



# CITY COUNCIL REGULAR MEETING

Monday, May 02, 2022 at 6:00 PM

1 Benjamin Franklin Way Franklin, Ohio 45005

[www.FranklinOhio.org](http://www.FranklinOhio.org)

## AGENDA

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1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVE THE CLERK'S JOURNAL AND ACCEPT THE TAPES AS THE OFFICIAL MINUTES
  - A. April 4, 2022
5. PRESENTATIONS
  - A. Council Committee Reports
6. RECEPTION OF VISITORS
7. PUBLIC HEARING
  - A. **ORDINANCE 2022-12** AMENDING CHAPTER 1103 DEFINITIONS, CHAPTER 1105 ADMINISTRATION, CHAPTER 1107 DISTRICTS AND LAND USE STANDARDS, CHAPTER 1109 OVERLAY DISTRICTS, CHAPTER 1113 USE REQUIREMENTS AND STANDARDS AND CHAPTER 1115 PROCESS AND PROCEDURES OF THE CITY OF FRANKLIN UNIFIED DEVELOPMENT ORDINANCE (Barry Conway)
    - a. Exhibit A: 1103.01
    - b. Exhibit B: 1105.03 & 1105.09
    - c. Exhibit C: 1107.07
    - d. Exhibit D: 1109.01
    - e. Exhibit E: 1113
    - f. Exhibit F: 1115.08 & 1115.11.

**B.** **ORDINANCE 2022-13** AMENDING CERTAIN SECTIONS OF THE CITY OF FRANKLIN TRAFFIC CODE TO BE CONCURRENT WITH STATE LAW (Khristi Dunn)

a. Exhibit A: Part Three – Traffic Code Amendments

**C.** **ORDINANCE 2022-14** AMENDING CERTAIN SECTIONS OF THE CITY OF FRANKLIN GENERAL OFFENSES CODE TO BE CONCURRENT WITH STATE LAW (Khristi Dunn)

a. Exhibit A: Part Five – General Offenses Code Amendments

## **8. NEW BUSINESS**

**A.** **RESOLUTION 2022-36** AMENDING THE POSITION DESCRIPTION FOR FINANCE DIRECTOR (Cindi Chibis)

a. Exhibit A: Finance Director Position Description

**B.** **RESOLUTION 2022-37** AMENDING RESOLUTION 2022-23 AND AUTHORIZING POSITION TITLES AND THE NUMBER OF POSITIONS FOR EACH TITLE FOR CITY OF FRANKLIN AND FRANKLIN MUNICIPAL COURT PERSONNEL FOR THE YEAR 2022 (Cindi Chibis)

a. Exhibit A: Position Titles and Number of Positions

**C.** **RESOLUTION 2022-38** AMENDING RESOLUTION 2022-24 AND ESTABLISHING THE ORGANIZATIONAL LISTINGS AND PAY RATES FOR CITY OF FRANKLIN AND FRANKLIN MUNICIPAL COURT OFFICIALS AND EMPLOYEES FOR THE YEAR 2022 (Cindi Chibis)

a. Exhibit A: 2022 Payroll Rates

**D.** **RESOLUTION 2022-39** Accepting the Resignation of Cindy Ryan and appointing Amy Miller as Interim Finance Director (Cindi Chibis)

**E.** **RESOLUTION 2022-40** AWARDING THE BID AND AUTHORIZING EXECUTION OF THE CONTRACT WITH ASSOCIATED EXCAVATING INC. FOR THE 2022 7th STREET WATER MAIN REPLACEMENT PROJECT. (Barry Conway)

**F.** **RESOLUTION 2022-41** OBJECTING TO A LIQUOR RETAIL PERMIT APPLICATION ON BEHALF OF THE CITY OF FRANKLIN, OHIO (Ben Yoder)

a. Exhibit A: Notice to Legislative Authority

## **9. INTRODUCTION OF NEW LEGISLATION**

**A.** **ORDINANCE 2022-15** DETERMINING TO PROCEED WITH THE IMPROVEMENT OF CITY STREETS AND PUBLIC WAYS BY THE LIGHTING THEREOF FOR THE YEAR 2023 (Khristi Dunn)

## **10. CITY MANAGER'S REPORT**

## **11. COUNCIL COMMENTS**

**12. EXECUTIVE SESSION**

- A. To consider the employment of a public employee or official; and to consider the employment and compensation of a public employee pursuant to ORC 121.22 (G)(1).

**13. ADJOURNMENT**



# CITY COUNCIL REGULAR MEETING

Monday, April 18, 2022 at 6:00 PM

1 Benjamin Franklin Way Franklin, Ohio 45005

[www.FranklinOhio.org](http://www.FranklinOhio.org)

## CLERK'S JOURNAL

### 1. CALL TO ORDER

Vice Mayor Hall called the regularly scheduled meeting of the Franklin City Council on Monday, April 18, 2022 to order at 6:01 PM

### 2. ROLL CALL

Ms. Dunn called roll which showed:

#### PRESENT

- D. Denny Centers
- Paul Ruppert
- Vice Mayor Todd Hall
- Michael Aldridge
- Debbie Fouts
- Matt Wilcher

#### ABSENT

- Mayor Brent Centers

Mayor Centers was absent due to a planned vacation.

Ms. Chibis, Chief Colon, Mr. Conway, Ms. Dunn, Mr. Inman, Chief Riddiough, Ms. Ryan, Ms. Steed, Mr. Westendorf, and two guests were in attendance.

### 3. PLEDGE OF ALLEGIANCE

The pledge of allegiance was led by Karisa Steed.

### 4. APPROVE THE CLERK'S JOURNAL AND ACCEPT THE TAPES AS THE OFFICIAL MINUTES

#### A. April 4, 2022 Meeting

Vice Mayor Hall asked if there were any amendments to the Clerk's Journal. Hearing none, he called for a motion.

Motion made by Aldridge, Seconded by Wilcher.  
Voting Yea: Ruppert, Vice Mayor Hall, Aldridge, Wilcher  
Voting Abstaining: D. Centers, Fouts

Motion passed.

**5. RECEPTION OF VISITORS**

Vice Mayor Hall opened the reception of visitors at 6:03 PM

Mr. Doug Greathouse of 41 W. 6th Street asked to be heard.

Mr. Greathouse addressed Council regarding the noxious weeds Ordinance. He voiced specific concerns regarding a property located at the corner of 6th Street and Riley. He suggested the property be rezoned to attract new development. Vice Mayor Hall said he would have staff look into Mr. Greathouse's concerns.

The Vice Mayor closed the reception of visitors at 6:10 PM

**6. PUBLIC HEARING**

**A. ORDINANCE 2022-11 ORDINANCE LEVYING A \$5.00 MOTOR VEHICLE LICENSE TAX AS AUTHORIZED BY SECTION 4504.173 OF THE OHIO REVISED CODE (Jonathan Westendorf)**

This Ordinance will authorize the collection of a \$5.00 motor vehicle tax, which the City may elect to impose pursuant to R.C. 4504.1.

Mr. Westendorf would like to ensure that these dollars are benefiting Franklin residents. If the City does not enact this tax, another overlapping jurisdiction could claim the fee and tax Franklin residents without the funds being used in Franklin. If enacted, the fee would generate \$55,000 per year and be used for City of Franklin street improvements. The Finance Committee was in favor of moving forward with legislation to implement this tax.

Mr. D. Centers and Mr. Ruppert expressed concern in adding an additional tax. Mr. Wilcher agreed, but doesn't want to allow another entity to claim these funds.

Vice Mayor Hall opened and closed the Public Hearing for ORDINANCE 2022-11 at 6:16 PM as none asked to be heard.

Motion made by Aldridge, Seconded by Fouts.  
Voting Yea: Vice Mayor Hall, Aldridge, Fouts, Wilcher  
Voting Abstaining: D. Centers, Ruppert

Motion passed.

**7. NEW BUSINESS**

**A. RESOLUTION 2022-30 DESIGNATING ELIGIBLE FINANCIAL INSTITUTIONS AS PUBLIC DEPOSITORIES FOR A FIVE-YEAR PERIOD, BEGINNING MAY 1, 2022, AND AUTHORIZING THE CITY MANAGER TO EXECUTE DEPOSITORY AGREEMENTS WITH THE SAME (Cindy Ryan)**

This Resolution designates the local banks the City may use as public depositories for the next five years. The named banks will be required to execute a Public Depository Agreement with the City before any public monies are deposited with them. This Resolution also authorizes the City Manager to execute these Agreements, which will cover the time period of the designation (May 1, 2022 through May 1, 2027) These Agreements require that the banks pledge securities to the City for any amount we deposit with them that exceeds the amount covered by federal deposit insurance.

Mr. D. Centers asked if the rates offered were part of the consideration in choosing the banks. Ms. Ryan responded that close proximity of branches was the major deciding factor. The majority of the City's investments are with other institutions.

Motion made by Wilcher, Seconded by Aldridge.  
Voting Yea: D. Centers, Ruppert, Vice Mayor Hall, Aldridge, Fouts, Wilcher

Motion passed.

**B. RESOLUTION 2022-31 AUTHORIZING THE PURCHASE OF A CHEVROLET MEDIUM DUTY TRUCK FROM WHITE ALLEN CHEVROLET FOR THE PUBLIC WORKS DEPARTMENT (Steve Inman)**

a. Exhibit A: Purchase Agreement

**RESOLUTION 2022-31 AUTHORIZING THE PURCHASE OF A CHEVROLET MEDIUM DUTY TRUCK FROM WHITE ALLEN CHEVROLET FOR THE PUBLIC WORKS DEPARTMENT (Steve Inman)**

This Resolution authorizes the purchase of a 2021 Chevrolet Medium Duty truck from White Allen Chevrolet for a total cost of \$70,658.00. The purchase price for the truck would come out of the Water Fund.

Mr. Inman reported that the state bid came in at \$101,000. He did not plan on purchasing this vehicle this year, but White Allen approached him with a discounted rate. The was ordered and not picked up by another customer. They offered the vehicle to Mr. Inman at a discount, and Mr. Inman has this amounted budgeted.

Motion made by Ruppert, Seconded by Aldridge.  
Voting Yea: D. Centers, Ruppert, Vice Mayor Hall, Aldridge, Fouts, Wilcher

Motion passed.

**C. RESOLUTION 2022-32 AMENDING POSITION DESCRIPTION FOR PATROL OFFICER (Cindi Chibis & Chief Colon)**

As staff prepares to recruit and hire new Officers, they updated the position description to reflect the duties of the position more accurately. This position had not been updated since it's adoption in 2003.

Mrs. Fouts appreciate all the work being put into job descriptions, continuing education and reviews.

Motion made by Ruppert, Seconded by Fouts.

Voting Yea: D. Centers, Ruppert, Vice Mayor Hall, Aldridge, Fouts, Wilcher

Motion passed.

**D. RESOLUTION 2022-33 DECLARING THE NECESSITY OF IMPROVING CITY STREETS AND PUBLIC WAYS BY THE LIGHTING THEREOF FOR THE YEAR 2023 (Jonathan Westendorf)**

This is “Resolution of Necessity” is the first step in the street light assessment process for 2023. The street lighting assessment program is used for lighting public rights of way, and can also be used to purchase new street lights. This process is used for all assessment projects normally done for road improvements, as required by the Revised Code.

The City pays for 2% of the total lighting improvement cost to cover the City’s share of the improvement, as required by the R.C., and the cost of lighting intersections. The remaining 98% of the improvement cost is to be paid by special assessment levied on all properties within the City which are benefitted by the public lighting improvement. The assessments are levied based on a percentage of the tax value of each assessed property and are paid in two semi-annual installments.

Motion made by Aldridge, Seconded by Fouts.

Voting Yea: D. Centers, Ruppert, Vice Mayor Hall, Aldridge, Fouts, Wilcher

Motion passed.

**E. Liquor License Renewals: All Class C & D Permits (Chief Colon)**

The City received notice from the Division of Liquor Control that all Class C and D permits to sell alcoholic beverages at retail in the City were set to expire on June 1, 2022. In order to maintain permit privileges, every permit holder must file a renewal application with the division. ORC Section 4304.27 1(B) provides the legislative authority the right to object to the renewal of a permit and request a hearing. The Police Division is recommending Council object to the permits for Marathon at 1111 William C Good Blvd and Sunoco at 931 E. Second Street.

Council decided to move forward with the objections. Vice Mayor Hall introduced Resolution 2022-34 and Resolution 2022-35.

**F. RESOLUTION 2022-34 OBJECTING TO A LIQUOR RETAIL PERMIT APPLICATION ON BEHALF OF THE CITY OF FRANKLIN, OHIO (Marathon)**

The City of Franklin, Ohio received written notice from the Division of Liquor Control, attached as “Exhibit A” to this Resolution, that an application to acquire, or renew an existing, liquor permit was received by the Division of Liquor Control with respect to premises within the City located at 1111 William C Good Blvd, Franklin, Ohio 45005. The Chief of Police presented evidence to the City of Franklin City Council, at a public Council meeting held on April 18, 2022,

of various complaints, charges and activities occurring at the Premises, or perpetrated by the permit applicant or a partner, member, officer, director or manager of the applicant, in violation of applicable laws and regulations.

Motion made by Wilcher, Seconded by D. Centers.

Voting Yea: D. Centers, Ruppert, Vice Mayor Hall, Aldridge, Fouts, Wilcher

Motion passed.

**G. RESOLUTION 2022-35 OBJECTING TO A LIQUOR RETAIL PERMIT APPLICATION ON BEHALF OF THE CITY OF FRANKLIN, OHIO (Sunoco)**

The City of Franklin, Ohio received written notice from the Division of Liquor Control, attached as "Exhibit A" to this Resolution, that an application to acquire, or renew an existing, liquor permit was received by the Division of Liquor Control with respect to premises within the City located at 931 E. Second Street, Franklin, Ohio 45005. The Chief of Police presented evidence to the City of Franklin City Council, at a public Council meeting held on April 18, 2022, of various complaints, charges and activities occurring at the Premises, or perpetrated by the permit applicant or a partner, member, officer, director or manager of the applicant, in violation of applicable laws and regulations.

Motion made by Ruppert, Seconded by Fouts.

Voting Yea: D. Centers, Ruppert, Vice Mayor Hall, Aldridge, Fouts, Wilcher

Motion passed.

**8. INTRODUCTION OF NEW LEGISLATION**

**A. ORDINANCE 2022-12 AMENDING CHAPTER 1103 DEFINITIONS, CHAPTER 1105 ADMINISTRATION, CHAPTER 1107 DISTRICTS AND LAND USE STANDARDS, CHAPTER 1109 OVERLAY DISTRICTS, CHAPTER 1113 USE REQUIREMENTS AND STANDARDS AND CHAPTER 1115 PROCESS AND PROCEDURES OF THE CITY OF FRANKLIN UNIFIED DEVELOPMENT ORDINANCE (Barry Conway)**

- a. Exhibit A: 1103.01
- b. Exhibit B: 1105.03 & 1105.09
- c. Exhibit C: 1107.07
- d. Exhibit D: 1109.01
- e. Exhibit E: 1113
- f. Exhibit F: 1115.08 & 1115.11.

**B. ORDINANCE 2022-13 AMENDING CERTAIN SECTIONS OF THE CITY OF FRANKLIN TRAFFIC CODE TO BE CONCURRENT WITH STATE LAW (Khristi Dunn)**

a. Exhibit A: Part Three – Traffic Code Amendments

**C. ORDINANCE 2022-14 AMENDING CERTAIN SECTIONS OF THE CITY OF FRANKLIN GENERAL OFFENSES CODE TO BE CONCURRENT WITH STATE LAW (Khristi Dunn)**

a. Exhibit A: Part Three – General Offenses Code Amendments

**9. CITY MANAGER'S REPORT**

Mr. Westendorf asked Ms. Chibis to give an update on new recruiting materials. Staff ordered table clothes, a banner and pens for upcoming career fairs. This will aid in a professional presentation.

Finance Director, Ms. Cindy Ryan has accepted a new position outside the City. She thanked Council. Vice Mayor Hall and Council thanked Ms. Ryan for her work and wished her well.

**10. COUNCIL COMMENTS**

Mr. Wilcher had no comments.

Mr. D. Centers thanked Ms. Ryan. She has produced great audits and he appreciates the work done. The current year audit is almost complete. He appreciates her willingness to help with the transition. He wished her the best of luck.

Mrs. Fouts apologized for missing the previous meeting and she is glad to be back.

Mr. Ruppert had no comments.

Mr. Aldridge offered condolences to the family of Gary Myers. Gary was an active member of the community. His prayers go out to the family.

He also asked about the signage at JK Mart on Second Street. When turning from Millard onto Second, it creates a vision obstruction. Mr. Westendorf will look into the concern.

Vice Mayor Hall asked if the flags downtown were new and complemented them. Mr. Inman responded the banners were new last year.

He also reported that there is excessive trash on St. Rt. 73, coming into the City from Middletown. Staff will look into this and ensure it's cleaned up.

Vice Mayor Hall also offered condolences to the Myers family.

**11. EXECUTIVE SESSION**

A. To consider the employment of a public employee or official; and to consider the employment and compensation of a public employee pursuant to ORC 121.22 (G)(1) and to consider the purchase of property for public purposes pursuant to ORC 121.22 (G)(2).

Vice Mayor Halled called for a motion to enter into executive session to consider the employment of a public employee or official; and to consider the employment and compensation of a public employee pursuant to ORC 121.22 (G)(1) and to consider the purchase of property for public purposes pursuant to ORC 121.22 (G)(2).

Motion made by Wilcher, Seconded by Fouts.

Voting Yea: D. Centers, Ruppert, Vice Mayor Hall, Aldridge, Fouts, Wilcher

Council entered into executive session at 6:46 PM with no planned action to follow.

Motion to adjourn out of executive session made by Fouts, Seconded by D. Centers.

Voting Yea: D. Centers, Ruppert, Vice Mayor Hall, Aldridge, Fouts, Wilcher

Council adjourned out of executive session at approximately 8:12 PM

**12. ADJOURNMENT**

Vice Mayor Hall called for a motion to adjourn the meeting. D. Centers made the motion, seconded by Wilcher. Vice Mayor Hall called for a voice vote and by voice vote the motion passed, 6-0. The Vice Mayor adjourned the meeting at 8:12 PM.



# LEGISLATIVE COVER MEMO

**Introduction:** April 18, 2022

**Public Hearing:** May 2, 2022

**Effective Date:** June 1, 2022

**Agenda Item:** Ordinance 2022-12

AMENDING CHAPTER 1103 DEFINITIONS, CHAPTER 1105 ADMINISTRATION, CHAPTER 1107 DISTRICTS AND LAND USE STANDARDS, CHAPTER 1109 OVERLAY DISTRICTS, CHAPTER 1113 USE REQUIREMENTS AND STANDARDS, AND CHAPTER 1115 PROCESS AND PROCEDURES OF THE CITY OF FRANKLIN UNIFIED DEVELOPMENT ORDINANCE

**Submitted by:** Barry Conway, City Engineer

**Scope/Description:** This Ordinance would amend the following provisions of the Unified Development Ordinance: Section 1103.01 Definitions, Section 1105.03(b)(1) Zoning Official, Section 1105.09 Fee Schedule, Section 1107.07(c)(3), Parks and Recreation District, Section 1109.01(f)(11), 1109.01(h)(2)(B)(iii), 1109.01(l)(1)(C), 1109.01(m)(2) Telecommunications Overlay District, Section 1113 Use Requirements and Standards “Table of Contents”, Section 1113.01(e)(4)(B)(ii), 1113.01(e)(6)(A) Conditional Uses, Section 1113.03(c)(3)(B), 1113.03(d)(5)(B) Home Occupations, Section 1113.04(a), 1113.04(f) Nonconformities, Section 1113.05 “Heading”, 1113(a),(b),(c) and (d), Adding 1113.05(l) Accessory Building and Uses, Section 1115.08(f)(3)(B) Site Plans and Section 1115.11(b) Approvals By The Zoning Official.

**Vote Required for Passage:** Per Section 4.12 of the City Charter, the passage, amendment, or rejection of this Ordinance requires the affirmative vote of not less than four members of the Council.

**Exhibits:** Exhibits A: 1103.01; B: 1105.03 & 1105.09; C: 1107.07; D: 1109.01; E: 1113; and F: 1115.08 & 1115.11.

**Recommendation:** These amendments originated at Planning Commission, which held a public hearing on the proposed changes at its April 13, 2022 meeting. At that meeting, Planning Commission voted unanimously (5-0) to recommend Council approve these amendments.

