1.b. of this section upon an offender confined in a jail or other residential facility is a judgment in favor of the entity operating the jail or other residential facility, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of restitution imposed pursuant to division (f)(1)A. of this section is an order in favor of the victim of the offender's criminal act that can be collected through execution as described in

division (f)(4)B.1. of this section or through an order as described in division (f)(4)B.2. of this section and the offender shall be considered for purposes of the collection as a judgment debtor.

B. Once a financial sanction is imposed as a judgment or order under this division, the victim, private provider, state or political subdivision may bring an action to do any of the following:

1. Obtain execution of the judgment or order through any available procedure, including any of the procedures identified in R.C. § 2929.18(D)(1)(a) to (D)(1)(e) or a substantially equivalent municipal ordinance.
2. Obtain an order for the assignment of wages of the judgment debtor under R.C. § 1321.33 or a substantially equivalent municipal ordinance.

(5) The civil remedies authorized under division (f)(4) of this section for the collection of the financial sanction supplement, but do not preclude, enforcement of the criminal sentence.

(6) Each court imposing a financial sanction upon an offender under this division (f) may designate the Clerk of the Court or another person to collect the financial sanction. The Clerk, or another person authorized by law or the court to collect the financial sanction may do the following:

A. Enter into contracts with one or more public agencies or private vendors for the collection of amounts due under the sanction. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this division (f), a court shall comply with R.C. §§ 307.86 to 307.92.

B. Permit payment of all or any portion of the sanction in installments, by financial transaction device if the court is a county court or a municipal court operated by a county, or by any other reasonable method, in any time, and on any terms

that the court considers just, except that the maximum time permitted for payment shall not exceed five years. If the court is a county court or a municipal court operated by a county, the acceptance of payments by any financial transaction device shall be governed by the policy adopted by the Board of County Commissioners of the county pursuant to R.C. § 301.28. If the court is a municipal court not operated by a county, the Clerk may pay any fee associated with processing an electronic transfer out of public money or may charge the fee to the offender.

C. To defray administrative costs, charge a reasonable fee to an offender who elects a payment plan rather than a lump sum payment of any financial sanction.

(7) No financial sanction imposed under this division (f) shall preclude a victim from bringing a civil action against the offender.
(R.C. § 2929.28)

§ 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 § 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 § 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 § 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.

(2) 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 § 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 § 698.02(c), (d), (e) and (f). A court may impose the longest jail term authorized under § 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. Chapter 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. (R.C. § 2929.22)

§ 698.04 ORGANIZATIONAL PENALTIES.

(a) Regardless of the other penalties provided in § 698.02, an organization convicted of an offense pursuant to § 606.09 shall be fined by the court as follows:

(1) For a misdemeanor of the first degree, not more than $5,000;

(2) For a misdemeanor of the second degree, not more than $4,000;

(3) For a misdemeanor of the third degree, not more than $3,000;

(4) For a misdemeanor of the fourth degree, not more than $2,000;

(5) For a minor misdemeanor, not more than $1,000;

(6) For a misdemeanor not specifically classified, not more than $2,000;

(7) For a minor misdemeanor not specifically classified, not more than $1,000.

(b) When an organization is convicted of an offense not specifically classified, and the section defining the offense or penalty plainly indicates a purpose to impose the penalty provided for violation upon organizations, then that penalty shall be imposed in lieu of the penalty provided in this section.

(c) When an organization is convicted of an offense not specifically classified, and the penalty provided includes a higher fine than that provided in this section, then the penalty imposed shall be pursuant to the penalty provided for violation of the section defining the offense.

(d) This section does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to § 606.09, either in addition to or in lieu of a fine imposed pursuant to this section.

(R.C. § 2929.31)

§ 698.05 MULTIPLE SENTENCES.

(a) Except as provided in division (b) of this section, R.C. § 2929.14(E) or § 2971.03(D) or (E), a prison term, jail term or sentence of imprisonment shall be served concurrently with any other prison term, jail term or sentence of imprisonment imposed by a court of this municipality, the state, another state or the United States. Except as provided in division (b)(2) of this section, a jail term or sentence of imprisonment for misdemeanor shall be served concurrently with a prison term or sentence of imprisonment for felony served in a state or federal correctional institution.

(b) (1) A jail term or sentence of imprisonment for a misdemeanor shall be served

consecutively to any other prison term, jail term or sentence of imprisonment when the trial court specifies that it is to be served consecutively or when it is imposed for a misdemeanor violation of R.C. § 2907.322, § 2921.34 or § 2923.131. When consecutive sentences are imposed for misdemeanors under this division, the term to be served is the aggregate of the consecutive terms imposed, except that the aggregate term to be served shall not exceed 18 months.

(2) A jail term or sentence of imprisonment imposed for a misdemeanor violation of R.C. § 4510.14, § 4510.16, § 4510.21 or § 4511.19, or a substantially equivalent municipal ordinance, shall be served consecutively to a prison term that is imposed for a felony violation of R.C. § 2903.06, § 2903.07, § 2903.08 or § 4511.19 or a felony violation of R.C. § 2903.04 involving the operation of a motor vehicle by the offender and that is served in a state correctional institution when the trial court specifies that it is to be served consecutively. When consecutive jail terms or sentences of imprisonment and prison terms are imposed for one or more misdemeanors and one or more felonies under this division, the term to be served is the aggregate of the consecutive terms imposed, and the offender shall serve all terms imposed for a felony before serving any term imposed for a misdemeanor. (R.C. § 2929.41)

§ 698.06 SUSPENSION OF DRIVER'S LICENSE.

Except as otherwise provided in R.C. § 4510.07 or in any other provision of the Revised Code, whenever an offender is convicted of or pleads guilty to a violation of any provision of this code of ordinances that is substantially equivalent to a provision of the Revised Code, and a court is permitted or required to suspend a person's driver's or commercial driver's license or permit for a violation of that provision, a court, in addition to any other penalties authorized by law, may suspend

the offender's driver's or commercial driver's license or permit or nonresident operating privileges for the period of time the court determines appropriate, but the period of suspension imposed for the violation of the provision of this code of ordinances shall not exceed the period of suspension that is permitted or required to be imposed for the violation of the provision of the Revised Code to which the provision of this code of ordinances is substantially equivalent.
(R.C. § 4510.05)