CITY OF FRANKLIN, OHIO  
ORDINANCE 2022-12

**AMENDING CHAPTER 1103 DEFINITIONS, CHAPTER 1105 ADMINISTRATION, CHAPTER 1107 DISTRICTS AND LAND USE STANDARDS, CHAPTER 1109 OVERLAY DISTRICTS, CHAPTER 1113 USE REQUIREMENTS AND STANDARDS, AND CHAPTER 1115 PROCESS AND PROCEDURES OF THE CITY OF FRANKLIN UNIFIED DEVELOPMENT ORDINANCE**

WHEREAS, Section 1115.04 of the City’s Unified Development Ordinance (the “UDO”) allows amendments to the text of the UDO to be initiated by Planning Commission, upon its own motion;

WHEREAS, the City of Franklin Planning Commission initiated, upon its own motion at a public meeting of Planning Commission held on April 13, 2022, Planning Commission Case PC-22-05, which proposes amendments to the following provisions of the UDO: UDO Section 1103.01 Definitions, Section 1105.03(b)(1) Zoning Official, Section 1105.09 Fee Schedule, Section 1107.07(c)(3), Parks and Recreation District, Section 1109.01(f)(11), 1109.01(h)(2)(B)(iii), 1109.01(l)(1)(C), 1109.01(m)(2) Telecommunications Overlay District, Section 1113 Use Requirements and Standards “Table of Contents”, Section 1113.01(e)(4)(B)(ii), 1113.01(e)(6)(A) Conditional Uses, Section 1113.03(c)(3)(B), 1113.03(d)(5)(B) Home Occupations, Section 1113.04(a), 1113.04(f) Nonconformities, Section 1113.05 “Heading”, 1113(a),(b),(c) and (d), Adding 1113.05(l) Accessory Building and Uses, Section 1115.08(f)(3)(B) Site Plans, and Section 1115.11(b) Approvals By The Zoning Official;

WHEREAS, the required procedures to amend the UDO, as set forth in Section 1115.04 therein, have been properly followed with respect to the aforementioned UDO amendments;

WHEREAS, Planning Commission unanimously voted to approve Planning Commission Case No. PC 22-05 and recommended that the City of Franklin City Council similarly approve the proposed UDO text amendments; and

WHEREAS, City Council finds it to be in the best interests of the health, safety and welfare of the City and its inhabitants to adopt Planning Commission’s recommendations to amend the UDO as set forth herein.

THE CITY OF FRANKLIN HEREBY ORDAINS, at least four (4) members of the Council elected thereto concurring, that:

Section 1. Council hereby adopts the recommendation of Planning Commission to make certain amendments to the UDO, as set forth herein. The following UDO provisions are hereby amended, as shown on the attached Exhibits A, B, C, D, E, and F: Section 1103.01 Definitions, Section 1105.03(b)(1) Zoning Official, Section 1105.09 Fee Schedule, Section 1107.07(c)(3), Parks and Recreation District, Section 1109.01(f)(11), 1109.01(h)(2)(B)(iii), 1109.01(l)(1)(C), 1109.01(m)(2) Telecommunications Overlay District, Section 1113 Use Requirements and Standards “Table of Contents”, Section 1113.01(e)(4)(B)(ii), 1113.01(e)(6)(A) Conditional Uses, Section 1113.03(c)(3)(B), 1113.03(d)(5)(B) Home Occupations, Section 1113.04(a), 1113.04(f) Nonconformities, Section 1113.05 “Heading”, 1113(a),(b),(c) and (d), Adding 1113.05(l) Accessory Building and Uses, Section 1115.08(f)(3)(B) Site Plans and Section 1115.11(b) Approvals By The Zoning Official.

Section 2. It is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 3. This Ordinance shall go into effect on June 1, 2022.

INTRODUCED: April 18, 2022

ADOPTED: May 2, 2022

ATTEST: \_\_\_\_\_

APPROVED: \_\_\_\_\_

Khristi Dunn, Clerk of Council

Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council do hereby certify that the foregoing is a true and correct copy of Ordinance 2022-12 passed by that body on May 2, 2022.

\_\_\_\_\_  
Khristi Dunn, Clerk of Council

Approved as to form: \_\_\_\_\_  
Ben Yoder, Law Director

## Exhibit A

### 1103.01 Definitions

#### Delete:

~~***"Accessory Use/Structure." A use or detached, subordinate BUILDING or STRUCTURE on the same LOT as the principal use and of a nature customarily incidental and subordinate to the MAIN USE or MAIN BUILDING (See also DETACHED GARAGES AND SHEDS and GARAGE, PRIVATE).***~~

~~***"Church and Similar Place of Worship." A BUILDING, together with its ACCESSORY USES/STRUCTURES, where PERSONS regularly assemble for religious worship, and which, together with its ACCESSORY buildings and USES/STRUCTURES, is maintained and controlled by a religious body organized to sustain public worship. Nursery, kindergarten, DAY CARE and compulsory (grades 1 through 12) schools may be permitted as ACCESSORY USES to a church.***~~

#### Add:

***"Accessory Structure." A subordinate and incidental structure detached from the principal BUILDING or STRUCTURE (such as a detached garage or storage shed), located on the same lot. An ACCESSORY STRUCTURE does not share a common wall or foundation with the PRINCIPAL BUILDING.***

***"Accessory Use." A use located on the same lot with a principal use, which is subordinate and related to the principal use.***

***"Church and Similar Place of Worship." An institution that a congregation of people regularly attends to participate in or hold religious services, meetings, and other activities, including buildings in which the religious services of any denomination are held. Nurseries and DAY CARE and educational facilities (PRE-K through grade 12) are considered ACCESSORY USES to a church.***

***Principal Building – A building in which the principal use on the property is conducted.***

***Principal Structure – See Principal Building.***

***Principal Use – The primary use of land that clearly carries out the land use intents and purposes of a particular zone, and which is permitted in the zoning district in which the use is located.***

***"Storage Shed." See STORAGE STRUCTURE.***

***"Storage Structure." An ACCESSORY STRUCTURE that is not classified for human habitation or occupancy and is intended to be used to store personal property.***

**Amend:**

“Garages and Sheds, Detached.” A BUILDING or STRUCTURE, or part thereof, used or designed to be used for parking and storage (See also ACCESSORY ~~USE~~/STRUCTURE and GARAGE, PRIVATE).

“Portable Shed.” A shed that is not anchored to the ground, or does not have a permanent base, and that is capable of being moved around the property as a single unit. (See also STORAGE STRUCTURE).

“Yard.” The OPEN SPACE on the same LOT with a MAIN BUILDING unoccupied and unobstructed from the ground upward except as otherwise provided in this UDO, and a defined herein:

- (a) Front yard: An OPEN SPACE extending the full width of the LOT, the depth of which is the minimum horizontal distance between the FRONT LOT LINE and the nearest point of the MAIN BUILDING. There shall be a front yard on each STREET side of a CORNER LOT. ~~No ACCESSORY STRUCTURE building shall project beyond the SETBACK line on either STREET.~~
- (b) Rear yard: An OPEN SPACE extending the full width of the LOT, the depth of which is the minimum horizontal distance between the REAR LOT LINE and the nearest point of the MAIN BUILDING. In the case of a CORNER LOT, the rear yard shall be opposite of the front of the BUILDING.
- (c) Side yard: An OPEN SPACE between a MAIN BUILDING and the SIDE LOT LINE, extending from the FRONT YARD to the REAR YARD, the width of which is the horizontal distance from the nearest point of the SIDE LOT LINE to the nearest point of the MAIN BUILDING.

## Exhibit B

### 1105.03 Zoning Official

#### Amend 1105.03(b)(1)

(b) Duties and Responsibilities: It shall be the duty of the Zoning Official to:

- (1) **Accessory Uses and Structures**: Issue permits for accessory uses **and accessory structures**, in accordance with this UDO, and enforce the accessory **structure building** and use regulations and standards of this UDO;

### 1105.09 Fees

#### Amend 1105.09 Fee Schedule

The Zoning Official shall collect fees, according to the following schedule, from all applicants requesting the following:

##### Accessory Use **and Structure** Permits

Accessory Structures/Sheds	\$25.00
Antenna and Antenna Towers	\$25.00
Decks, Patios, Porches & Balconies	\$25.00
Dish-Type Satellite Signal Receiving Antennas	\$25.00
Fences & Walls	\$25.00
Garages/Carports/Barns	\$25.00
Gazebos, Trellises & Other Open-Sided Structures	\$25.00
Swimming Pools & Hot Tubs	
Above Ground	\$25.00
In-Ground	\$25.00
Appeals	\$100.00
Certificate of Appropriateness	\$50.00
Certificates of Zoning Compliance	\$50.00
Conditional Use Permits	\$100.00
Construction Plans	\$100.00
Final Plat Amendments	\$100.00
Floodplain Overlay District Permit	\$100.00
Major Site Plan	\$200.00*
Minor Site Plan	\$75.00
Major Subdivision (per Preliminary and per Final Plat)	\$200.00*
Minor Subdivision	\$100.00
Nonconforming Use - Substitution or Extension	\$100.00
Planned Unit Overlay District (PUD) (per Preliminary and Per Final Development Plan)	\$200.00*

O-22-12

Planned Residential Conservation District (PRCD) (per Preliminary and Per Final Development Plan)	\$200.00*
Rezoning (Text or Changes to the Zoning Map)	\$100.00
Sign Permits	
- New Sign	\$100.00
- Replacement of existing sign face (for sign that already has a sign permit)	\$50.00
Similar Uses, Determination of	\$50.00
Stormwater Management Plan and Site Development Plan Review	\$200.00*
Temporary Certificates	\$50.00
Telecommunications Overlay District Special Permit	\$200.00*
Variances	100.00
Well Field Protection Overlay District Permit	\$200.00*

When the applicant submits an application for more than one permit and/or approval, and the applications are substantially the same, the City Manager, in his sole discretion, may waive all or part of any fee herein required.

\*Any additional costs above the established application fee shall be borne by the applicant at a rate equal to the actual costs to the City.

## Exhibit C

### 1107.07 Parks And Recreation District

#### **Add 1107.07(c)(3)**

- (c) Accessory Uses: Accessory Uses in the Parks and Recreation District include:
- (1) Fences - An accessory use permit is required except where the use is provided by a governmental entity.
  - (2) Barbed-Wire Fences - An accessory use permit is required.
  - (3) **Accessory Structures**

**Exhibit D****1109.01 Telecommunications Overlay District****Amend 1109.01(f)(11)**

(11) **Fencing:** Any fencing shall comply with the City's accessory **structure and** use regulations, as outlined in Section 1113.05.

**Amend 1109.01(h)(2)(B)(iii)**

(iii) Towers must be set back a minimum distance of one-to-one, based upon the height of the tower, from any adjoining lot line. Guys and accessory **buildings structures** must satisfy the minimum zoning district setback requirements; the antenna complies with all applicable FCC and FAA regulations; the antenna complies with all applicable building ordinances; and any additional equipment is fully screened and located in compliance with the underlying zoning district requirements.

**Amend 1109.01(l)(1)(C)**

(C) Towers must be set back a minimum distance of one-to-one, based upon the height of the tower, from any adjoining lot line. Guys and accessory **buildings structures** must satisfy the minimum zoning district setback requirements; the antenna complies with all applicable FCC and FAA regulations; the antenna complies with all applicable building ordinances; and any additional equipment is fully screened and located in compliance with the underlying zoning district requirements.

**Amend 1109.01(m)(2)**

(2) Guys and accessory **buildings structures** must satisfy the minimum zoning district setback requirements.

## Exhibit E

### 1113 Use Requirements and Standards

#### Amend Table of Contents Chapter 1113

#### CHAPTER 1113 Use Requirements and Standards

#### 1113.01 Conditional Uses.

#### 1113.02 Sexually Oriented Businesses

#### 1113.03 Home Occupations

#### 1113.04 Nonconformities

#### 1113.05 Accessory ~~Buildings Structures~~ And Uses

#### 1113.06 Industrial Performance Standards

#### 1113.07 Supplementary Regulations

#### 1113.08 Standards For Utility Structures

#### Amend 1113.01(e)(4)(B)(ii)

- (ii) Accessory ~~buildings and detached garages structures~~ used by one or more of the allowed guests shall not contain cooking facilities.

#### Amend 1113.01(e)(6)(A)

- (A) Purpose: A building, together with its accessory ~~buildings structures~~ and uses, where persons regularly assemble for religious worship, and which, together with its accessory ~~buildings structures~~ and uses, is maintained and controlled by a religious body organized to sustain public worship.

### 1113.03 Home Occupations

#### Amend 1113.03(c)(3)(B)

- (B) The use, including any storage of materials or equipment related thereto, shall be carried on entirely within the dwelling or unit and not in an accessory ~~buildings structures~~; however, part of the floor area of an attached garage may be used if the use does not occupy parking spaces required for the dwelling use by the parking regulations of this UDO, outlined in section 1111.07.

#### Amend 1113.03(d)(5)(B)

- (B) Accessory ~~buildings structures~~ may be used for storage of materials and equipment related to the use, provided that such buildings comply with setback and other requirements for accessory ~~buildings structures~~ as contained in this UDO.

**1113.04 Nonconformities****Amend 1113.04(a)**

- (a) Purpose: Within the zoning districts established by this UDO or amendments that may later be adopted, there may exist lots, structures and uses of land and structures that were lawful before this UDO was passed or amended, but would be prohibited, regulated or restricted under the terms of this UDO or a future amendment. It is the intent of this UDO to permit these nonconformities to continue until they are removed or discontinued, but not to encourage their continuance. Such uses are declared by this UDO to be incompatible with permitted uses in the zoning districts involved. It is further the intent of this UDO that nonconformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the zoning district, except by appeals to the Appeals Board for approval of specific plans, and with the exception that construction of **accessory structures including** decks, porches and detached garages; meeting proper setbacks on their own; shall not require approval by the Appeals Board.

**Amend 1113.04(f)**

- (f) Single Nonconforming Lots of Record: In any zoning district in which single-family dwellings are permitted, a single-family dwelling and customary accessory **buildings structures** may be erected on any single nonconforming lot of record at the effective date of adoption or amendment of this UDO. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both (that are generally applicable in the zoning district), provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the zoning district in which such lot is located.

**1113.05 Accessory Buildings and Uses****Amend 1113.05 Heading****1113.05 Accessory ~~Buildings Structures~~ and Uses****Amend 1113.05(a),(b), (c) and (d)**

- (a) Purpose: Accessory **buildings structures** may be erected only upon a lot on which a principal structure already exists. The use of the accessory **building structure** must be secondary and incidental to the principal structure and use. An accessory **building structure** that is attached to the main building shall comply with all the requirements of this UDO that are applicable to the principal building.
- (b) Permit Required: A permit is required to be issued before an accessory **building or** structure is constructed or installed, or before an accessory use may occur on a parcel or lot.

(c) Permit Process:

- (1) The Zoning Official may issue an Accessory Use Permit to the owner of the property on which the proposed accessory building structure or use is to be located. The Zoning Official will base his decision upon a site plan submitted by the applicant and on the extent to which the plan demonstrates that the accessory building structure or use is in conformance with the General Standards and the Specific Standards of this Section. If the Zoning Official denies an Accessory Use Permit, the applicant may file an appeal within twenty (20) days with the Appeals Board, in accordance with section 1115.10.
- (2) The applicant shall submit with his application the fee prescribed by section 1105.09.

(d) General Provisions: The following general provisions shall apply:(1) Location:

- (A) No accessory ~~building or~~ structure shall be located in a platted easement;
- (B) No accessory building structure shall be erected in any front yard or court, unless specifically permitted herein; and
- ~~(C) Storage structures are to maintain a setback of three feet (3') from property lines; and~~
- ~~(D)~~ Mechanical devices or units incidental to the operation or use of the principal building, as described, shall not be located nearer to any street than the nearest wall of the principal building in question, or nearer to any side or rear property line than three feet (3').

- (2) Number/Lot Coverage: The number of accessory uses structures allowed shall be limited to coverage of thirty five percent (35%) of the lot, including the principal structure; provided, however that not more than one (1) portable shed shall be permitted per lot.

(3) Height:

- (A) No storage accessory structure shall exceed fifteen feet (15') in height, unless specifically permitted herein .
- (B) No recreational accessory structure shall exceed fifteen feet (15') in height.
- (C) No pet structure shall exceed six feet (6') in height.
- (D) Mechanical devices or units shall not exceed eighty inches (80") in height.

- (4) Subdividing: Lots containing a principal structure and accessory structure may not be subdivided in order to create separate lots for the principal structure and accessory structure, unless the accessory structure is improved to be considered a principal structure. To be considered a principal structure, the proposed use, structure, and lot would need to be in conformance with the applicable provisions of this zoning code including providing adequate access, parking, landscaping and buffering, restroom facilities, accessibility features, and other applicable regulations for the use which is proposed and per the approval of the Zoning Official.

- (5) Demolition of Principal Structure: On a lot that contains a principal structure and accessory structure, if the principal structure is demolished the accessory structure shall not be deemed a principal structure, unless the accessory structure is improved to be considered a principal structure per subsection (4) above.

- (6) Standards: The following standards are presented by accessory use and/or building structure type.

**Add 1113.05(I)****(I) Storage Structures****(1) Residential and Agricultural Zoning Districts: Storage structures in the residential and agricultural zoning districts shall be regulated by the following:**

- (A) Storage structures shall be located in the rear yard only and shall be setback a minimum of 3 feet from side and rear property lines.**
- (B) Maximum height is 15 feet, except for lots over two acres where the maximum height is 20 feet. In no case shall a storage structure exceed the maximum height of the principal building.**
- (C) A maximum of two storage structures are permitted per lot.**
- (D) The cumulative size of the storage structures shall not exceed 20 percent of the square footage of the footprint of the principal building. For lots over two acres, the cumulative size of the storage structures shall not exceed the square footage of the footprint of the principal building.**

**(2) Commercial, Office, and Industrial Zoning Districts. Storage structures in the commercial, office, and industrial zoning districts shall be regulated by the following:**

- (A) Storage structures shall be located in the rear yard only and shall be setback a minimum of 3 feet from all side and rear property lines.**
- (B) Maximum height is 20 feet. In no case shall a storage structure exceed the maximum height of the principal building.**
- (C) A maximum of two storage structures are permitted per lot.**
- (D) The cumulative size of the storage structures shall not exceed 35 percent of the square footage of the footprint of the principal building.**

**(3) Parks and Recreation Zoning District. Storage structures in the parks and recreation zoning district shall be regulated by the following:**

- (A) Storage structures shall not be located in the front yard setback and shall be setback a minimum of 3 feet from all side and rear property lines.**
- (B) Maximum height is 20 feet.**
- (C) A principal building is not required in this district to construct a storage structure when the structure is to be used in conjunction with a recreation, parks, open space, or other similar use that may not require a principal building.**

## Exhibit F

### 1115.08 Site Plans

#### **Amend 1115.08(f)(3)(B)**

- (B) Use, location and height of existing and proposed buildings and structures, including accessory ~~buildings~~, structures and uses, along with notation of the development standards for building spacing and maximum building heights;

### 1115.11 Approvals By The Zoning Official

#### **Amend 1115.11(b)**

- (b) Accessory Structures and Uses: Accessory ***structures and*** uses, because of their potential size, location, or intensity of activity, may have impact on adjacent property. Due to this potential impact, no accessory use may be constructed, installed or conducted upon any property or lot without the property owner first obtaining an Accessory Use Permit.
- (1) **Submittal Requirements**:
- (A) *General Submittal Requirements*: The following general requirements shall apply:
- (i) Each request for an Accessory Use Permit shall include an application form, provided by the City, with the submittal;
  - (ii) The name(s), address(s), and telephone numbers of the applicant(s), and the property owner(s) if other than the applicant(s) with a notarized letter of authorization from the property owner;
  - (iii) Legal Description of property or portion thereof; and
  - (iv) Payment of the application fee as established by section 1105.09.
  - (v) The Zoning Official may request additional supporting information that in his professional judgment is necessary to fully explain the applicant's proposal. The applicant shall supply the requested additional information.
  - (vi) Only complete applications shall be processed by the City. The Zoning Official or the TRC, as appropriate, shall make determination as to completeness.
- (B) *Specific Submittal Requirements*: The application shall include:
- (i) Address and zoning classification of the subject property;
  - (ii) Description of the existing uses on the property and the proposed use;
  - (iii) A list of the surrounding uses and zoning classification(s); and
  - (iv) A Site Plan that meets the requirements of section 1115.08(d)(2).
- (2) **Requirements**: Accessory uses and ~~buildings structures~~ may only be erected upon a lot on which a principal structure already exists. The use of the accessory ***building structure*** must be secondary and incidental to the principal use.
- (3) **Standards for Approval**: No Accessory Use Permit shall be granted unless the proposed accessory use meets the general provisions, and applicable specific requirements, of the City's Accessory Use Regulations, as outlined in section 1113.05.



# LEGISLATIVE COVER MEMO

**Introduction:** April 18, 2022

**Public Hearing:** May 2, 2022

**Effective Date:** June 1, 2022

**Agenda Item:** Ordinance 2022-14

AMENDING CERTAIN SECTIONS OF THE CITY OF FRANKLIN GENERAL OFFENSES CODE TO BE CONCURRENT WITH STATE LAW

**Submitted by:** Khristi Dunn, Clerk of Council

**Scope/Description:** MuniCode has provided a legal review of the City’s General Offenses Code. This code was last updated in 2019. This Ordinance would amend the following sections of Part Five – General Offenses Code: SECTIONS 501.01, 501.09, 501.10, 501.14, 501.15, 501.99; 509.03, 509.07; 513.01, 513.02, 513.03, 513.05, 513.07, 513.08, 513.10, 513.11, 513.12; 517.01, 517.03, 517.06, 517.07, 517.09, 517.11, 517.12, 517.13; 525.01, 525.02, 525.05, 525.10, 525.11, 525.13, 525.16; 529.01, 529.02, 529.03, 529.04, 529.05, 529.07, 529.08, 529.09, 529.10, 529.11, 529.12, 529.14, 529.15; 533.03, 533.04, 533.05, 533.09; 537.01, 537.02, 537.061, 537.07, 537.14, 537.15, 537.16, 537.17 (REPEALED / DELETED), 537.18, 537.20, 537.21, 537.22; 541.02, 541.04, 541.05, 541.06, 541.11, 541.111, 541.16; 545.02, 545.03, 545.04, 545.05, 545.06, 545.10, 545.11, 545.13, 545.15, 545.16, 545.17, 545.18, 545.22; 549.01, 549.02, 549.03, 549.05, 549.06, 549.07, AND 549.09

**Vote Required for Passage:** Per Section 4.03 of the City’s Charter, the passage of this Ordinance requires the affirmative vote of a majority of Council members present.

**Exhibits:** Exhibit A: Part Five– General Offenses Code Amendments

**Recommendation:** Approval.

CITY OF FRANKLIN, OHIO  
ORDINANCE 2022-14

AMENDING CERTAIN SECTIONS OF THE CITY OF FRANKLIN GENERAL OFFENSES CODE  
TO BE CONCURRENT WITH STATE LAW

WHEREAS, Part Five of the Codified Ordinances of the City of Franklin sets forth the City's local General Offenses Code; and

WHEREAS, the City of Franklin Council desires to amend certain sections of the General Offenses Code, as set forth herein, in order to make the local General Offenses Code consistent with parallel general offenses laws set forth in the Ohio Revised Code.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FRANKLIN, WARREN COUNTY, OHIO THAT:

Section 1. The Codified Ordinances of the City of Franklin, Ohio, Part five – General Offenses Code, is hereby amended as set forth in Exhibit A.

Section 2. All ordinances or parts of ordinances that conflict with this Ordinance are hereby repealed.

Section 3. Codifier and Codification. The codifier, being the person, agency, or organization authorized to prepare the codification and supplement to the City's Codified Ordinances, is authorized to exclude and omit any provisions of this ordinance that are inapplicable to the Codified Ordinances.

Section 4. Supplementation of Code.

- a. In preparing a supplement to the Codified Ordinances, all portions of this ordinance which have been repealed shall be excluded from the Codified Ordinances by the omission thereof from reprinted pages.
- b. When preparing a supplement to the City's Codified Ordinances, the codifier may make formal, non-substantive changes in and to this ordinance and parts of this ordinance included in the supplement, insofar as it is necessary to do so as to embody them into a unified code. For example, the codifier may:
  - (1) Organize the ordinance material into appropriate subdivisions;
  - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Codified Ordinances printed in the supplement, and make changes in such catchlines, headings and titles;
  - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Codified Ordinances and, where necessary to accommodate new material, change existing section or other subdivision numbers;
  - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_ to \_\_\_\_," inserting section numbers to indicate the sections of the Codified Ordinances which embody the substantive sections or the ordinance incorporated therein; and

- (5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the Codified Ordinances; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Codified Ordinances.
- c. In preparing a supplement to the Codified Ordinances, the pages of a supplement shall be so numbered such that they will fit properly into the Codified Ordinances and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared such that when they have been inserted, the Codified Ordinances will be current through the date of the adoption of the most recent ordinance included in the supplement.

Section 5. Effective Date of Provisions that Track Statutes. Provisions of Section 6 that duplicate or track state statutes which do not become effective until after the effective date of this ordinance, shall not take effect until such statutes take effect.

Section 6. Sections Amended. The following sections and subsections of the Codified Ordinances, Part Five – General Offenses Code, are new or have been amended with new matter or deletions and are hereby approved, adopted and enacted, the body of each to read as set forth in Exhibit A.

Section 7. Penalty. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the General Offenses Code, as amended herein, shall be punished by a fine or imprisonment, or both. The fine shall not exceed five hundred dollars (\$500.00) and imprisonment shall not exceed six (6) months.

Section 8. This Ordinance shall go into effect on June 1, 2022.

INTRODUCED: April 18, 2022

ADOPTED: May 2, 2022

ATTEST: \_\_\_\_\_  
Khristi Dunn, Clerk of Council

APPROVED: \_\_\_\_\_  
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council do hereby certify that the foregoing is a true and correct copy of Ordinance 2022-14 passed by that body on May 2, 2022.

\_\_\_\_\_  
Khristi Dunn, Clerk of Council

Approved as to form: \_\_\_\_\_  
Ben Yoder, Law Director

## **CHAPTER 501. GENERAL PROVISIONS AND PENALTY**

### **501.01. Definitions**

As used in the Codified Ordinances:

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

(2) "Deadly Force" means any force that carries a substantial risk that it will proximately result in the death of any person.

(3) "Physical Harm to Persons" means any injury, illness or other physiological impairment, regardless of its gravity or duration.

(4) "Physical Harm to Property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

(5) "Serious Physical Harm to Persons" means any of the following:

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

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

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

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

(e) 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.

(6) "Serious Physical Harm to Property" means any physical harm to property which does either of the following:

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

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

- (7) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.
- (8) "Substantial Risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.
- (9) "Offense of Violence" means any of the following:
- (a) A violation of Ohio 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, 2905.32, 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, or of division (A)(1) of Ohio R.C. 2903.34, division (A)(1), (2), or (3) of Ohio R.C. 2911.12, or of division (B)(1), (2), (3), or (4) of Ohio R.C. 2919.22 or felonious sexual penetration in violation of former Ohio R.C. 2907.12.
  - (b) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any ~~definition~~ section, division, or offense listed in "Offense of Violence" listed in subsection (a) hereof;
  - (c) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed, purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;
  - (d) A conspiracy or attempt to commit, or complicity in committing, any offense under ~~definition "Offense of Violence"~~ subsection (a), (b) or (c) hereof.
- ~~(a)(1)~~ (10) (a) "Property" means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" 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. "Financial 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)~~ (b) As used in this definition, "trade secret" has the same meaning as in Ohio R.C. 1333.61, and "telecommunications service" and "information service" have the same meanings as in Ohio R.C. 2913.01.

~~(3)~~ (c) As used in this definition and in the definition of "contraband" in this section, "cable television service," "computer," "computer network," "computer software," "computer system," "data," and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.

(11) "Law Enforcement Officer" means any of the following:

- (a) A sheriff, deputy sheriff, constable, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D) or state highway patrolman;
- (b) 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;
- (c) A mayor, in the mayor's capacity as chief conservator of the peace within the mayor's municipal corporation;
- (d) A member of an auxiliary police force organized by county, township, or municipal law enforcement authorities, within the scope of the member's appointment or commission;
- (e) A person lawfully called pursuant to Ohio R.C. 311.07 to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;
- (f) A person appointed by a mayor pursuant to Ohio 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;
- (g) 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;
- (h) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor;
- (i) A veterans' home police officer appointed under Ohio R.C. 5907.02;
- (j) A member of a police force employed by a regional transit authority under Ohio R.C. ~~306.23(Y)~~ 306.35(Y);

- (k) A special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28;
  - (l) The House of Representatives Sergeant at Arms if the House of Representatives Sergeant at Arms has arrest authority pursuant to Ohio R.C. 101.311(E)(1) and an Assistant House of Representatives Sergeant at Arms;
  - (m) The Senate Sergeant at Arms and an Assistant Senate Sergeant at Arms;
  - (n) 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.
- (12) "Privilege" means an immunity, license or right conferred by law, bestowed by express or implied grant, arising out of status, position, office or relationship, or growing out of necessity.
- (13) "Contraband" means 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:
- (a) Any controlled substance, as defined in Ohio R.C. 3719.01, or any device or paraphernalia related thereto;
  - (b) Any unlawful gambling device or paraphernalia;
  - (c) Any dangerous ordnance or obscene material.
- ~~(a)~~ (14) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in Ohio R.C. 2901.05 that at the time of the commission of the offense, he did not know, as a result of a severe mental disease or defect, the wrongfulness of his acts.

~~"Person."~~

- (15) ~~(A)~~ (A) "Person."~~(a)(4)~~ Subject to subsection (b) of this definition, as used in any section contained in Title XIII of this code that sets forth a criminal offense, "person" includes all of the following:
- ~~(A)~~ (i) An individual, corporation, business trust, estate, trust, partnership and association.

- ~~(B)~~ (ii) An unborn human who is viable.
- ~~(2)~~ (a) As used in any section contained in Title XIII of this code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, partnership and association.
- ~~(3)~~ (b) As used in subsection ~~(a)(1)(B)~~ (a)(ii) 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.
- ~~(b)~~ (B) Notwithstanding subsection ~~(a)(4)~~ (15)(a) of this definition, in no case shall the portion of the definition of the term "person" that is set forth in subsection ~~(4)A-2~~: (15)(a)(ii) of this definition be applied or construed in any section contained in Title XIII of this code that sets forth a criminal offense in any of the following manners:
- ~~(4)~~ (i) Except as otherwise provided in subsection ~~(b)(1)~~: (b)(i) 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 any violation of Ohio R.C. 2903.01, ~~through 2903.06, 2903.08, 2903.11 through~~ 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, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence but that does violate Ohio R.C. 2919.12, 2919.13(B), 2919.15, 2919.151, 2919.17 or 2919.18 may be punished as a violation of such section, as applicable. Consent is sufficient under this subsection if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with Ohio R.C. 2919.12.
- ~~(2)~~ (ii) 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)~~ (a) Her delivery of a stillborn baby.
- ~~(B)~~ (b) Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying.

(C) ~~(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)~~ (d) Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human.

~~(E)~~ (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.

(16) "School," "School Building," and "School Premises" have the same meanings as in Ohio R.C. 2925.01.

(17) "School Activity" means 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 Ohio 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 Ohio R.C. 3301.07.

(18) "School Bus" has the same meaning as in Ohio R.C. 4511.01.

(19) "School Safety Zone" consists of a school, school building, school premises, school activity, and school bus.

(ORC 2901.01)

(20) "Repeat Offender" means a person who has a history of persistent criminal activity and whose character and condition reveal a substantial risk that he or she will commit another offense. It is prima facie evidence that a person is a repeat offender if any of the following applies:

(a) Having been convicted of one or more offenses of violence, as defined in Ohio R.C. 2901.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent offense of violence;

(b) Having been convicted of one or more sexually oriented offenses, or child-victim oriented offenses, both as defined in Ohio R.C. 2950.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent sexually oriented offense or child-victim oriented offense;

- (c) Having been convicted of one or more theft offenses, as defined in Ohio R.C. 2913.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent theft offense;
- (d) Having been convicted of one or more felony drug abuse offenses, as defined in Ohio R.C. 2925.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent felony drug abuse offense;
- (e) Having been convicted of two or more felonies, and having been imprisoned pursuant to sentence for any such offense, he or she commits a subsequent offense;
- (f) 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, he or she commits a subsequent offense.

~~(ORC 2901.04)~~ (ORC 2935.36)

**501.09. Attempt**

- (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 impossible under the 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, ~~or~~ of complicity in the commission of such 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 the actor's effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of the actor's 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 Ohio 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 Ohio R.C. Chapter 3734, other than Ohio 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 Ohio 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 Ohio 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 Ohio R.C. 2971.03.

(f) As used in this section:

- (1) "Drug abuse offense" has the same meaning as in Ohio R.C. 2925.01.
- (2) "Motor vehicle" has the same meaning as in Ohio R.C. 4501.01.

(ORC 2923.02)

#### **501.10. 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 Ohio R.C. 2923.01;
  - ~~(3)~~ (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 Section 501.09.
- (d) No person shall be convicted of complicity under this section solely upon the testimony of an accomplice, unsupported by other evidence.
- (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 complicity, under circumstances manifesting a complete and voluntary renunciation of his 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 were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense.

(ORC 2923.03)

**501.14. Self Defense: Limitations On Duty To Retreat Prior To Using Force**

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

(ORC 2901.09)

**501.15. Burden Of Proof; Reasonable Reasonable Doubt; Self-Defense**

- (a) Every person accused of an offense is presumed innocent until proven guilty beyond a reasonable doubt, and the burden of proof for all elements of the offense is upon the prosecution. The burden of going forward with the evidence of an affirmative defense, and the burden of proof, by a preponderance of the evidence, for an affirmative defense other than self-defense, defense of another, or defense of the accused's residence presented as described in division (B)(1) of this section, is upon the accused.
- (b) (1) A person is allowed to act in self-defense, defense of another, or defense of that person's residence. If, at the trial of a person who is accused of an offense that involved the person's use of force against another, there is evidence presented that tends to support that the accused person used the force in self-defense, defense of another, or defense of that person's residence, the prosecution must prove beyond a reasonable doubt that the accused person did not use the force in self-defense, defense of another, or defense of that person's residence, as the case may be.
- (2) Subject to division (b)(3) of this section, a person is presumed to have acted in self-defense or defense of another when using defensive force that is intended or likely to cause death or great bodily harm to another if the person against whom the defensive force is used is in the process of unlawfully and without privilege to do so entering, or has unlawfully and without privilege to do so entered, the residence or vehicle occupied by the person using the defensive force.
- (3) The presumption set forth in division (b)(2) of this section does not apply if either of the following is true:
- (A) The person against whom the defensive force is used has a right to be in, or is a lawful resident of, the residence or vehicle.
- (B) The person who uses the defensive force uses it while in a residence or vehicle and the person is unlawfully, and without privilege to be, in that residence or vehicle.
- (4) The presumption set forth in division (b)(2) of this section is a rebuttable presumption and may be rebutted by a preponderance of the evidence, provided that the prosecution's burden of proof remains proof beyond a reasonable doubt as described in divisions (a) and (b)(1) of this section.
- (c) As part of its charge to the jury in a criminal case, the court shall read the definitions of "Reasonable Doubt" and "Proof Beyond a Reasonable Doubt," contained in division ~~(D)~~ (e) of this section.
- (d) As used in this section:

- (1) An "affirmative defense" is either of the following:
  - (A) A defense expressly designated as affirmative;
  - (B) A defense involving an excuse or justification peculiarly within the knowledge of the accused, on which the accused can fairly be required to adduce supporting evidence.
- (2) "Dwelling" means a building or conveyance of any kind that has a roof over it and that is designed to be occupied by people lodging in the building or conveyance at night, regardless of whether the building or conveyance is temporary or permanent or is mobile or immobile. As used in this division, a building or conveyance includes, but is not limited to, an attached porch, and a building or conveyance with a roof over it includes, but is not limited to, a tent.
- (3) "Residence" means a dwelling in which a person resides either temporarily or permanently or is visiting as a guest.
- (4) "Vehicle" means a conveyance of any kind, whether or not motorized, that is designed to transport people or property.
- (e) "Reasonable Doubt" is present when the jurors, after they have carefully considered and compared all the evidence, cannot say they are firmly convinced of the truth of the charge. It is a doubt based on reason and common sense. Reasonable doubt is not mere possible doubt, because everything relating to human affairs or depending on moral evidence is open to some possible or imaginary doubt. "Proof beyond a reasonable doubt" is proof of such character that an ordinary person would be willing to rely and act upon it in the most important of the person's own affairs.

(ORC 2901.05)

**Statutory reference:**

~~Burden of proof – reasonable doubt – self defense, see ORC 2901.05~~

HISTORY

*Amended by Ord. 2019-28 on 12/2/2019*

*Amended by Ord. 2019-29 on 12/16/2019*

**501.99. Penalties For Misdemeanors; Suspension Of Driver's License**

(a) Considerations in Misdemeanor Sentencing.

- (1) A court that sentences an offender for a misdemeanor or minor misdemeanor violation of any provision of the Ohio Revised Code, or of any municipal ordinance that is substantially equivalent to a misdemeanor or minor misdemeanor violation of a provision of the Ohio Revised Code, shall be guided by the overriding purposes of misdemeanor sentencing. The overriding purposes of misdemeanor

sentencing are to protect the public from future crime by the offender and others and to punish the offender. To achieve those purposes, the sentencing court shall consider the impact of the offense upon the victim and the need for changing the offender's behavior, rehabilitating the offender, and making restitution to the victim of the offense, the public, or the victim and the public.

- (2) A sentence imposed for a misdemeanor or minor misdemeanor violation of an Ohio Revised Code provision or for a violation of a municipal ordinance that is subject to division (b)(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 (b)(1) of this section shall not base the sentence upon the race, ethnic background, gender, or religion of the offender.
- (4) Divisions (b)(1) and (b)(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 (b)(1) to (b)(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.

(ORC 2929.21)

(b) Misdemeanor Jail Terms.

- (1) Except as provided in Section 533.99 of this Code, Ohio R.C. 2929.22 or 2929.23, or division (b)(5) or (b)(6) of this section and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this chapter, the court shall impose a definite jail term that shall be one of the following:
  - (A) For a misdemeanor of the first degree, not more than 180 days;
  - (B) For a misdemeanor of the second degree, not more than 90 days;
  - (C) For a misdemeanor of the third degree, not more than 60 days;
  - (D) For a misdemeanor of the fourth degree, not more than 30 days.

- (2) A 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 Ohio R.C. 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the County Jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the County Jail Industry Program.
- (4) If a person is sentenced to a jail term pursuant to division (b) of this section, the court may impose as part of the sentence pursuant to division (f)(1)C. of this section a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to Ohio R.C. 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and Ohio R.C. 2929.37, both of the following apply:
  - (A) The court shall specify both of the following as part of the sentence:
    - (i) If the person is presented with an itemized bill pursuant to Ohio R.C. 2929.37 for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.
    - (ii) If the person does not dispute the bill described in division (b)(4)A.(i) of this section and does not pay the bill by the times specified in Ohio R.C. 2929.37, the Clerk of the Court may issue a certificate of judgment against the person as described in that section.
  - (B) The sentence automatically includes any certificate of judgment issued as described in division (b)(4)A.(ii) of this section.
- (5) If an offender who is convicted of or pleads guilty to a violation of section 333.01(b) or Ohio R.C. 4511.19(B), also is convicted of or also pleads guilty to a specification of the type described in Ohio R.C. 2941.1414 2941.1416 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 this Code or 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 section 533.08, 533.09 or 533.10 of this Code, and to a specification of the type described in Ohio R.C. 2941.1421 and if the court imposes a jail term on

the offender for the misdemeanor violation, the court may impose upon the offender an additional definite jail term as follows:

- (i) Subject to division (b)(6)A.(ii) of this section, an additional definite jail term of not more than 60 days;
- (ii) If the offender previously has been convicted of or pleaded guilty to one or more misdemeanor or felony violations of Ohio R.C. 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25, section 533.08, 533.09 or 533.10 of this Code or any substantially equivalent municipal ordinance, and also was convicted of or pleaded guilty to a specification of the type described in Ohio R.C. 2941.1421 regarding one or more of those violations, an additional definite jail term of not more than 120 days.

(B) In lieu of imposing an additional definite jail term under division (b) (6)A. of this section, the court may directly impose on the offender a sanction that requires the offender to wear a real-time processing, continual tracking electronic monitoring device during the period of time specified by the court. The period of time specified by the court shall equal the duration of an additional jail term that the court could have imposed upon the offender under division (b)(6)A. of this section. A sanction imposed under this division shall commence on the date specified by the court, provided that the sanction shall not commence until after the offender has served the jail term imposed for the misdemeanor violation of Ohio R.C. 2907.23, 2907.24, 2907.241, or 2907.25, section 533.08, 533.09 or 533.10 of this Code or any substantially equivalent municipal ordinance, and any residential sanction imposed for the violation under division (d) of this section or Ohio R.C. 2929.26. A sanction imposed under this division shall be considered to be a community control sanction for purposes of division (c) or this section or Ohio R.C. 2929.25, and all provisions of this Code and the Ohio Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

- (7) If an offender is convicted of or pleads guilty to a misdemeanor violation of section 537.03 of this Code and also is convicted of or pleads guilty to a specification of the type described in Ohio R.C. 2941.1423 that charges that the victim of the violation was a woman whom the offender knew was pregnant at the time of the violation, the court shall impose on the offender a mandatory jail term that is a definite term of at least 30 days.

(ORC 2929.24)

(c) Misdemeanor Community Control Sanctions.

- (1) (A) Except as provided in Section 533.99 of this Code or Ohio R.C. 2929.22 and 2929.23 or when a jail term is required by law, in sentencing an offender for a misdemeanor, other than a minor misdemeanor, the sentencing court may do either of the following:
- (i) 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.
  - (ii) 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.(i) 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:
- (i) 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;
  - (ii) 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;
  - (iii) 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.

(ORC 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 community-based correctional facility or a term in a halfway house or community-based correctional facility 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 or community-based correctional facility 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. If the offender is an eligible offender, as defined in Ohio R.C. 307.932, a term in a community alternative sentencing center or district community alternative sentencing center established and operated in accordance with that section, in the circumstances specified in that section, with one of the conditions of the sanction being that the offender successfully complete the portion of the sentence to be served in the center.~~

(2) ~~The~~ A sentence to a community residential sanction under (d)(1)(B) of this section shall be in accordance with Ohio R.C. 307.932. In all other cases, the court that sentences an offender to a community residential sanction under this division (d) may do either or both of the following:

(A) Permit the offender to serve the offender's sentence in intermittent confinement, overnight, on weekends or at any other time or times that will allow the offender to continue at the ~~offender'~~ offender's occupation or care for the ~~offender'~~ offender's family;

(B) Authorize the offender to be released so that the offender may seek or maintain employment, receive education or training, receive treatment, perform community service, or otherwise fulfill an obligation imposed by law

or by the court. A release pursuant to this division shall be only for the duration of time that is needed to fulfill the purpose of the release and for travel that reasonably is necessary to fulfill the purposes of release.

- (3) The court may order that a reasonable portion of the income earned by the offender upon a release pursuant to division (d)(2) of this section be applied to any financial sanction imposed under division (f) of this section.
- (4) No court shall sentence any person to a prison term for a misdemeanor or to a jail term for a minor misdemeanor.
- (5) If a court sentences a person who has been convicted of or pleaded guilty to a misdemeanor to a community residential sanction as described in division (d)(1) of this section, at the time of reception and at other times the person in charge of the operation of the halfway house, community alternative residential facility, sentencing center, district community alternative sentencing center, or other place at which the offender will serve the residential sanction determines to be appropriate, the person in charge of the operation of the halfway house, community alternative residential facility, sentencing center, district community alternative sentencing center, or other place may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the halfway house, community alternative residential facility, sentencing center, district community alternative sentencing center, or other place at which the offender will serve the residential sanction may cause a convicted offender in the halfway house, community alternative residential facility, sentencing center, district community alternative sentencing center, or other place who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.
- (6) The Municipality may enter into a contract with a halfway house for use of the halfway house to house misdemeanor offenders under a sanction imposed under division (d)(1)A. of this section.

(ORC 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 section 537.14 of this Code or a violation of section 537.03 of this Code involving a person who was a family or household member at the time of the violation, if the offender committed the offense in the vicinity of one or more children who are not victims of the offense, and if the offender or the victim of the offense is a parent, guardian, custodian, or person in loco parentis of one or more of those children. This division does not limit the court in requiring that the offender obtain counseling for any offense or in any circumstance not specified in this division.
- (2) If the court imposes a term of community service pursuant to (e)(1)(c) of this section, the offender may request that the court modify the sentence to authorize the offender to make a reasonable contribution, as determined by the court, to the

general fund of the county, municipality, or other local entity that provides funding to the court. The court may grant the request if the offender demonstrates a change in circumstances from the date the court imposes the sentence or that the modification would otherwise be in the interests of justice. If the court grants the request, the offender shall make a reasonable contribution to the court, and the clerk of the court shall deposit that contribution into the general fund of the county, municipality, or other local entity that provides funding to the court. If more than one entity provides funding to the court, the clerk shall deposit a percentage of the reasonable contribution equal to the percentage of funding the entity provides to the court in that entity's general fund.

~~(2)~~ (3) In addition to the sanctions authorized under division (e)(1) of this section, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, upon an offender who is not required to serve a mandatory jail term may impose any other sanction that is intended to discourage the offender or other persons from committing a similar offense if the sanction is reasonably related to the overriding purposes and principles of misdemeanor sentencing.

~~(3)~~ (4) The court imposing a sentence for a minor misdemeanor may impose a term of community service in lieu of all or part of a fine. The term of community service imposed for a minor misdemeanor shall not exceed 30 hours. After imposing a term of community service, the court may modify the sentence to authorize a reasonable contribution, as determined by the court, to the appropriate general fund as provided in (e)(2) of this section.

(ORC 2929.27)

(f) Financial Sanctions.

(1) In addition to imposing court costs pursuant to Ohio R.C. 2947.23, the court imposing a sentence upon an offender for a misdemeanor, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this division (f). If the court in its discretion imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(A) Restitution.

(i) 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.

- (ii) If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. 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 imposes restitution for the cost of accounting or auditing done to determine the extent of economic loss, the court may order restitution for any amount of the victim's costs of accounting or auditing provided that the amount of restitution is reasonable and does not exceed the value of property or services stolen or damaged as a result 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.
  - (iii) All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under Ohio R.C. 3937.18.
  - (iv) If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than five per cent of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.
  - (v) 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.(i) and (ii) of this section payable to the appropriate entity as required by law:
- (i) A fine in the following amount:
    - (1) For a misdemeanor of the first degree, not more than one thousand dollars (\$1,000.00);

- (2) For a misdemeanor of the second degree, not more than seven hundred fifty dollars (\$750.00);
- (3) For a misdemeanor of the third degree, not more than five hundred dollars (\$500.00);
- (4) For a misdemeanor of the fourth degree, not more than two hundred fifty dollars (\$250.00);
- (5) For a minor misdemeanor, not more than one hundred fifty dollars (\$150.00).

(ii) A State fine or cost as defined in Ohio R.C. 2949.111.

(C) Reimbursement.

(i) Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:

- (1) All or part of the costs of implementing any community control sanction, including a supervision fee under Ohio R.C. 2951.021;
- (2) 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;
- (3) All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under Ohio R.C. 4510.13.

(ii) The amount of reimbursement under division (f)(1)C.(i) of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that division. If the court does not order reimbursement under that division, confinement costs may be assessed pursuant to a repayment policy adopted under Ohio R.C. 2929.37. In addition, the offender may be required to pay the fees specified in Ohio R.C. 2929.38 in accordance with that section.

(2) (A) If the court determines a hearing is necessary, the court may hold a hearing to determine whether the offender is able to pay the financial sanction imposed pursuant to this division (f) or court costs or is likely in the future to be able to pay the sanction or costs.

(B) If the court determines that the offender is indigent and unable to pay the financial sanction or court costs, the court shall consider imposing and may impose a term of community service under division (e)(1) of this section in lieu of imposing a financial sanction or court costs. If the court does not determine that the offender is indigent, the court may impose a term of community service under division (e)(1) of this section in lieu of or in addition to imposing a financial sanction under this division (f) and in addition to imposing court costs. The court may order community service for a minor misdemeanor pursuant to division (e)(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.

(D) In addition to any other fine that is or may be imposed under this section, the court imposing sentence upon an offender for misdemeanor domestic violence or menacing by stalking may impose a fine of not less than seventy nor more than five hundred dollars, which shall be transmitted to the treasurer of state to be credited to the address confidentiality program fund created by Ohio R.C. 111.48.

(4) (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. (i)a. of this section upon an offender is a judgment in favor of the entity administering the community control sanction. A financial sanction of reimbursement imposed pursuant to division (f)(1)C. (i)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. 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.(i) of this section or through an order as described in division (f)(4)B.(ii) 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:

(i) Obtain from the clerk of the court in which the judgment was entered a certificate of judgment that shall be in the same manner and form as a certificate of judgment issued in a civil action;

(ii) Obtain execution of the judgment or order through any available procedure, including any of the procedures identified in Ohio R.C. ~~2929.18(D)(1)(a) to (e)~~ 2929.18(E)(1) and (2) or a substantially equivalent municipal ordinance.

- (ii) (iii) Obtain an order for the assignment of wages of the judgment debtor under Ohio R.C. 1321.33 or a substantially equivalent municipal ordinance.
- (5) 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 Ohio R.C. 307.86 to 307.92.
- (B) Permit payment of all or any portion of the sanction in installments, by financial transaction device if the court is a County Court or a Municipal Court operated by a county, by credit or debit card or by another electronic transfer if the court is a municipal court not operated by a county, or by any other reasonable method, in any time, and on any terms that the court considers just, except that the maximum time permitted for payment shall not exceed five years. If the court is a County Court or a Municipal Court operated by a county, the acceptance of payments by any financial transaction device shall be governed by the policy adopted by the Board of County Commissioners of the county pursuant to Ohio R.C. 301.28. If the court is a Municipal Court not operated by a county, the Clerk may pay any fee associated with processing an electronic transfer out of public money or may charge the fee to the offender.
- (C) To defray administrative costs, charge a reasonable fee to an offender who elects a payment plan rather than a lump sum payment of any financial sanction.
- (7) No financial sanction imposed under this division (f) shall preclude a victim from bringing a civil action against the offender.

(ORC 2929.28)

- (g) (1) Organizational Penalties. Regardless of the other penalties provided in this section, an organization convicted of an offense pursuant to Section 501.11 shall be fined by the court as follows:
- (A) For a misdemeanor of the first degree, not more than five thousand dollars (\$5,000.00);

- (B) For a misdemeanor of the second degree, not more than four thousand dollars (\$4,000.00);
  - (C) For a misdemeanor of the third degree, not more than three thousand dollars (\$3,000.00);
  - (D) For a misdemeanor of the fourth degree, not more than two thousand dollars (\$2,000.00);
  - (E) For a minor misdemeanor, not more than one thousand dollars (\$1,000.00);
  - (F) For a misdemeanor not specifically classified, not more than two thousand dollars (\$2,000.00);
  - (G) For a minor misdemeanor not specifically classified, not more than one thousand dollars (\$1,000.00).
- (2) 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 such penalty shall be imposed in lieu of the penalty provided in this section.
  - (3) 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.
  - (4) This division (b) does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to Section 501.11, either in addition to or in lieu of a fine imposed pursuant to division (b).

(ORC 2929.31)

- (h) Suspension of Driver's License. Except as otherwise provided in Ohio 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.

(ORC 4510.05)

**Statutory reference:**

~~Definite Misdemeanor~~ jail terms for misdemeanors, see Ohio R.C. 2929.24

~~Community Misdemeanor~~ community control sanctions, see Ohio R.C. 2929.25

Nonresidential sanctions where jail term not mandatory, see Ohio R.C. 2929.27

Financial sanctions, see Ohio R.C. 2929.28

**CHAPTER 509. DISORDERLY CONDUCT AND PEACE DISTURBANCE**

**509.03. Disorderly Conduct; Intoxication**

(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, ~~which by its very utterance or usage inflicts injury or tends to incite an immediate breach of the peace;~~
- (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 the offender 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 the offender 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 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.
  - (3) If an offender previously has been convicted of or pleaded guilty to three or more violations of subsection (b) of this section, a violation of subsection (b) of this section is a misdemeanor of the fourth degree.
- (f) As used in this section:
  - (1) "Committed in the vicinity of a school" has the same meaning as in Ohio R.C. 2925.01.
  - (2) "Emergency facility" has the same meaning as in Ohio R.C. 2909.04.
  - (3) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
  - (4) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.

(ORC 2917.11)

**509.07. 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 such offense did not occur.
  - (4) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to impede the operation of a critical infrastructure facility.
- (b) This section does not apply to any person conducting an authorized fire or emergency drill.
- (c) Whoever violates this section is guilty of making false alarms, a misdemeanor of the first degree. 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 ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000.00) or more, making false alarms is a felony to be prosecuted under appropriate State law. If a violation of this section pertains to a purported, threatened, or actual use of a weapon of mass destruction, making false alarms is a felony to be prosecuted under appropriate State law.
- (d) (1) It is not a defense to a charge under this section that pertains to a purported or threatened use of a weapon of mass destruction that the offender did not possess or have the ability to use a weapon of mass destruction or that what was represented to be a weapon of mass destruction was not a weapon of mass destruction.
- (2) Any act that is a violation of this section and any other section of the Ohio Revised Code or these Codified Ordinances may be prosecuted under this section, the other section, or both sections.
- (e) As used in this section:
- (1) "Critical infrastructure facility" has the same meaning as in Ohio R.C. 2911.21.
  - (2) "~~economic~~ Economic harm" and "weapon of mass destruction" have the same ~~meaning~~ meanings as in Ohio R.C. 2917.31.

(ORC 2917.32)

## **CHAPTER 513. DRUG ABUSE CONTROL**

### **513.01. Definitions**

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

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

"Adulterate." To cause a drug to be adulterated as described in ORC 3715.63.

"Benzodiazepine." A controlled substance that has United States Food and Drug Administration approved labeling indicating that it is a benzodiazepine, benzodiazepine derivative, triazolobenzodiazepine, or triazobenzodiazepine derivative, including the following drugs and their varying salt forms or chemical congeners: alprazolam, chlordiazepoxide hydrochloride, clobazam, clonazepam, clorazepate, diazepam, estazolam, flurazepam hydrochloride, lorazepam, midazolam, oxazepam, quazepam, temazepam, and triazolam.

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

- (a) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II, or Schedule III, with the exception of any controlled substance ~~analogs~~ analog, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in division (b), ~~or (e), or (f)~~ of this definition, whichever of the following is applicable:
- (1) An amount equal to or exceeding ten (10) grams or twenty-five (25) unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule I opiate or opium derivative;
  - (2) An amount equal to or exceeding ten (10) grams of a compound, mixture, preparation, or substance that is or contains any amount of raw or gum opium;
  - (3) An amount equal to or exceeding thirty (30) grams or ten (10) unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a Schedule I stimulant or depressant;
  - (4) An amount equal to or exceeding twenty (20) grams or five (5) times the maximum daily dose in the usual dose range specified in a standard pharmaceutical

reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II opiate or opium derivative;

- (5) An amount equal to or exceeding five (5) grams or ten (10) unit doses of a compound, mixture, preparation, or substance that is or contains any amount of phencyclidine;
- (6) An amount equal to or exceeding one hundred twenty (120) grams or thirty (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, 52 Stat. 1040 (1938) (21 U.S.C. 301 et seq., as amended) and the Federal drug abuse control laws, as defined in ~~this section~~ Ohio R.C. 3719.01, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;
- (7) An amount equal to or exceeding three (3) grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the Federal drug abuse control laws;
- (b) An amount equal to or exceeding one hundred twenty (120) grams or thirty (30) times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;
- (c) An amount equal to or exceeding twenty (20) grams or five (5) times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III opiate or opium derivative;
- (d) An amount equal to or exceeding two hundred fifty (250) milliliters or two hundred fifty (250) grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule V substance.
- (e) An amount equal to or exceeding two hundred (200) solid dosage units, sixteen (16) grams, or sixteen (16) milliliters of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III anabolic steroid.
- (f) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in schedule III, schedule IV, or schedule V, if the defendant is charged with a violation of Ohio R.C. 2925.11 and the sentencing provisions set forth in divisions (C)(10)(b) and (C)(11) of that section will not apply regarding the defendant

and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in subsection (a), (b), (c), (d), or (e) of this section for the other schedule III, IV, or V controlled substance that is combined with the fentanyl-related compound.

"Certified Grievance Committee." a duly constituted and organized committee of the Ohio State Bar Association or of one or more local bar associations of the State that complies with the criteria set forth in Rule V, Section 6 of the Rules for the Government of the Bar of Ohio.

"Cocaine." any of the following:

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

"Committed in the Vicinity of a Juvenile." An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within one hundred (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 one hundred (100) feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.

"Committed in the Vicinity of a School." An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within one thousand (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 one thousand (1,000) feet of the boundaries of any school premises.

"Controlled Substance." A drug, compound, mixture, preparation, or substance included in Schedule I, II, III, IV, or V ~~of~~, respectively, as established by rule adopted under ORC 3719.41- by the State Board of Pharmacy, as amended pursuant to ORC 3719.43 or 3719.44, or as established by emergency rule adopted under ORC 3719.45.

"Controlled Substance Analog."

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

"Counterfeit Controlled Substance." Any of the following:

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

- (b) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed, or distributed by a person other than the person that manufactured, processed, packed, or distributed it.;
- (c) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance.;
- (d) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size, and color, or its markings, labeling, packaging, distribution, or the price for which it is sold or offered for sale.

"Cultivate." Includes planting, watering, fertilizing or tilling.

"Dangerous Drug." Any of the following:

- (a) Any drug to which either of the following applies:
  - (1) Under the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug 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 the drug may be dispensed only upon a prescription.
  - (2) Under ORC Chapter 3715 or 3719, the drug may be dispensed only upon a prescription.
- (b) Any drug that contains a Schedule V controlled substance and that is exempt from ORC Chapter 3719 or to which that chapter does not apply.
- (c) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.
- (d) Any drug that is a biological product, as defined in Ohio R.C. 3715.01.

"Deception." Has the same meaning as in ORC 2913.01.

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

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

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

"Drug." Any of the following:

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

"Drug" does not include "hemp" or a "hemp product" as those terms are defined in Ohio R.C. 928.01.

"Drug Abuse Offense." Any of the following:

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

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

"Drug of Abuse." Any controlled substance as defined in Ohio R.C. 3719.01, any harmful intoxicant as defined in Ohio R.C. 2925.01, and any dangerous drug, as defined in this ~~section~~ Ohio R.C. 4729.01.

"Emergency Facility." A hospital emergency department or any other facility that provides emergency care.

"Federal Drug Abuse Control Laws. The "Comprehensive Drug Abuse Prevention and Control Act of 1970," 84 Stat. 1242, 21 U.S.C. 801 et seq., as amended.

"Felony Drug Abuse Offense." Any drug abuse offense that would constitute a felony under the laws of this State, any other State, or the United States.

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

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

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

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

"Hashish" does not include a hemp byproduct in the possession of a licensed hemp processor under Ohio R.C. Chapter 928, provided that the hemp byproduct is being

produced, stored, and disposed of in accordance with rules adopted under Ohio R.C. 928.03.

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

"Juvenile." A person under eighteen (18) years of age.

~~"Laboratory." A laboratory approved by the State Board of Pharmacy as proper to be entrusted with the custody of controlled substances and the use of controlled substances for scientific and clinical purposes and for purposes of instruction. licensed under Ohio R.C. Chapter 4729 as a terminal distributor of dangerous drugs and entrusted to have custody of any of the following drugs and to use the drugs for scientific and clinical purposes and for purposes of instruction: dangerous drugs that are not controlled substances, as defined in Ohio R.C. 3719.01; dangerous drugs that are controlled substances, as defined in that section; and controlled substances in schedule I, as defined in that section.~~

"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.

"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:

- (a) A dentist licensed under ORC Chapter 4715;
- (b) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a ~~certificate to prescribe issued under ORC 4723.48.~~ current, valid license issued under ORC Chapter 4723 to practice nursing as an advanced practice registered nurse;
- (c) A certified registered nurse anesthetist who holds a current, valid license issued under ORC Chapter 4723 to practice nursing as an advanced practice registered nurse, but only to the extent of the nurse's authority under ORC Chapter 4723.43 and 4723.434;
- ~~(d)~~ (d) An optometrist licensed under ORC Chapter 4725 to practice optometry under a therapeutic pharmaceutical agents certificate;
- ~~(e)~~ (e) A physician authorized under ORC Chapter 4731 to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;

~~(e)~~ (f) A physician assistant who holds a license to practice as a physician assistant issued under ORC Chapter 4730, holds a valid prescriber number issued by the Ohio Medical Board, and has been granted physician-delegated prescriptive authority;

~~(f)~~ (g) A veterinarian licensed under ORC Chapter 4741.

"L.S.D." Lysergic acid diethylamide.

"Major Drug Offender." Has the same meaning as in ORC 2929.01.

"Mandatory Prison Term." Has the same meaning as in ORC 2929.01.

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

"Manufacturer." A person who manufactures a controlled substance, as "manufacture" is defined ~~by this section.~~ in ORC 3715.01, and includes a "manufacturer of dangerous drugs" as defined in ORC 4729.01.

"Marihuana." All parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. "Marihuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or 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."~~ "hemp" or a "hemp product" as those terms are defined in ORC 928.01.

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

"Minor Drug Possession Offense." Either of the following:

(a) A violation of ORC 2925.11 as it existed prior to July 1, 1996, or a substantially equivalent municipal ordinance;

(b) A violation of ORC 2925.11 as it exists on and after July 1, 1996, or a substantially equivalent municipal ordinance, that is a misdemeanor or a felony of the fifth degree.

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

"Opioid Analgesic." A controlled substance that has analgesic pharmacologic activity at the opioid receptors of the central nervous system, including the following drugs and their varying salt forms or chemical congeners: buprenorphine, butorphanol, codeine (including acetaminophen and other combination products), dihydrocodeine, fentanyl, hydrocodone (including acetaminophen combination products), hydromorphone, meperidine, methadone, morphine sulfate, oxycodone (including acetaminophen, aspirin, and other combination products), oxymorphone, tapentadol, and tramadol.

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

"Pharmacist." A person licensed under ORC Chapter 4729 to engage in the practice of pharmacy.

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

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

"Prescription." Means all of the following:

- (a) 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;
- (b) For purposes of ORC 2925.61, ~~4723.488, 4729.44, 4730.431, 4723.484, 4730.434,~~ and 4731.94, a written, electronic, or oral order for naloxone issued to and in the name of a family member, friend, or other individual in a position to assist an individual who there is reason to believe is at risk of experiencing an opioid-related overdose.
- (c) For purposes of ORC 4729.44, a written, electronic, or oral order for naloxone issued to and in the name of either of the following:
  - (1) An individual who there is reason to believe is at risk of experiencing an opioid-related overdose;

(2) A family member, friend, or other individual in a position to assist an individual who there is reason to believe is at risk of experiencing an opioid-related overdose.

~~(e)~~ (d) For purposes of ORC 4723.4810, 4729.282, 4730.432, and 4731.93, a written, electronic, or oral order for a drug to treat chlamydia, gonorrhea, or trichomoniasis issued to and in the name of a patient who is not the intended user of the drug but is the sexual partner of the intended user;

~~(d)~~ (e) For purposes of ORC 3313.7110, 3313.7111, 3314.143, 3326.28, 3328.29, 4723.483, 4729.88, ~~4730.432~~, 4730.433, 4731.96, and 5101.76, a written, electronic, or oral order for an epinephrine autoinjector issued to and in the name of a school, school district, or camp;

~~(e)~~ (f) For purposes of ORC Chapter 3728 and ORC 4723.483, 4729.88, ~~4730.432~~, 4730.433, and 4731.96, a written, electronic, or oral order for an epinephrine autoinjector issued to and in the name of a qualified entity, as defined in ORC 3728.01;

(g) For purposes of ORC 3313.7115, 3313.7116, 3314.147, 3326.60, 3328.38, 4723.4811, 4730.437, 4731.92, and 5101.78, a written, electronic, or oral order for injectable or nasally administered glucagon in the name of a school, school district, or camp.

"Presumption for a Prison Term" or "Presumption that a Prison Term Shall be Imposed." A presumption as described in ORC 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 ORC 2929.11.

"Professional License." Any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate, or temporary registration that is described in ORC 2925.01(W)(1) to ~~(36)~~ (37) and that qualifies a person as a professionally licensed person.

"Professionally Licensed Person." Any of the following:

~~(a) A person who has obtained a license as a manufacturer of controlled substances or a wholesaler of controlled substances under ORC Chapter 3719;~~

~~(b)~~ (a) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under ORC Chapter 4701 and who holds an Ohio permit issued under that chapter;

~~(e)~~ (b) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under ORC Chapter 4703;

- ~~(d)~~ (c) A person who is registered as a landscape architect under ORC Chapter 4703 or who holds a permit as a landscape architect issued under that chapter;
- ~~(e)~~ (d) A person licensed under ORC Chapter 4707;
- ~~(f)~~ (e) A person who has been issued a certificate of registration as a registered barber under ORC Chapter 4709;
- ~~(g)~~ (f) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of ORC Chapter 4710;
- ~~(h)~~ (g) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, advanced cosmetologist's license, advanced hair designer's license, advanced manicurist's license, advanced esthetician's license, advanced natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under ORC Chapter 4713;
- ~~(i)~~ (h) 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 ORC Chapter 4715;
- ~~(j)~~ (i) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license, or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under ORC Chapter 4717;
- ~~(k)~~ (j) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under ORC Chapter 4723;
- ~~(l)~~ (k) A person who has been licensed to practice optometry or to engage in optical dispensing under ORC Chapter 4725;
- ~~(m)~~ (l) A person licensed to act as a pawnbroker under ORC Chapter 4727;
- ~~(n)~~ (m) A person licensed to act as a precious metals dealer under ORC Chapter 4728;
- ~~(o)~~ (n) A person licensed under ORC Chapter 4729 as a pharmacist, a or pharmacy intern, a wholesale distributor of dangerous drugs, or a terminal distributor of dangerous drugs under ORC Chapter 4729; or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;

- (o) A person licensed under ORC Chapter 4729 as a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs;
- (p) A person who is authorized to practice as a physician assistant under ORC Chapter 4730;
- (q) A person who has been issued a ~~certificate license~~ license to practice medicine and surgery, osteopathic medicine and surgery, a limited branch of medicine, or ~~pediatry~~ podiatric medicine and surgery under ORC Chapter 4731 or has been issued a certificate to practice a limited branch of medicine under that chapter;
- (r) A person licensed as a psychologist or school psychologist under ORC Chapter 4732;
- (s) A person registered to practice the profession of engineering or surveying under ORC Chapter 4733;
- (t) A person who has been issued a license to practice chiropractic under ORC Chapter 4734;
- (u) A person licensed to act as a real estate broker or real estate salesperson under ORC Chapter 4735;
- (v) A person registered as a registered ~~sanitarian~~ environmental health specialist under ORC Chapter 4736;
- (w) A person licensed to operate or maintain a junkyard under ORC Chapter 4737;
- (x) A person who has been issued a motor vehicle salvage dealer's license under ORC Chapter 4738;
- (y) A person who has been licensed to act as a steam engineer under ORC Chapter 4739;
- (z) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under ORC Chapter 4741;
- (aa) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under ORC Chapter 4747;
- (ab) 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 ORC Chapter 4749;

- (ac) A person licensed ~~and registered~~ to practice as a nursing home administrator under ORC Chapter 4751;
- (ad) A person licensed to practice as a speech-language pathologist or audiologist under ORC Chapter 4753;
- (ae) A person issued a license as an occupational therapist or physical therapist under ORC Chapter 4755;
- (af) A person who is licensed as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under ORC Chapter 4757;
- (ag) A person issued a license to practice dietetics under ORC Chapter 4759;
- (ah) A person who has been issued a license or limited permit to practice respiratory therapy under ORC Chapter 4761;
- (ai) A person who has been issued a real estate appraiser certificate under ORC Chapter 4763;
- (aj) A person who has been issued a home inspector license under ORC Chapter 4764;
- ~~(aj)~~ (ak) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules.

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

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

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

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

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

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

"School Premises." Either of the following:

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

"Standard Pharmaceutical Reference Manual." The current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.

"Theft Offense." Has the same meaning as in ORC 2913.01.

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

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

(ORC 2925.01, 2925.11, 3719.01, 3719.011, 3719.013, 3719.061, 4729.01, 4729.52)

**513.02. Trafficking In Controlled Substances**

- (a) No person shall knowingly do any of the following:
- (1) Sell or offer to sell a controlled substance or a controlled substance analog;
  - (2) Prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance or a controlled substance analog, when the offender knows or has reasonable cause to believe that the controlled substance or a controlled substance analog is intended for sale or resale by the offender or another person.
- (b) This section does not apply to any of the following:
- (1) Manufacturers, licensed health ~~professional~~ professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741.
  - (2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;
  - (3) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 ~~USC~~ U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that Act.
- (c) Whoever violates subsection (a) of this section is guilty of the following:
- (1) Except as otherwise provided in division (c)(2) of this section, trafficking in controlled substances is a felony to be prosecuted under appropriate state law.
  - (2) Except as otherwise provided in this division, if the offense involves a gift of 20 grams or less of marihuana, trafficking in marihuana is a minor misdemeanor upon a first offense and a misdemeanor of the third degree upon a subsequent offense. If the offense involves a gift of twenty (20) grams or less of marihuana and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.
- (d) In addition to any prison term authorized or required by subsection (c) hereof, Ohio R.C. 2925.13 and 2925.14, and Ohio R.C. 2929.13 and 2929.14, and in addition to any other sanction imposed for the offense under this section or Ohio R.C. 2929.11 through ~~2929.184~~ 2929.18, the court that sentences ~~a person~~ an offender who is convicted of or pleads guilty to a violation of subsection (a) hereof may suspend the driver's or commercial driver's license or permit of the offender in accordance with ORC 2925.03(G). However, if the offender pleaded guilty to or was convicted of a

violation of ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit in accordance with ORC 2925.03(G). If the offender is a professionally licensed person, the court immediately shall comply with ORC 2925.38.

(e) (1) Notwithstanding any contrary provision of Ohio R.C. 3719.21 and except as provided in Ohio R.C. 2925.03(H), the Clerk of the Court shall pay any mandatory fine imposed pursuant to this section and any fine other than a mandatory fine that is imposed for a violation of this section pursuant to Ohio R.C. 2929.18(A) or (B)(5) to the county, township, municipal corporation, park district, as created pursuant to Ohio R.C. 511.18 or 1545.04, or state law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender. However, the Clerk shall not pay a mandatory fine so imposed to a law enforcement agency unless the agency has adopted a written internal control policy under subsection (e)(2) hereof 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 subsection (e)(2) hereof.

(2) Prior to receiving any fine moneys under subsection (e)(1) hereof or Ohio R.C. 2925.42(B), a law enforcement agency shall adopt a written internal control policy that addresses the agency's use and ~~disposition~~ 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 ~~on-going~~ ongoing investigation. All financial records of the receipts of those fine moneys, the general ~~type~~ types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure by an agency are ~~pub-lic~~ public records open for inspection under Ohio R.C. 149.43. Additionally, a written internal control policy adopted under this division is such a public record, and the agency that adopted it shall comply with it.

(3) As used in subsections (e) hereof:

(A) "Law enforcement agencies" includes, but is not limited to, the State Board of Pharmacy and the office of a prosecutor.

(B) "Prosecutor" has the same meaning as in Ohio R.C. 2935.01.

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

(ORC 2925.03)

**Statutory reference:**

For violations of 513.02(a) classified as felonies, see Ohio R.C. 2925.03.

**513.03. Drug Possession Offenses: Controlled Substance Possession Or Use**

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

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

(A) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct ~~is~~ was in accordance with ORC Chapters 3719, 4715, 4723, 4729, 4730, 4731 and 4741.

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

(C) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that Act.

(D) Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs- if the prescription was issued for a legitimate medical purpose and not altered, forged, or obtained through deception or commission of a theft offense.

As used in division (b)(1)(D) of this section, "deception" and "theft offense" have the same meanings as in ORC 2913.01.

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

(i) "Community addiction services provider." Has the same meaning as in ORC 5119.01.

(ii) "Community control sanction." Has the same meanings as in ORC 2929.01

(iii) "Drug treatment program." Has the same meanings as in ORC 2929.01.

(iv) "Health care facility." Has the same meaning as in ORC 2919.16.

- (v) "Minor drug possession offense." A violation of this section or ORC 2925.11 that is a misdemeanor or a felony of the fifth degree.
  - (vi) "Peace officer." Has the same meaning as in ORC 2935.01.
  - (vii) "Post-release control sanction." Has the same meaning as in ORC 2967.28.
  - (viii) "Public agency." Has the same meaning as in ORC 2930.01.
  - (ix) "Qualified individual." A person who is not on community control or post-release control and is a person acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose as described in division ~~(b)(2)B.~~ (b)(2)B. of this section.
  - (x) "Seek or obtain medical assistance." Includes, but is not limited to making a 9-1-1 call, contacting in person or by telephone call an on-duty peace officer, or transporting or presenting a person to a health care facility.
- (B) Subject to division (b)(2)F. of this section, a qualified individual shall not be arrested, charged, prosecuted, convicted, or penalized pursuant to this chapter for a minor drug possession offense if all of the following apply:
- (i) The evidence of the obtaining, possession, or use of the controlled substance or controlled substance analog that would be the basis of the offense was obtained as a result of the qualified individual seeking the medical assistance or experiencing an overdose and needing medical assistance.
  - (ii) Subject to division (b)(2)G. of this section, within thirty (30) days after seeking or obtaining the medical assistance, the qualified individual seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.
  - (iii) Subject to division (b)(2)G. of this section, the qualified individual who obtains a screening and receives a referral for treatment under division (b)(2)B.2. of this section, upon the request of any prosecuting attorney, submits documentation to the prosecuting attorney that verifies that the qualified individual satisfied the requirements of that division. The documentation shall be limited to the date and time of the screening obtained and referral received.

- (C) If a person is found to be in violation of any community control sanction and if the violation is a result of either of the following, the court shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in ORC 2929.13, 2929.15, or 2929.25, or any substantially equivalent municipal ordinance, whichever is applicable, after which the court has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in any of those applicable sections:
- (i) Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;
  - (ii) Experiencing a drug overdose and seeking medical assistance for that overdose or being the subject of another person seeking or obtaining medical assistance for that overdose as described in division (b)(2)B. of this section.
- (D) If a person is found to be in violation of any post-release control sanction and if the violation is a result of either of the following, the court or the parole board shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in ORC 2929.141 or 2967.28, whichever is applicable, after which the court or the parole board has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in either of those applicable sections:
- (i) Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;
  - (ii) Experiencing a drug overdose and seeking medical assistance for that emergency or being the subject of another person seeking or obtaining medical assistance for that overdose as described in division (b)(2)B. of this section.
- (E) Nothing in division (b)(2)B. of this section shall be construed to do any of the following:
- (i) Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of division (b)(2)B. of this section or with regards to any crime other than a minor drug possession offense committed by a person who qualifies for protection pursuant to division (b) (2)B. of this section for a minor drug possession offense;
  - (ii) Limit any seizure of evidence or contraband otherwise permitted by law;

- (iii) Limit or abridge the authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in that division;
  - (iv) Limit, modify, or remove any immunity from liability available pursuant to law in effect prior to September 13, 2016, to any public agency or to an employee of any public agency.
- (F) Division (b)(2)B. of this section does not apply to any person who twice previously has been granted an immunity under division ~~(b) (2)B.~~ (b)(2)B. of this section. No person shall be granted an immunity under division (b)(2)B. of this section more than two (2) times.
- (G) Nothing in this section shall compel any qualified individual to disclose protected health information in a way that conflicts with the requirements of the "Health Insurance Portability and Accountability Act of 1996," 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. §§ 1320d et seq., as amended, and regulations promulgated by the United States Department of Health and Human Services to implement the act or the requirements of 42 C.F.R. Part 2.
- (c) Whoever violates subsection (a) hereof is guilty of one of the following:
- (1) Except as otherwise provided in divisions (c)(2), (c)(3), (c)(4), and (c)(5), if the drug involved in the violation is a compound, mixture, preparation, or substance included in schedule I or II of ~~Ohio R.C. 3719.41~~, or is, with the exception of marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, hashish, a and any controlled substance analog, ~~or a compound, mixture or preparation containing such drugs,~~ possession of drugs is a felony and shall be prosecuted under appropriate state law.
  - (2) If the drug involved in the violation is a compound, mixture, preparation, or substance included in schedule III, IV, or V of ~~Ohio R.C. 3719.41~~, whoever violates subsection (a) hereof 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 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 subsection (a) hereof 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 and shall be prosecuted under state law.
- (4) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates subsection (a) hereof 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 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 subsection (c) hereof and Ohio R.C. 2925.11(C), 2929.13, 2929.14, 2929.22, 2929.24, and 2929.25, or any substantially equivalent municipal ordinance, and in addition to any other sanction that is imposed for the offense under this section or Ohio R.C. 2925.11, 2929.11 through 2929.18, or Ohio R.C. 2929.21 to 2929.28, or any substantially equivalent municipal ordinance, the court that sentences an offender who is convicted of or pleads guilty to a violation of subsection (a) of this section may suspend the offender's driver's or commercial driver's license or permit for not more than five (5) years. However, if the offender pleaded guilty to or was convicted of a violation of

ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five (5) years. If applicable, the court also shall do the following:

- (1) Notwithstanding any contrary provision of Ohio R.C. 3719.21, the Clerk of Court shall pay a mandatory fine or other fine imposed for a violation of this section pursuant to Ohio R.C. 2929.18(A) in accordance with and subject to the requirements of Ohio R.C. 2925.03(F). The agency that receives the fine shall use the fine as specified in Ohio R.C. 2925.03(F).
  - (2) If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.
- (f) (1) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.
- (2) Upon the filing of a motion under division (f) of this section, the sentencing court, in its discretion, may terminate the suspension.

(ORC 2925.11)

**Statutory reference:**

~~Authority to place offender on probation or within a detention facility or in an alternative residential diversion program in lieu of fine or imprisonment, see Ohio R.C. 2925.11(F)~~

~~Exemptions for pregnant women, see Ohio R.C. 2925.11(G)~~

Felony provisions, see generally Ohio R.C. 2925.11

**513.05. Permitting Drug Abuse**

- (a) No person<sub>7</sub> who is the owner, operator, or person in charge of a locomotive, watercraft, aircraft, or other vehicle<sub>1</sub> as defined in Ohio R.C. 4501.01(A), shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.
- (b) No person<sub>7</sub> who is the owner, lessee, or occupant, or who has custody, control, or supervision<sub>1</sub> of premises<sub>7</sub> or real estate, including vacant land, shall knowingly permit the premises<sub>7</sub> 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 subsection (c)(2) hereof, 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 Ohio R.C. 2925.02, ~~or 2925.03, or 2925.04;~~ or a violation of ORC 2925.041 and the offender had actual knowledge, at the time the offender permitted the vehicle, premises, or real estate to be used as described in ORC 2925.13(A) or (B), that the person who assembled or possessed the chemicals in question in violation of ORC 2925.041 had assembled or possessed them with the intent to manufacture a controlled substance in schedule I or II in violation of ORC 2925.04.
- (d) (1) In addition to any prison term authorized or required by division (c) of this section and ORC 2925.13(C), 2929.13 and 2929.14 and in addition to any other sanction imposed for the offense under this section or ORC 2925.13 or 2929.11 to 2929.18, the court that sentences a person who is convicted of or pleads guilty to a violation of division (a) of this section may suspend for not more than five (5) years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five (5) years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with ORC 2925.38.
- (2) (A) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.
    - (B) Upon the filing of a motion under division (d)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.
- (e) Notwithstanding any contrary provision of Ohio R.C. 3719.21, the Clerk of Court shall pay a fine imposed for a violation of this section pursuant to Ohio R.C. 2929.18(A) in accordance with and subject to the requirements of 513.02 and Ohio R.C. 2925.03(F). The agency that receives the fine shall use the fine as specified in Ohio R.C. 2925.03(F).

- (f) Any premises or real estate that is permitted to be used in violation of subsection (b) hereof constitutes a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767.

(ORC 2925.13)

**Statutory reference:**

~~Disbursement of fine monies and bail forfeitures, see Ohio R.C. 2925.13(D)(3) and (4)  
Felony provisions, see generally Ohio R.C. 2925.13~~

**513.07. Possessing Or Using 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 has previously been convicted of a drug abuse offense, abusing harmful intoxicants is a felony of the fifth degree.
- (c) (1) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five (5) years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five (5) years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with ORC 2925.38.
- (2) (A) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to ~~the~~ September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.
- (B) Upon the filing of a motion under division (c)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

(ORC 2925.31)

**513.08. Illegally Dispensing Drug Samples**

- (a) No person shall knowingly furnish another a sample drug.
- (b) Subsection (a) hereof does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4723, 4725, 4729, 4730, 4731, and 4741.
- (c) (1) Whoever violates this section is guilty of illegal dispensing of drug samples.
- (2) If the drug involved in the offense is a compound, mixture, preparation, or substance included in schedule I or II, ~~of Ohio R.C. 3719.44~~ with the exception of marihuana, illegal dispensing of drug samples is a felony and shall be prosecuted under appropriate state law.
- (3) If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in schedule III, IV or V ~~of Ohio R.C. 3719.44~~, 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) (1) In addition to any prison term authorized or required by division (c) of this section and ~~ORC 2929.13, and 2929.14 and 2925.36(C) or (E)~~ and in addition to any other sanction imposed for the offense under this section or ORC 2929.11 to 2929.18 ~~or 2925.36~~, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (a) of this section may suspend for not more than five (5) years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five (5) years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with ORC 2925.38.
- (2) (A) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's

license or permit was suspended under this section shall not file such a motion.

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

(e) Notwithstanding any contrary provision of Ohio R.C. 3719.21, the Clerk of Court shall pay a fine imposed for a violation of this section pursuant to Ohio R.C. 2929.18(A) in accordance with and subject to the requirements of 513.02 and Ohio R.C. 2925.03(F). The agency that receives the fine shall use the fine as specified in Ohio R.C. 2925.03(F).

(ORC 2925.36)

**Statutory reference:**

~~Disbursement of fine monies and bail forfeitures, see Ohio R.C. 2925.36(D)(3) and (4)~~  
~~Felony offenses, see Ohio R.C. 2925.36(C)(3)~~

**513.10. Hypodermic Possession, Display And Dispensing Disposal**

(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 or 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 his or her 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 subsection (a) hereof shall negligently fail to take reasonable precautions to prevent any hypodermic in his the person's possession from theft or acquisition by any unauthorized person or negligently discard or dispose of a hypodermic without first having rendered it completely unusable for its original purpose.

(ORC 3719.172)

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

(ORC 3719.99(E))

**513.11. Trafficking In Harmful Intoxicants; improperly dispensing or distributing nitrous oxide**

- ~~(a) No person shall knowingly dispense or distribute any harmful intoxicant, except gasoline to any person under eighteen years of age, if the person who dispenses or distributes it knows or has reason to believe that the harmful intoxicant will be used in violation of Section 513.07, unless a written order from the parent or guardian is provided to the dispenser or distributor. Six months after the State Board of Pharmacy has designated the noxious additive that is to be included in any product containing toluene, 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, no person shall dispense or distribute a product that is required to include a noxious additive unless such product includes the noxious additive in the amounts and proportions prescribed by the Board.~~

Divisions (a)(1) and (2) of this section do not apply to the dispensing or distributing of nitrous oxide.

- (1) No person shall knowingly dispense or distribute a harmful intoxicant to a person age eighteen or older if the person who dispenses or distributes it knows or has reason to believe that the harmful intoxicant will be used in violation of ORC 2925.31.

- (2) No person shall knowingly dispense or distribute a harmful intoxicant to a person under age eighteen if the person who dispenses or distributes it knows or has reason to believe that the harmful intoxicant will be used in violation of ORC 2925.31. Division (a)(2) of this section does not prohibit either of the following:

- (A) Dispensing or distributing a harmful intoxicant to a person under age eighteen if a written order from the juvenile's parent or guardian is provided to the dispenser or distributor;

- (B) Dispensing or distributing gasoline or diesel fuel to a person under age eighteen if the dispenser or distributor does not know or have reason to believe the product will be used in violation of ORC 2925.31. Division (a)(2)(A) of this section does not require a person to obtain a written order from the parent or guardian of a person under age eighteen in order to distribute or dispense gasoline or diesel fuel to the person.
- (b) (1) No person shall knowingly dispense or distribute nitrous oxide to a person age twenty-one or older if the person who dispenses or distributes it knows or has reason to believe the nitrous oxide will be used in violation of ORC 2925.31.
- (2) Except for lawful medical, dental, or clinical purposes, no person shall knowingly dispense or distribute nitrous oxide to a person under age twenty-one.
- (3) No person, at the time a cartridge of nitrous oxide is sold to another person, shall sell a device that allows the purchaser to inhale nitrous oxide from cartridges or to hold nitrous oxide released from cartridges for purposes of inhalation. The sale of any such device constitutes a rebuttable presumption that the person knew or had reason to believe that the purchaser intended to abuse the nitrous oxide.
- (4) No person who dispenses or distributes nitrous oxide in cartridges shall fail to comply with either of the following:
- (A) The record-keeping requirements established under division (e) of this section;
- (B) The labeling and transaction identification requirements established under division (f) of this section.
- ~~(b) Any product that is required by subsection (a) hereof to include a noxious additive shall have such contents clearly stated on the label.~~
- ~~(c) The prohibitions of this section shall not apply after a prescribed noxious additive has been added to the harmful intoxicant or upon determination by the Board that addition of a noxious additive is not required.~~
- ~~(d) Whoever violates this section is guilty of trafficking in harmful intoxicants, a misdemeanor of the fourth degree. If the offender has previously been convicted of a drug abuse offense, trafficking in harmful intoxicants is a misdemeanor of the third degree.~~
- (e) (c) This section does not apply to products used in making, fabricating, assembling, transporting, or constructing a product or structure by manual labor or machinery for sale or lease to another person, or to the mining, refining, or processing of natural deposits.

- (d) (1) Whoever violates division (a)(1) or (2) or division (b)(1), (2), or (3) of this section is guilty of trafficking in harmful intoxicants, a felony of the fifth degree to be prosecuted under appropriate state law.
- (2) Whoever violates division (b)(4)(A) or (B) of this section is guilty of improperly dispensing or distributing nitrous oxide, a misdemeanor of the fourth degree.
- (e) Beginning July 1, 2001, a person who dispenses or distributes nitrous oxide shall record each transaction involving the dispensing or distributing 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 of this state or the United States that are authorized to investigate violations of ORC Chapter 2925, 3719, or 4729 or the 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;
- (3) That it is a violation of state law to distribute or dispense cartridges of nitrous oxide to any person under age twenty-one, punishable as a felony of the fifth degree.
- (f) (1) Each cartridge of nitrous oxide dispensed or distributed in this state shall bear the following printed warning:
- "Nitrous oxide cartridges are to be used only for purposes of preparing food. Nitrous oxide cartridges may not be sold to persons under age twenty-one. 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.

(ORC 2925.32)

### **513.12. Drug Paraphernalia**

- (a) As used in this section, "drug paraphernalia" means any equipment, product, or material of any kind that issued 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, marijuana;
- (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, marijuana, 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; carburation tube or device; smoking or carburetion mask; roach clip or similar

object used to hold burning ~~in~~ 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 Ohio R.C. Chapter 2925;
- (3) The proximity of the equipment, product, or material to any controlled substance;
- (4) The existence of any residue of a controlled substance on the equipment, product, or material;
- (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product, or material, to deliver it to any person whom ~~he~~ the owner or person in control of the equipment, product, or material knows intends to use the equipment, product, or material ~~object~~ to facilitate a violation of any provision of Ohio R.C. Chapter 2925. A finding that the owner, or anyone in control, of the equipment, product, or material, is not guilty of a violation of any other provision of Ohio R.C. Chapter 2925, does not prevent a finding that the equipment, product, or material was intended or designed by the offender for use as drug paraphernalia.
- (6) Any oral or written instruction provided with the equipment, product, or material concerning its use;
- (7) Any descriptive material accompanying the equipment, product, or material and explaining or depicting its use;
- (8) National or local advertising concerning the use of the equipment, product, or material;
- (9) The manner and circumstances in which the equipment, product, or material is displayed for sale;
- (10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product, or material to the total sales of the business enterprise;

- (11) The existence and scope of legitimate uses of the equipment, product, or material in the community;
- (12) Expert testimony concerning the use of the equipment, product, or material.
- (c) (1) Subject to division (d)(2) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.
- (2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if ~~he~~ the person 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 with this municipality, if ~~he~~ the person knows that the purpose of the advertisement is to promote the illegal sale in this municipality of the equipment, product, or material that the offender intended or designed for use as drug paraphernalia.
- (d) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, ~~owner~~ owners of pharmacies, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Ohio R.C. 3719.72.
- (2) Division (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marihuana.
- (e) Notwithstanding Ohio R.C. Chapter 2981, any drug paraphernalia that was used, possessed, sold, or manufactured in a violation of this section shall be seized, after a conviction for that violation, shall be forfeited, and upon forfeiture shall be disposed of pursuant to Ohio R.C. 2981.12(B).
- (f) (1) Whoever violates subsection (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 subsection (f)(3) of this section, whoever violates subsection (c)(2) of this section is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.
- (3) Whoever violates subsection (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 subsection (c)(3) of this section is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.

(g) (1) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five (5) years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five (5) years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with ORC 2925.38.

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

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

(ORC 2925.14)

(h) Illegal use or possession of marihuana drug paraphernalia.

(1) As used in this division (h), "drug paraphernalia" has the same meaning as in division (a) of this section.

(2) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, all factors identified in division (b) of this section.

(3) No person shall knowingly use, or possess with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marihuana.

(4) This division (h) does not apply to any person identified in division (d)(1) of this section, and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by ORC 3719.172.

- (5) Division (e) of this section applies with respect to any drug paraphernalia that was used or possessed in violation of this section.
- (6) Whoever violates division (h)(3) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a minor misdemeanor.
- (7) (A) In addition to any other sanction imposed upon an offender for a violation of division (h) of this section, the court may suspend for not more than five (5) years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five (5) years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of division (h) of this section, the court immediately shall comply with ORC 2925.38.
- (B) (i) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under division (h) of this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under division (h) of this section shall not file such a motion.
- (ii) Upon the filing of a motion under division (h)(7)B. of this section, the sentencing court, in its discretion, may terminate the suspension.

(ORC 2925.141)

**513.16. Medical marijuana cultivators, processors and retail dispensaries prohibited.**

- (a) Medical marijuana cultivators, processors and retail dispensaries, including but not limited to those licensed under Ohio R.C. Chapter 3796, are hereby prohibited within the corporate territory of the City.
- (b) No provision set forth in the Codified Ordinances of the City of Franklin shall be interpreted as permitting (conditionally or as of right) any medical marijuana cultivation, processing or retail dispensary activities or uses within the City limits.
- (c) This Ordinance shall not be interpreted as prohibiting or limiting research related to marijuana conducted at a state university, academic medical center, or private

research and development organization as part of a research protocol approved by an institutional review board or equivalent entity.

**Statutory reference:**

Municipal authority as to cultivators, processors, and retail dispensaries of medical marijuana, see Ohio R.C. 3796.29

**CHAPTER 517. GAMBLING**

**517.01. Definitions**

As used in this chapter:

~~"Amateur Athletic Organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are training for amateur athletic competition that is sanctioned by a national governing body as defined in the Amateur Sports Act of 1978, 90 Stat. 3045, 36 U.S.C. 373.~~

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

"Bingo" means either of the following:

- (a) A game with all of the following characteristics:
  - (1) The participants use bingo cards or sheets, including paper formats and electronic representation or image formats, that are divided into 25 spaces arranged in 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;
  - (2) The participants cover the spaces on the bingo cards or sheets that correspond to combinations of letters and numbers that are announced by a bingo game operator;
  - (3) A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically, from a receptacle that contains 75 objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the 75 possible combinations of a letter and a number that can appear on the bingo cards or sheets;
  - (4) The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers, as described in division (a)(3) of this definition, that a

predetermined and pre-announced pattern of spaces has been covered on a bingo card or sheet being used by the participant.

- (b) Instant bingo, ~~punch boards~~, electronic instant bingo, and raffles.

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

"Bingo Session" means a period that includes both of the following:

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

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

"Bookmaking" means the business of receiving or paying off bets.

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

"Charitable Instant Bingo Organization" means an organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3) and is a charitable organization as defined in this section. A "charitable instant bingo organization" does not include a charitable organization that is exempt from federal

income taxation under IRC 501(a) and described in IRC 501(c)(3) and that is created by a veteran's organization, a fraternal organization, or a sporting organization in regards to bingo conducted or assisted by a veteran's organization, a fraternal organization, or a sporting organization pursuant to Ohio R.C. 2915.13, or any substantially equivalent municipal ordinance.

"Charitable Organization." 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), 501(c)(4), 501(c)(8), 501(c)(10) or 501(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).~~ "charitable organization" means either of the following:

- (a) An organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;
- (b) A volunteer rescue service organization, volunteer firefighter's organization, veteran's organization, fraternal organization, or sporting organization that is exempt from federal income taxation under subsection 501(c)(4), (c)(7), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code.

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 Ohio R.C. 2915.08 or the conducting of any game of chance as provided in Ohio 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 Ohio R.C. 2915.08 or the conducting of any game of chance as provided in Ohio R.C. 2915.02(D), or a substantially equivalent municipal ordinance.~~

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

- (a) Any organization that is described in IRC 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under IRC 501(a) and described in IRC 501(c)(3);

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

"Community Action Agency" has the same meaning as in Ohio R.C. 122.66.

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

~~"Deal of Instant Bingo Tickets"~~ means a single game of instant bingo tickets, or a single game of electronic instant bingo tickets, all with the same serial number.

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

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

~~"Educational Organization" means 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.~~

~~"Electronic Bingo Aid."~~

"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.

"Electronic Bingo Aid" does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.

"Electronic instant bingo" means:

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

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

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

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

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

(B) Horse racing;

(C) Gambling games offered in this state on slot machines or video lottery terminals. As used in this division, "video lottery terminal" has the same meaning as in section 3770.21 of the Revised Code.

(2) Any device operated by dropping one or more coins or tokens into a slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or more rotating reels marked into horizontal segments by varying symbols, where the predetermined prize amount depends on how and how many of the symbols line up when the rotating reels come to a rest;

(3) Any device that includes a coin or token slot, tray, or hopper and the ability to dispense coins, cash, tokens, or anything of value other than a credit ticket voucher.

"Electronic instant bingo system" means both of the following:

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

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

(2) It is located on the premises of the principal place of business of a veteran's or fraternal organization that holds a type II or type III bingo license to conduct electronic instant bingo at that location issued under section 2915.08 of the Revised Code.

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

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

(a) The purchase or lease of bingo supplies;

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

- (c) Bank fees and service charges for a bingo session or game account described in Ohio R.C. 2915.10;
- (d) Audits and accounting services;
- (e) Safes;
- (f) Cash registers;
- (g) Hiring security personnel;
- (h) Advertising bingo;
- (i) Renting premises in which to conduct a bingo session;
- (j) Tables and chairs;
- (k) Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;
- (l) Payment of real property taxes and assessments that are levied on a premises on which bingo is conducted;
- ~~(m)~~ (m) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the Attorney General under Ohio R.C. ~~2915.08(B)~~ 2915.08(F)(1).

~~(1).~~

"Fraternal Organization" means any society, order, State headquarters, or association within this State, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge, or chapter of a national or State organization, that exists exclusively for the common business or sodality of its members, ~~and that has been in continuous existence in this State for a period of five years.~~

"Gambling device" means any of the following:

- (a) A book, totalizer, or other equipment for recording bets;
- (b) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance or evidencing a bet;
- (c) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;

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

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

"Gambling Offense" means any of the following:

- (a) A violation of Ohio R.C. ~~2915.02, 2915.03, 2915.04, 2915.05, 2915.06, 2915.07, 2915.08, 2915.081, 2915.082, 2915.09, 2915.091, 2915.092, 2915.10, or 2915.11~~ Chapter 2915;
- (b) A violation of an existing or former municipal ordinance or law of this or any other State or of the United States substantially equivalent to any ~~section listed in division (1) of this definition~~ provision of Ohio R.C. Chapter 2915 or a violation of Ohio R.C. 2915.06 as it existed prior to July 1, 1996;
- (c) An offense under an existing or former municipal ordinance or law of this or any other State or of the United States, of which gambling is an element;
- (d) A conspiracy or attempt to commit, or complicity in committing, any offense under division (a), (b), or (c) of this definition.

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

- (a) The name of the game;
- (b) The manufacturer's name or distinctive logo;
- (c) The form number;
- (d) The ticket count;
- (e) The prize structure, including the number of winning ~~instant bingo~~ tickers by denomination and the respective winning symbol or number combinations for the winning ~~instant bingo~~ tickets;
- (f) The cost per play;
- (g) The serial number of the game.

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

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

"Gross Annual Revenues" means the annual gross receipts derived from the conduct of bingo described in definition "Bingo" and subsection (a) plus the annual net profit derived from the conduct of bingo described in subsection (b).

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

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

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

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

~~"Historic Railroad Educational Organization" means 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 Ohio 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.~~

"Instant Bingo" means a form of bingo that ~~uses~~ shall use folded or banded tickets or paper cards with perforated break-open tabs, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners, ~~and may~~

also include games in which some winners are determined by the random selection of one or more bingo numbers by the use of a seal card or bingo blower. "Instant bingo" includes ~~seal cards~~ a punch board game. In all "instant bingo" the prize amount and structure shall be predetermined. "Instant bingo" does not include electronic instant bingo or any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations.

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

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

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

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

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

- (a) Cash, gift cards, or any equivalent thereof;
- (b) Plays on games of chance, State lottery tickets, ~~bingo~~, or ~~instant~~ bingo;
- (c) Firearms, tobacco, or alcoholic beverages; or

- (d) A redeemable voucher that is redeemable for any of the items listed in division (a), (b), or (c) of this definition.

"Net Profit" means gross profit minus expenses.

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

~~"Nonprofit Medical Organization" means either of the following:~~

- ~~(a) 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;~~
- ~~(b) 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.~~

"Participant" means any person who plays bingo.

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

"Pool Not Conducted for Profit" means a scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.

"Punch Board" means a form of instant bingo that uses a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle ~~when used in conjunction with instant bingo~~. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.

"Raffle" means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one or more winners of the raffle are

determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle. "Raffle" does not include the drawing of a ticket stub or other detachable section of a ticket purchased to attend a professional sporting event if both of the following apply:

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

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

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

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

"Scheme of Chance" means a slot machine unless authorized under Ohio R.C. Chapter 3772, lottery unless authorized under Ohio R.C. Chapter 3770, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit.

"Scheme of chance" includes the use of an electronic device to reveal the results of a game entry if valuable consideration is paid, directly or indirectly, for a chance to win a prize. Valuable consideration is deemed to be paid for a chance to win a prize in the following instances:

- (a) Less than fifty per cent of the goods or services sold by a scheme of chance operator in exchange for game entries are used or redeemed by participants at any one location;
- (b) Less than fifty per cent of participants who purchase goods or services at any one location do not accept, use, or redeem the goods or services sold or purportedly sold;
- (c) More than fifty per cent of prizes at any one location are revealed to participants through an electronic device simulating a game of chance or a "casino game" as defined in Ohio R.C. 3772.01;
- (d) The good or service sold by a scheme of chance operator in exchange for a game entry cannot be used or redeemed in the manner advertised;

- (e) A participant pays more than fair market value for goods or services offered by a scheme of chance operator in order to receive one or more game entries;
- (f) A participant may use the electronic device to purchase additional game entries;
- (g) A participant may purchase additional game entries by using points or credits won as prizes while using the electronic device;
- (h) A scheme of chance operator pays out in prize money more than twenty percent of the gross revenue received at one location; or
- (i) A participant makes a purchase or exchange in order to obtain any good or service that may be used to facilitate play on the electronic device.

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

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

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

~~"Senior Citizen's Organization" means 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).~~

~~"Service Organization" means either of the following:~~

- ~~(a) 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 crippled, born with birth defects, or have any other mental or physical defects 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;~~

~~(b) Any organization that is described in IRC 509(a)(1), 509(a)(2), or 509(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 crippled, born with birth defects, or have any other mental or physical defects.~~

"Skill-Based Amusement Machine" ~~Means~~ means:"

(a) A mechanical, video, digital, or electronic device that rewards the player or players, if at all, only with merchandise prizes or with redeemable vouchers redeemable only for merchandise prizes, provided that with respect to rewards for playing the game all of the following apply:

- (1) The wholesale value of a merchandise prize awarded as a result of the single play of a machine does not exceed ten dollars (\$10.00);
- (2) Redeemable vouchers awarded for any single play of a machine are not redeemable for a merchandise prize with a wholesale value of more than ten dollars (\$10.00);
- (3) Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than ten dollars (\$10.00) times the fewest number of single plays necessary to accrue the redeemable vouchers required to obtain that prize; and
- (4) Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.

A card for the purchase of gasoline is a redeemable voucher for purposes of division (a) of this section even if the skill-based amusement machine for the play of which the card is awarded is located at a place where gasoline may not be legally distributed to the public or the card is not redeemable at the location of, or at the time of playing, the skill-based amusement machine.

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

- (1) The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game;
- (2) Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the player's score;

- (3) The outcome of the game, or the value of the redeemable voucher or merchandise prize awarded-for winning the game, can be controlled by a source other than any player playing the game;
  - (4) The success of any player is or may be determined by a chance event that cannot be altered by player actions;
  - (5) The ability of any player to succeed at the game is determined by game features not visible or known to the player;
  - (6) The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.
- (c) All of the following apply to any machine that is operated as described in division (a) of this definition:
- (1) As used in this 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.
  - (2) Advance play for a single game, play, contest, competition, or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single non-contest, competition, or tournament play.
  - (3) To the extent that the machine is used in a contest, competition, or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of redeemable vouchers or merchandise prizes that are stated prior to the start of the contest, competition, or tournament.
- (d) For purposes of division (a) of this definition, the mere presence of a device, such as a pin-setting, ball-releasing, or scoring mechanism, that does not contribute to or affect the outcome of the play of the game does not make the device a skill- based amusement machine.

"Slot Machine"~~(a)~~ ~~Means~~ means either of the following:

- ~~(1)~~ (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;

- ~~(2)~~ (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.

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

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

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

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

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

- (a) (1) The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
- (2) The device utilizes software such that the simulated game influences or determines the winning of or value of the prize.
- (3) The device selects prizes from a predetermined finite pool of entries.
- (4) The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.
- (5) The device predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.
- (6) The device utilizes software to create a game result.

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

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

(b) As used in this division, section 517.02 and in Ohio R.C. 2915.02:

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

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

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

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

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

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

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

"Youth Athletic Organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are ~~18~~ 21 years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

"Youth Athletic Park Organization" means any organization, not organized for profit, that satisfies both of the following:

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

(ORC 2915.01)

**517.03. 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~~ such premises for gambling in violation of Ohio R.C. 2915.02 or a substantially equivalent municipal ordinance.
  - (2) Recklessly permit ~~the~~ such premises to be used or occupied for gambling in violation of Ohio 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 Ohio R.C. ~~Chapter 3767~~ 3767.01 to 3767.99.

(ORC 2915.03)

**517.06. Methods Of Conducting A Bingo Game; Prohibitions**

- (a) No charitable organization that conducts bingo shall fail to do any of the following:
- (1) Own all of the equipment used to conduct bingo or lease that equipment from a charitable organization that is licensed to conduct bingo, or from the landlord of a premises where bingo is conducted, for a rental rate that is not more than is customary and reasonable for that equipment;
  - (2) Except as otherwise provided in division (a)(3) of this section, use all of the gross receipts from bingo for paying prizes, for reimbursement of expenses for or for renting premises in which to conduct a bingo session, for reimbursement of expenses for or for purchasing or leasing bingo supplies used in conducting bingo, for reimbursement of expenses for or for hiring security personnel, for reimbursement of expenses for or for advertising bingo, or for reimbursement of other expenses or for other expenses listed in the definition for "expenses" in Ohio R.C. 2915.01, provided that the amount of the receipts so spent is not more than is customary and reasonable for a similar purchase, lease, hiring, advertising, or expense. If the building in which bingo is conducted is owned by the charitable organization conducting bingo and the bingo conducted includes a form of bingo described in division (1) of the definition of "bingo" in Ohio R.C. 2915.01, the charitable organization may deduct from the total amount of the gross receipts from each session a sum equal to the lesser of six hundred dollars (\$600.00) 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,~~ described in Ohio R.C. 2915.01(O)(1) for a charitable purpose listed in its license application and described in the definition for "charitable purpose" in Ohio R.C. 2915.01, or distribute all of the net profit ~~derived from~~ from the proceeds of the sale of instant bingo or electronic instant bingo as stated in its license application and in accordance with Ohio R.C. 2915.101, as applicable.
- (b) No charitable organization that conducts a bingo game described in division (1) of the definition of "bingo" in Ohio R.C. 2915.01 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 six hundred ~~fifty~~ dollars ~~(\$650.00)~~ (\$600.00) 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 four hundred fifty dollars (\$450.00) per bingo session, or on premises that are owned by a person other than a charitable organization,

that are leased from that person by another charitable organization, and that are subleased from that other charitable organization by the charitable organization for a rental rate not in excess of four hundred fifty dollars (\$450.00) per bingo session. No charitable organization is required to pay property taxes or assessments on premises that the charitable organization leases from another person to conduct bingo sessions. If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo sessions, the lessor of the premises shall provide ~~only~~ the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo supplies, or any other type of service. A charitable organization shall not lease or sublease premises that it owns or leases to more than three (3) other charitable organizations per calendar week for conducting bingo sessions on the premises. A person that is not a charitable organization shall not lease premises that it owns, leases, or otherwise is empowered to lease to more than three charitable organizations per calendar week for conducting bingo sessions on the premises. In no case shall more than nine bingo sessions be conducted on any premises in any calendar week;

- (2) Display its license conspicuously at the premises where the bingo session is conducted;
  - (3) Conduct the bingo session in accordance with division (1) of the definition of "bingo" in Ohio R.C. 2915.01.
- (c) No charitable organization that conducts a bingo game described in division (1) of the definition of "bingo" in Ohio 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 three bingo sessions in any seven-day period. A volunteer firefighter's

organization or a volunteer rescue service organization that conducts not more than five bingo sessions in a calendar year may conduct more than three bingo sessions in a seven-day period after notifying the Attorney General when it will conduct the sessions;

- (5) Pay out more than six thousand dollars (\$6,000) in prizes during any bingo session that is conducted by the charitable organization;
- (6) Conduct a bingo session at any time during the eight-hour period between 2:00 a.m. and 10:00 a.m., at any time during, or within ten hours of, a bingo game conducted for amusement only pursuant to Ohio R.C. 2915.12 or any substantially equivalent municipal ordinance, at any premises not specified on its license, or on any day of the week or during any time period not specified on its license. This division does not prohibit the sale of instant bingo tickets beginning at 9:00 a.m. for a bingo session that begins at 10:00 a.m. If circumstances make it impractical for the charitable organization to conduct a bingo session at the premises, or on the day of the week or at the time specified on its license, or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license, the charitable organization may apply in writing to the Attorney General for an amended license pursuant to Ohio R.C. ~~2915.08(F)~~ 2915.08(J). A charitable organization may apply twice in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license. If the amended license is granted, the organization may conduct bingo sessions at the premises, on the day of the week, and at the time specified on its amended license;
- (7) Permit any person whom the charitable organization knows, or should have known, is under the age of 18 to work as a bingo game operator;
- (8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;
- (9) Permit the lessor of the premises on which the bingo session is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo supplies, or any other type of service;
- (10) Purchase or lease bingo supplies from any person except a distributor issued a license under Ohio R.C. 2915.081;
- (11)(A) Use or permit the use of electronic bingo aids except under the following circumstances:
  - (i) For any single participant, not more than 90 bingo faces can be played using an electronic bingo aid or aids.

- (ii) The charitable organization shall provide a participant using an electronic bingo aid with corresponding paper bingo cards or sheets.
  - (iii) 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.
  - (iv) 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.
  - (v) 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.
  - (vi) An electronic bingo aid cannot be used to provide for the input of numbers and letters announced by a bingo caller other than the bingo caller who physically calls the numbers and letters at the location at which the bingo session is conducted and at which the electronic bingo aid is used.
- (B) The Attorney General may adopt rules in accordance with Ohio R.C. 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 "bingo" in Ohio R.C. 2915.01.
- (d) (1) Except as otherwise provided in this division, 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. ~~This division does not prohibit an employee of a fraternal organization or veteran's organization from selling instant bingo tickets or cards to the organization's members, as long as no portion of the employee's compensation is paid from any receipts of bingo.~~
- (2) Except as otherwise provided in division (d)(3) of this section, no charitable organization shall provide to a bingo game operator any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting instant bingo, electronic instant

bingo, or both other than at a bingo session at the site of instant bingo, electronic instant bingo, or both other than at a bingo session.

(3) Nothing in 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) Whoever violates division (a)(2) of this section is guilty of illegally conducting a bingo game, a felony to be prosecuted under appropriate State law. Except as otherwise provided in this division, whoever violates division (a)(1), (a)(3), (b)(1), (b)(2), (b)(3), (c)(1) to (c)(11), or (d) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of division (a)(1), (a)(3), (b)(1), (b)(2), (b)(3), (c)(1) to (c)(11), or (d) of this section, a violation of division (a)(1), (a)(3), (b)(1), (b)(2), (b)(3), (c)(1) to (c)(11), or (d) of this section is a misdemeanor of the first degree. Whoever violates division (c)(12) of this section is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (c)(12) of this section, a violation of division (c)(12) of this section is a felony to be prosecuted under appropriate State law.

(ORC 2915.09)

### **517.07. Bingo Records**

(a) No charitable organization that conducts bingo or a game of chance pursuant to Ohio R.C. 2915.02(D), or any substantially equivalent municipal ordinance, shall fail to maintain the following records for at least three years from the date on which the bingo or game of chance is conducted:

- (1) An itemized list of the gross receipts of each bingo session, each game of instant bingo by serial number, each electronic instant bingo game by serial number, each raffle, each punch board game, and each game of chance, and an itemized list of the gross profits of each game of instant bingo by serial number and each electronic instant bingo game by serial number;
  - (2) An itemized list of all expenses, other than prizes, that are incurred in conducting bingo ~~or instant bingo~~, the name of each person to whom the expenses are paid, and a receipt for all of the expenses;
  - (3) A list of all prizes awarded during each bingo session, each raffle, each punch board game, and each game of chance conducted by the charitable organization, the total prizes awarded from each game of instant bingo by serial number and each electronic instant bingo game by serial number, and the name, address, and social security number of all persons who are winners of prizes of six hundred dollars (\$600.00) or more in value;
  - (4) An itemized list of the recipients of the net profit of the bingo or game of chance, including the name and address of each recipient to whom the money is distributed, and if the organization uses the net profit of bingo, or the money or assets received from a game of chance, for any charitable or other purpose set forth in Ohio R.C. 2915.01(V), Ohio R.C. 2915.02(D), or Ohio R.C. 2915.101, a list of each purpose and an itemized list of each expenditure for each purpose;
  - (5) The number of persons who participate in any bingo session or game of chance that is conducted by the charitable organization;
  - (6) A list of receipts from the sale of food and beverages by the charitable organization or one of its auxiliary units or societies, if the receipts were excluded from "gross receipts" under Ohio R.C. 2915.01(T);
  - (7) An itemized list of all expenses incurred at each bingo session, each raffle, each punch board game, or each game of instant bingo or electronic instant bingo conducted by the charitable organization in the sale of food and beverages by the charitable organization or by an auxiliary unit or society of the charitable organization, the name of each person to whom the expenses are paid, and a receipt for all of the expenses.
- (b) A charitable organization shall keep the records that it is required to maintain pursuant to division (a) of this section at its principal place of business in this State or at its headquarters in this State and shall notify the Attorney General of the location at which those records are kept.
- (c) The gross profit from each bingo session or game described in division (1) or (2) of the definition of "bingo" in Ohio R.C. 2915.01 shall be deposited into a checking account devoted exclusively to the bingo session or game. Payments for allowable expenses incurred in conducting the bingo session or game and payments to

recipients of some or all of the net profit of the bingo session or game shall be made only by checks or electronic fund transfers drawn on the bingo session or game account.

- (d) Each charitable organization shall conduct and record an inventory of all of its bingo supplies as of the first day of November of each year.
- (e) The Attorney General may adopt rules in accordance with Ohio R.C. Chapter 119 that establish standards of accounting, record keeping, and reporting to ensure that gross receipts from bingo or games of chance are properly accounted for.
- (f) A distributor shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing to another person bingo supplies for use in this State. The record shall include all of the following for each instance:
  - (1) The name of the manufacturer from which the distributor purchased the bingo supplies and the date of the purchase;
  - (2) The name and address of the charitable organization or other distributor to which the bingo supplies were sold or otherwise provided;
  - (3) A description that clearly identifies the bingo supplies;
  - (4) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each charitable organization.
- (g) A manufacturer shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies for use in this State. The record shall include all of the following for each instance:
  - (1) The name and address of the distributor to whom the bingo supplies were sold or otherwise provided;
  - (2) A description that clearly identifies the bingo supplies, including serial numbers;
  - (3) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each distributor.
- (h) (1) The Attorney General or any law enforcement agency may do all of the following:
  - (A) Investigate any charitable organization, distributor, or manufacturer or any officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer;

(B) Examine the accounts and records of the charitable organization, distributor, or manufacturer or of any officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer;

(C) Conduct inspections, audits, and observations of bingo or games of chance;

(D) Conduct inspections of the premises where bingo or games of chance are conducted or where bingo supplies are manufactured or distributed;

(E) Take any other necessary and reasonable action to determine if a violation of any provision of this chapter or Ohio R.C. Chapter 2915 has occurred and to determine whether Ohio R.C. 2915.11, or any substantially equivalent municipal ordinance, has been complied with.

(2) If any law enforcement agency has reasonable grounds to believe that a charitable organization, distributor, or manufacturer or an officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer has violated any provision of this chapter or Ohio R.C. Chapter 2915, the law enforcement agency may proceed by action in the proper court to enforce this chapter or Ohio R.C. Chapter 2915, provided that the law enforcement agency shall give written notice to the Attorney General when commencing an action as described in this division.

(i) No person shall destroy, alter, conceal, withhold, or deny access to any accounts or records of a charitable organization, distributor, or manufacturer that have been requested for examination, or obstruct, impede, or interfere with any inspection, audit, or observation of bingo or a game of chance, ~~or of~~ premises where bingo or a game of chance is conducted, or of premises where bingo supplies are manufactured or distributed, or refuse to comply with any reasonable request of, or obstruct, impede, or interfere with any other reasonable action undertaken by, the Attorney General or a law enforcement agency pursuant to division (h) of this section.

(j) Whoever violates division (a) or (i) of this section is guilty of a misdemeanor of the first degree.

(ORC 2915.10)

**517.09. Bingo Exceptions**

(a) ~~Sections 517.06 through 517.09 and 517.11 through 517.14~~ Sections 2915.07 to 2915.15 of the Ohio Revised Code 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~~ nonmonetary, 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 one hundred dollars (\$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:
    - (i) A bingo session during which a charitable bingo game is conducted pursuant to Ohio R.C. 2915.07 through 2915.11 or any substantially equivalent municipal ordinance.
    - (ii) A scheme or game of chance, or bingo described in Ohio R.C. 2915.01(O)(2).
  - (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 ~~twenty-five~~ twenty-five cents (\$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 one hundred dollars (\$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 one hundred dollars (\$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:

(i) A bingo session during which a charitable bingo game is conducted pursuant to Ohio R.C. 2915.07 through 2915.11 or any substantially equivalent municipal ordinance;

(ii) A scheme of chance or a game of chance, or bingo described in Ohio R.C. 2915.01(O)(2).

(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.

(ORC 2915.12)

**517.11. 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 Ohio 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 applies:

(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 Ohio R.C. 2915.01, is in good standing in the State pursuant to Ohio R.C. 2915.08, and is in compliance with Ohio 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), 501(c)(8), (c)(10), or (c)(19) or is a veteran's organization described in IRC 501(c)(4), and conducts instant bingo under Ohio 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 Ohio 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 Ohio 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, except as provided in ORC 2915.093(D);
- (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 ~~who are performing work or labor~~ 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 in place of a cash prize won by a participant in an instant bingo game. In no case shall an instant bingo ticket or card be sold or provided 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.

- (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 Ohio R.C. 2915.081 as reflected on an invoice issued by the distributor that contains all of the information required by Ohio 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) Possess bingo supplies that were not obtained in accordance with Ohio R.C. Chapter 2915.
- (b) A charitable organization may purchase, lease, or use instant bingo ticket dispensers to sell instant bingo tickets or cards.
- (c) Pursuant to Ohio R.C. 2915.091(C), the Attorney General may adopt rules in accordance with Ohio R.C. Chapter 119 that govern the conduct of instant bingo by charitable organizations. Before those rules are adopted, the attorney general shall reference the recommended standards for opacity, randomization, minimum information, winner protection, color, and cutting for instant bingo tickets or cards, seal cards, and punch boards established by the North American gaming regulators association.
- (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.

(ORC 2915.091)

#### **517.12. 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~~ a person or entity that is exempt from federal income taxation under IRC 501(a) and is described in IRC 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) may conduct a raffle to raise money for the ~~organization or school~~ person or entity 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~~ person or entity 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~~ person or entity shall distribute at least 50% of the net profit from the raffle to a charitable purpose described in Ohio R.C. 2915.01(V) or to a department or agency of the federal government, the State, or any political subdivision.

~~(b) A chamber of commerce may conduct not more than one raffle per year to raise money for the chamber of commerce.~~

~~(e)~~ (b) 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)~~ (c) Whoever violates division (c) of this section is guilty of illegal conduct of a raffle. Except as otherwise provided in this division, illegal conduct of a raffle is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (c) of this section, illegal conduct of a raffle is a felony to be prosecuted under appropriate State law.

(ORC 2915.092)

### **517.13. Instant Bingo Other Than At Bingo Sessions**

(a) As used in this section, "retail income from all commercial activity" means the income that a person receives from the provision of goods, services, or activities that are provided at the location where instant bingo other than at a bingo session is conducted, including the sale of instant bingo tickets. A religious organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3), at not more than one location at which it conducts its charitable programs, may include donations from its members and guests as retail income.

(b) (1) If a charitable instant bingo organization conducts instant bingo other than at a bingo session under a type III license issued under ORC 2915.08, the charitable instant bingo organization shall enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted to allow the owner or lessor to assist in the conduct of instant bingo other than at a bingo session, identify each location where the instant bingo other than at a bingo session is being conducted, and identify the owner or lessor of each location.

(2) A charitable instant bingo organization that conducts instant bingo other than at a bingo session under a type III license issued under ORC 2915.08 is not required to enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted, provided that the owner or lessor is not assisting in the conduct of the instant bingo other than at a bingo session and provided that the conduct of the instant bingo other than at a bingo session at that location is not more than five days per calendar year and not more than ten hours per day.

(c) Except as provided in division (f) of this section, 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.

(d) (1) The owner or lessor of a location that enters into a contract pursuant to division ~~(c)~~ (b) of this section shall pay the full gross profit to the charitable instant bingo organization, in return for the deal of instant bingo tickets.

The owner or lessor may retain the money that the owner or lessor receives for selling the instant bingo tickets, provided, however, that after the deal has been sold, the owner or lessor shall pay to the charitable instant bingo organization the value of any unredeemed instant bingo prizes remaining in the deal of instant bingo tickets.

(2) The charitable instant bingo organization shall pay six percent (6%) of the total gross receipts of any deal of instant bingo tickets for the purpose of reimbursing the owner or lessor for expenses described in this division.

(3) As used in this division, "expenses" means those items provided for in ORC 2915.01(GG)(4), (GG)(5), (GG)(6), (GG)(7), (GG)(8), (GG)(12), and (GG)(13) and that percentage of the owner's or lessor's rent for the location where instant bingo is conducted. Expenses, in the aggregate, shall not exceed six percent (6%) of the total gross receipts of any deal of instant bingo tickets.

(4) As used in this division, "full gross profit" means the amount by which the total receipts of all instant bingo tickets, if the deal has been sold in full, exceeds the amount that would be paid out if all prizes were redeemed.

(e) A charitable instant bingo organization shall provide the Attorney General with all of the following information:

(1) That the charitable instant bingo organization has terminated a contract entered into pursuant to division (b) of this section with an owner or lessor of a location;

(2) That the charitable instant bingo organization has entered into a written contract pursuant to division (b) of this section with a new owner or lessor of a location;

(3) That the charitable instant bingo organization is aware of conduct by the owner or lessor of a location at which instant bingo is conducted that is in violation of Ohio R.C. Chapter 2915.

(f) Division (c) of this section does not apply to a volunteer firefighter's organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(C)(3), that conducts instant bingo other than at a bingo session on the premises where the organization conducts firefighter training, that has conducted instant bingo continuously for at least five years prior to July 1, 2003, and that, during each of those

five years, had gross receipts of at least one million five hundred thousand dollars (\$1,500,000).

(ORC 2915.093)

(g) (1) A Subject to the requirements of ORC 2915.14 and 2915.15 concerning electronic instant bingo, a veteran's organization, a fraternal organization, or a sporting organization authorized to conduct a bingo session pursuant to Ohio R.C. Chapter 2915 may conduct instant bingo, electronic instant bingo, or both other than at a bingo session under a type III license issued under ORC 2915.08 if all of the following apply:

(A) The veteran's organization, fraternal organization, or sporting organization limits the sale of instant bingo to 12 hours during any day, provided that the sale does not begin earlier than 10:00 a.m. and ends not later than 2:00 a.m.

(B) The veteran's organization, fraternal organization, or sporting organization limits the sale of instant bingo to its own premises and to its own members and invited guests.

(C) The veteran's organization, fraternal organization, or sporting organization is raising money for an organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3), and that is in good standing in this State and executes a written contract with that organization as required in division (g)(2) of this section.

(2) If a veteran's organization, fraternal organization, or sporting organization authorized to conduct instant bingo or electronic instant bingo pursuant to division (g)(1) of this section is raising money for another organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under IRC 501 (a) and described in IRC 501(c), and that is in good standing in this State, the veteran's organization, fraternal organization, or sporting organization shall execute a written contract with the organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under IRC 501(a) and described in IRC ~~501(e)~~ 501(c)(3), and that is in good standing in this State in order to conduct instant bingo or electronic instant bingo. That contract shall include a statement of the percentage of the net proceeds that the veteran's, fraternal, or sporting organization will be distributing to the ~~charitable~~ organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under IRC 501(a) and described in IRC ~~501(e)~~ 501(c)(3), 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 or electronic instant bingo pursuant to division (g)(1) of this section has been issued a liquor permit under Ohio R.C. Chapter 4303, that permit may be subject to suspension, revocation, or cancellation if the veteran's organization, fraternal organization, or sporting organization violates a provision of this chapter or Ohio R.C. Chapter 2915.
- (B) No veteran's organization, fraternal organization, or sporting organization that enters into a written contract pursuant to division (g)(2) of this section shall violate any provision of this chapter or Ohio R.C. Chapter 2915, or permit, aid, or abet any other person in violating any provision of this chapter or Ohio R.C. Chapter 2915.
- (4) A veteran's organization, fraternal organization, or sporting organization shall give all required proceeds earned from the conduct of instant bingo or electronic instant bingo to the organization with which the veteran's organization, fraternal organization, or sporting organization has entered into a written contract.
- (5) Whoever violates division (g) of this section is guilty of illegal instant bingo or electronic instant bingo conduct. Except as otherwise provided in this division, illegal instant bingo or electronic instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (g) of this section, illegal instant bingo or electronic instant bingo conduct is a felony to be prosecuted under appropriate State law.

(ORC 2915.13)

## **CHAPTER 525. LAW ENFORCEMENT AND PUBLIC OFFICE**

### **525.01. Definitions**

As used in this chapter:

"Campaign Committee," "Contribution," "Political Action Committee," "Legislative Campaign Fund," ~~and~~ "Political Party," and "Political Contributing Entity" have the same meanings as in Ohio R.C. 3517.01.

"Detention" means 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 Ohio 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 Ohio R.C. 311.29(E) or Ohio R.C. 5149.03(B). For a person confined in a county jail who participates in a county jail industry program pursuant to Ohio R.C. 5147.30, "detention" includes time spent at an assigned work site and going to and from the work site.

"Detention Facility" means 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 unruly child in this state or another state or under the laws of the United States.

"Official Proceeding" means 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.

"Party Official" means any person who holds an elective or appointive post in a political party in the United States or this State, by virtue of which the person directs, conducts, or participates in directing or conducting party affairs at any level of responsibility.

"Provider Agreement" has the same meaning as in ORC 5164.01.

"Public Official" means any elected or appointed officer, or employee, or agent of the State or any political subdivision, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges, and law enforcement officers. The term does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.

"Public Servant."

(a) 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~~ the person is elected or appointed to the office for which ~~he or she~~ the person is a candidate. A person is a candidate for purposes of this division if ~~he or she~~ the person has been nominated according to law for election or

appointment to public office, or if ~~he or she~~ the person has filed a petition or petitions as required by law to have ~~he or she~~ the person's name placed on the ballot in a primary, general, or special election, or if ~~he or she~~ the person campaigns as a write-in candidate in any primary, general, or special election.

- (b) The term does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.

"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.

(ORC 2921.01)

**525.02. 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 the public official's official function.
  - (4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention, and contingency benefits and services; disability financial assistance; retirement benefits or health care coverage from a state retirement system; economic development assistance, as defined in section 9.66 of the Revised Code; 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, 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 that person's 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 section 2923.11 of the Revised Code, and in conjunction with the furnishing to the seller of the firearm of a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.
  - (13) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the secretary of state, a county recorder, or the clerk of a court of record.
  - (14) The statement is made in an application filed with a county sheriff pursuant to section 2923.125 of the Revised Code 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 section 2923.1213 of the Revised Code.
  - (15) The statement is required under section 5743.71 of the Revised Code 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 section 2923.11 of the Revised Code, 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 section 2923.125 of the Revised Code, shall knowingly present to a sheriff a fictitious or altered document that purports to be certification of the person's competence in handling a handgun as described in division (B)(3) of section 2923.125 of the Revised Code.

- (d) It is no defense to a charge under division (a)(6) of this section that the oath or affirmation was administered or taken in an irregular manner.
- (e) If contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false but only that one or the other was false.
- (f) (1) Whoever violates division (a)(1), (2), (3), (4), (5), (6), (7), (8), (10), (11), (13), or (15) of this section is guilty of falsification, a misdemeanor of the first degree.
- (2) Whoever violates division (a)(9) of this section is guilty of falsification in a theft offense. Except as otherwise provided in this division, falsification in a theft offense is a misdemeanor of the first degree. If the value of the property or services stolen is five hundred dollars or more and is less than five thousand dollars, falsification in a theft offense is a felony of the fifth degree. If the value of the property or services stolen is five thousand dollars or more and is less than one hundred thousand dollars, falsification in a theft offense is a felony of the fourth degree. If the value of the property or services stolen is one hundred thousand dollars or more, falsification in a theft offense is a felony of the third degree.
- (3) Whoever violates division (a)(12) or (b) of this section is guilty of falsification to purchase a firearm, a felony of the fifth degree.
- (4) Whoever violates division (a)(14) or (c) of this section is guilty of falsification to obtain a concealed handgun license, a felony of the fourth degree.
- (5) Whoever violates division (a) of this section in removal proceedings under section 319.26, 321.37, 507.13, or 733.78 of the Revised Code is guilty of falsification regarding a removal proceeding, a felony of the third degree.
- (g) A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this division. A civil action under this division is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section.

(ORC 2921.13)

**Statutory reference:**

Falsification, see Ohio R.C. 2921.13

**525.05. Failure To Report A Crime, Or Knowledge Of A Death, Or Burn Injury; Failure To Note Knowledge Or Belief Of Domestic Violence**

- (a) (1) Except as provided in division (a)(2) of this section, no person, knowing that a felony has been or is being committed, shall knowingly fail to report the information to law enforcement authorities.
- (2) No person, knowing that a violation of Ohio R.C. 2913.04(B) or section 545.04(b) of this Code has been or is being committed or that the person has received information derived from such a violation, shall knowingly fail to report the violation to law enforcement authorities.
- (b) Except for conditions that are within the scope of subsection (e) hereof, 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 persons that the person knows or has reasonable cause to believe resulted from an offense of violence.
- (c) No person who discovers the body or acquires the first knowledge of the death of a person shall fail to report the death immediately to a physician or advanced practice registered nurse whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, ambulance service, an emergency squad, or the County Coroner in the county in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained. For purposes of this division, "advanced practice registered nurse" does not include a certified registered nurse anesthetist.
- (d) No person shall fail to provide upon request of the person to whom a report required by subsection (c) hereof 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 the person's knowledge that may have a bearing on the investigation of the death.
- (e) (1) As used in this subsection, "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 superheated air;
  - (C) Any burn injury or wound that may result in death;
  - (D) Any physical harm to persons caused by or as the result of the use of fireworks, novelties and trick noisemakers, and wire sparklers, as each is defined by Ohio R.C. 3743.01.
- (2) No physician, nurse, physician assistant, or limited practitioner who, outside a hospital, sanitarium, or other medical facility, attends or treats a person who has

sustained a burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is ~~such~~ a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

- (3) No manager, superintendent, or other person in charge of a hospital, sanitarium, or other medical facility in which a person is attended or treated for any burn injury inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is ~~such~~ a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.
- (4) No person who is required to report any burn injury under subsection (e)(2) or (3) hereof 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~~ comply with the uniform standard developed by the State Fire Marshal pursuant to Ohio R.C. 3737.22(A)(15).
- (5) Anyone participating in the making of reports under subsection (e) hereof or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding Ohio R.C. 4731.22, the physician-patient relationship or advanced practice registered nurse-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted pursuant to subsection (e) hereof.
- (f) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, ~~registered or licensed practical~~ nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, ~~or licensed~~ professional counselor, independent marriage and family therapist, or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence as defined in Ohio R.C. 3113.31 shall note that knowledge or belief and the basis for it in the patient's or client's records.
- (2) Notwithstanding Ohio R.C. 4731.22, the ~~doctor-patient~~ physician-patient privilege or advanced practice registered nurse-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted ~~pursuant to~~ under subsection (f)(1) of this section, and the information may be admitted as evidence in accordance with the Rules of Evidence.
- (g) Subsection (a) or (d) hereof 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~~ physician and patient; advanced practice registered nurse and patient; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.
  - (2) The information would tend to incriminate a member of the actor's immediate family.
  - (3) Disclosure of the information would amount to revealing a news source privileged under Ohio R.C. 2739.04 or 2739.12.
  - (4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as such a member of the clergy by a person seeking the aid or counsel of that member of the clergy.
  - (5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's 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 Ohio R.C. 3793.06~~ community addiction services provider whose alcohol and drug addiction services are certified pursuant to Ohio R.C. 5119.36.
  - (6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of Ohio R.C. 2907.02 or 2907.05 or to victims of felonious sexual penetration in violation of former Ohio R.C. 2907.12. As used in this section, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide such services.
- (h) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.
- (i) Whoever violates division (a) or (b) of this section is guilty of failure to report a crime. Violation of division (a)(1) of this section is a misdemeanor of the fourth degree. Violation of division (a)(2) or (b) of this section is a misdemeanor of the second degree.

- (j) Whoever violates subsection (c) or (d) hereof is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.
  
- (k) (1) Whoever negligently violates subsection (e) hereof is guilty of a minor misdemeanor.
  
- (2) Whoever knowingly violates subsection (e) hereof is guilty of a misdemeanor of the second degree.
  
- (l) As used in this section, "nurse" includes an advanced practice registered nurse, registered nurse, and licensed practical nurse.

(ORC 2921.22)

**Statutory reference:**

~~Failure to report a crime or knowledge of a death or burn injury, see Ohio R.C. 2921.22~~

**525.10. 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 which is not let by competitive bidding when required by law, and which involves more than one hundred fifty dollars (\$150.00).

- (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) Subsection (a)(4) of this section does not prohibit participation by a public employee in any housing program funded by public monies if the public employee otherwise qualifies for the program and does not use the authority or influence of the public

official's ~~employee's~~ office or employment to secure benefits from the program and if the monies are to be used on the primary residence of the public employee. Such 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 (2) of this section is a felony to be prosecuted under appropriate State law. Violation of division (a)(3), (4), or (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 Ohio R.C. 309.06 and 2921.421, or for a chief legal officer of a municipal corporation or an official designated as prosecutor in a municipal corporation to appoint assistants and employees in accordance with Ohio R.C. 733.621 and 2921.421, or for a township law director appointed under Ohio R.C. ~~504.14~~ 504.15 to appoint assistants and employees in accordance with Ohio R.C. 504.151 and 2921.421.
  
- (g) This section does not apply to a public contract in which a township trustee in a township with a population of 5,000 or less in its unincorporated area, a member of the township trustee's family, or one of the township trustee's business associates has an interest, if all of the following apply:
  - (1) The subject of the public contract is necessary supplies or services for the township and the amount of the contract is less than five thousand dollars (\$5,000) per year;
  - (2) The supplies or services are being furnished to the township as part of a continuing course of dealing established before the township trustee held that office with the township;
  - (3) The treatment accorded the township is either preferential to or the same as that accorded other customers or clients in similar transactions;
  - (4) The entire transaction is conducted with full knowledge by the township of the interest of the township trustee, member of the township trustee's family, or the township trustee's business associate.
  
- (h) 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.

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

"Chief Legal Officer" has the same meaning as in Ohio R.C. 733.621.

"Public Contract" means any of the following:

- (1) 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;
- (2) A contract for the design, construction, alteration, repair, or maintenance of any public property.

(ORC 2921.42)

**525.11. Soliciting Or Receiving Improper Compensation**

- (a) No public servant shall knowingly ~~de~~ solicit or accept, and no person shall knowingly promise or give to a public servant, either of the following:

- (1) ~~Solicit or receive any compensation or fee other than as allowed by law, to perform his official duties~~ Any compensation, other than as allowed by Ohio R.C. 102.03(G), (H), and (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) ~~Solicit or receive greater fees or costs than are allowed by law to perform his official duties~~ 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, ~~or~~ 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~~ a person from making voluntary contributions to a political party, campaign committee, legislative campaign fund, ~~or~~ political action committee, or political contributing entity or prohibit a political party, campaign committee, legislative campaign fund, ~~or~~ political action committee, or political contributing entity from accepting voluntary contributions.

(ORC 2921.43)

**525.13. Interfering With Civil Rights**

(a) No public servant, under color of ~~his~~ the public servant's office, employment, or authority, shall knowingly deprive, or 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.

(ORC 2921.45)

**525.16. 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.

(ORC 128.01(A))

(b) No person shall knowingly use the telephone number of a 9-1-1 system established under ORC Chapter 128 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 ORC Chapter 128, 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~~ wireline 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~~ wireline service provider to a public utility or municipal utility in handling customer calls in times of public emergency or service outages. The charge, terms, and conditions for the disclosure or use of such information for the purpose of such access to a database shall be subject to the jurisdiction of the Steering Committee;
  
  - (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 Steering Committee. 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 Steering Committee.

(ORC 128.32(E) - (G))

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

(ORC 128.99(A), (B))

**CHAPTER 529. LIQUOR CONTROL AND DRUG ABUSE**

**529.01. Definitions**

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

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

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

"Beer."

- (a) Includes all beverages brewed or fermented wholly or in part from malt products and containing one-half of one percent (0.5%) or more of alcohol by volume.
- (b) Beer, regardless of the percent of alcohol by volume, is not intoxicating liquor for purposes of this Chapter.

(ORC 4301.244)

"Bottle Club." Any establishment or premises that is operated on a regular basis in the following manner:

- (a) No alcoholic beverages are sold on the premises;
- (b) All members, guests or members of the public must provide their own alcoholic beverages for consumption on the premises; and
- (c) Fees or other charges are imposed on all members, guests or members of the public for admission to the premises; or for set ups (i.e., liquid mixers, cups, ice or other items associated with the consumption of alcoholic beverages) or for any other reason. For the purposes of this Chapter, the term "bottle club" shall include, but not be limited to, all such premises designated in Section 529.06.

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

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

"Community Facility." Means either of the following:

- (a) 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 ORC 351.02;
- (b) An area designated as a community entertainment district pursuant to ORC 4301.80.

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

"Hotel." "Hotel" has the same meaning as in ORC 3731.01, subject to the exceptions mentioned in ORC 3731.03.

"Intoxicating Liquor and Liquor." Includes all liquids and compounds, other than beer, containing one-half of one percent (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. "Intoxicating liquor" and "liquor" include cider and alcohol, and all solids and confections which contain one-half of one percent (0.5%) or more of alcohol by volume.

"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 one-half of one percent (0.5%) of alcohol by volume. "Low Alcohol Beverage" does not include a soft drink such as root beer, birch beer, or ginger beer.

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

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

"Mixed Beverages." Includes bottled and prepared cordials, cocktails, highballs, and solids and confections that are obtained 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 one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume. "Mixed beverages" includes the contents of a pod.

"Nightclub." A place operated for profit, where food is served for consumption on the premises and one (1) 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.

"Permit." A permit issued under ORC Chapter 4303 by the Ohio Division of Liquor Control.

"Person." As used in this Chapter, the term "person" includes firms and corporations.

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

- (a) The capsule contains intoxicating liquor of more than twenty-one per cent (21%) of alcohol by volume.
- (b) The capsule also contains a concentrated flavoring mixture.
- (c) The contents of the capsule are not readily accessible or intended for consumption unless certain manufacturer's processing instructions are followed.
- (d) The instructions include releasing the contents of the capsule through a machine specifically designed to process the contents.
- (e) After being properly processed according to the manufacturer's instructions, the final product produced from the capsule contains not less than one-half of one per cent (0.5%) of alcohol by volume and not more than twenty-one per cent (21%) of alcohol by volume.

"Restaurant." A place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold, and served at noon and evening, as the principal business of the place. "Restaurant" does not include pharmacies (as defined in ORC 4729.01, that is under the management or control of a licensed pharmacist), confectionery stores, lunch stands, nightclubs, and filling stations.

"Sale or Sell." Except as used in ORC 4301.01 to 4301.20, 4301.22 to 4301.52, 4301.56, 4301.70, 4301.72, and 4303.01 to 4303.36, includes ~~includes 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 Section 529.04(b) or ORC 4301.21. "Sale" and "Sell" do not include the mere solicitation of orders for beer or intoxicating liquor from the holders of permits issued by the Ohio 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 ORC 4303.25.

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

"Sealed Container." Any container having a capacity of not more than one hundred twenty-eight fluid ounces (128 fl. oz.), the opening of which is closed to prevent the entrance of air.

"Spirituous Liquor." Includes all intoxicating liquors containing more than twenty-one percent (21%) of alcohol by volume. "Spirituous liquor" does not include the contents of a pod.

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

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

"Wine." Includes all liquids fit to use for beverage purposes containing not less than ~~one-half~~ one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume, ~~which that~~ is made from the fermented juices of grapes, fruits, or other agricultural products; ~~except as provided in ORC 4301.01(B)(3), the term does not include cider.~~ "Wine" includes cider, except as used in ORC 4301.13, 4301.421, 4301.422, 4301.432, and 4301.44, and, for purposes of determining the rate of the tax that applies, 4301.43(B), "wine" does not include cider.

(ORC 4301.01)

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Liquor control definitions, see ORC 4301.01~~

~~Beer not intoxicating liquor, see ORC 4301.244~~

**529.02. Activities Prohibited Without A Permit**

(a) As used in this section:

(1) "Charitable organization" is an organization described under section 501(c)(3) of the Internal Revenue Code and exempt from federal income taxation under section 501(a) of the Internal Revenue Code.

(2) "Fundraiser" means a raffle, silent auction, or event where a door prize is awarded.

(3) "Political organization" means a political organization defined under section 527 of the Internal Revenue Code.

(4) "Raffle" means a raffle conducted in accordance with ORC Chapter 2915.

(5) "Silent auction" means a method of submitting bids in writing by one or more persons and, after a review of all the bids received, personal property is awarded to the highest and most responsive bidder.

~~(a)~~ (b) Manufacturing. No person, personally or by the person's clerk, agent, or employee, who is not the holder of an A permit issued by the Ohio Division of Liquor Control, in force at that time and authorizing the manufacture of beer or intoxicating liquor, or who is not an agent or employee of the Division authorized to manufacture such beer or intoxicating liquor, shall manufacture any beer or intoxicating liquor for sale, or shall manufacture spirituous liquor.

~~(b)~~ (c) Sales. No person, personally or by the person's clerk, agent, or employee, who is not the holder of an A, B, C, D, E, F, G, I, or S permit issued by the Ohio Division of Liquor Control, in force at the time, and authorizing the sale of beer, intoxicating liquor, or alcohol, or who is not an agent or employee of the Division or the Ohio Tax Commissioner authorized to sell such beer, intoxicating liquor, or alcohol, shall sell, keep, or possess beer, intoxicating liquor, or alcohol for sale to any persons other than those authorized by ORC Chapters 4301 and 4303 to purchase any beer or intoxicating liquor, or sell any alcohol at retail. ~~This division does not apply to or affect the sale or possession of any low-alcohol beverage.~~

~~(c)~~ (d) Not Purchased from State. No person, personally or by the person's clerk, agent, or employee, who is the holder of a permit issued by the Ohio Division of Liquor Control, shall sell, keep, or possess for sale any intoxicating liquor not purchased from the Division or from the holder of a permit issued by the Division authorizing the sale of such intoxicating liquor unless the same has been purchased with the special consent of the Division. The Division shall revoke the permit of any person convicted of a violation of division (c) of this section.

(e) Division (b) of this section does not apply to either of the following:

(1) The sale or possession for sale of any low-alcohol beverage:

(2) Beer and intoxicating liquor that is given away if all of the following apply:

(a) The beer or intoxicating liquor is given away by a charitable or political organization to a participant in a fundraiser.

(b) Any beer, wine, or mixed beverages given away via the fundraiser is purchased from a person issued a permit under ORC Chapter 4303.

(c) Any spirituous liquor given away via the fundraiser is purchased from an agency store located in this state.

(d) Regarding any spirituous liquor donated to the charitable or political organization for purposes of the fundraiser, the donor is not an agency store located in this state and submits to the charitable or political organization receipts showing that the donor purchased the spirituous liquor from an agency store located in this state.

(e) The charitable or political organization submits purchase receipts for the spirituous liquor given away via a fundraiser to the division of liquor control as proof that the spirituous liquor was purchased from an agency store located in this state. The charitable or political organization shall submit the receipts in accordance with procedures that the division shall establish.

(ORC 4301.58)

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

(ORC 4301.99)

(Ord. 2017-05. Passed 5-15-17.)

**Editor's note:**

See also ORC 4303.25

**Statutory reference:**

~~Permits required, see ORC 4301.58~~

~~Penalty, see ORC 4301.99~~

**529.03. Restrictions On Sales Of Beer And Liquor**

Sales of beer and intoxicating liquor under all classes of permits and from state liquor stores are subject to the following restrictions, in addition to those imposed by the rules or orders of the Ohio Division of Liquor Control:

(a) Underage Persons.

(1) Except as otherwise provided in this Chapter or in ORC Chapter 4301, no beer or intoxicating liquor shall be sold to any person under twenty-one (21) years of age.

(2) No low-alcohol beverage shall be sold to any person under eighteen (18) years of age. No permit issued by the division shall be suspended, revoked, or canceled because of a violation of division (a)(2) of this section.

~~(3) No intoxicating liquor shall be handled by any person under twenty-one (21) years of age, except that a person eighteen (18) years of age or older employed by a~~

~~permit holder may handle or sell beer or intoxicating liquor in sealed containers in connection with wholesale or retail sales, and any person nineteen (19) years of age or older employed by a permit holder may handle intoxicating liquor in open containers when acting in the capacity of a server in a hotel, restaurant, club, or night club, as defined in Section 529.01, or in the premises of a D-7 permit holder. This section does not authorize persons under twenty-one (21) years of age to sell intoxicating liquor across a bar. Any person employed by a permit holder may handle beer or intoxicating liquor in sealed containers in connection with manufacturing, storage, warehousing, placement, stocking, bagging, loading or unloading, and may handle beer or intoxicating liquor in open containers in connection with cleaning tables or handling empty bottles or glasses. Except as provided in division (a)(4) of this section, all of the following apply to the handling, serving, and selling of beer and intoxicating liquor by a person employed by a permit holder:~~

- (a) No person under nineteen (19) years of age shall sell beer across a bar.
- (b) No person under twenty-one (21) years of age shall sell wine, mixed beverages, or spirituous liquor across a bar.
- (c) No person under eighteen (18) years of age shall otherwise handle, serve, or sell beer or intoxicating liquor.
- (4) Any person employed by a permit holder may handle beer or intoxicating liquor in sealed containers in connection with manufacturing, storage, warehousing, placement, stocking, bagging, loading, or unloading, and may handle beer or intoxicating liquor in open containers in connection with cleaning tables or handling empty bottles or glasses.
- (b) Sales to Intoxicated Persons. No permit holder and no agent or employee of a permit holder shall sell or furnish beer or intoxicating liquor to an intoxicated person.
- (c) Sales on Sunday. No sales of intoxicating liquor shall be made after 2:30 a.m. on Sunday, except under either of the following circumstances:
  - (1) Intoxicating liquor may be sold on Sunday under authority of a permit that authorizes Sunday sale.
  - (2) Spirituous liquor may be sold on Sunday by any person awarded an agency contract under ORC 4301.17 if the sale of spirituous liquor is authorized in the applicable precinct as the result of an election on question (B)(1) or (B)(2) of ORC 4301.351 and if the agency contract authorizes the sale of spirituous liquor on Sunday.
- (d) Give-Aways. No holder of a permit shall give away any beer or intoxicating liquor of any kind at any time in connection with the permit holder's business. However, with the exception of an A-1-A permit holder that also has been issued an A-2 or A-2f

permit, an A-1-A, A-1c<sub>2</sub> or D permit holder may provide to a paying customer not more than a total of four (4) tasting samples of beer, wine<sub>1</sub> or spirituous liquor, as authorized by the applicable permit, in any twenty-four (24) hour period. The permit holder shall provide the tasting samples free of charge, at the permit holder's expense, only to a person who is twenty-one (21) years of age or older. The person shall consume the tasting samples on the premises of the permit holder. A distributor is not responsible for the costs of providing tasting samples authorized under division (d) of this section.

As used in division (d) of this section:

(1) "Tasting sample" means one of the following, as applicable:

(a) An amount not to exceed two ounces (2 oz.) of beer;

(b) An amount not to exceed two ounces (2 oz.) of wine;

(c) An amount not to exceed a quarter ounce (0.25 oz.) of spirituous liquor.

(2) "D permit holder" means a person that has been issued a D-1, D-2, D-2x, D-3, D-3a, D-3x, D-4, D-5, D-5a, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-6, or D-7 permit.

(e) Advertising. Except as otherwise provided in this division, no retail permit holder shall display or permit the display on the outside of any licensed retail premises, or on any lot of ground on which the licensed premises are situated, or on the exterior of any building of which the licensed premises are a part, any sign, illustration<sub>1</sub> or advertisement bearing the name, brand name, trade name, trademark, designation<sub>1</sub> or other emblem of or indicating the manufacturer, producer, distributor, place of manufacture, production, or distribution of any beer or intoxicating liquor. Signs, illustrations<sub>2</sub> or advertisements bearing the name, brand name, trade name, trademark designation<sub>1</sub> or other emblem of or indicating the manufacturer, producer, distributor, place of manufacture, production<sub>1</sub> or distribution of beer or intoxicating liquor may be displayed and permitted to be displayed on the interior or in the show windows of any licensed premises, if the particular brand or type of product so advertised is actually available for sale on the premises at the time of that display. The Ohio Liquor Control Commission shall determine by rule the size and character of those signs, illustrations, or advertisements.

(f) Dispensing. No retail permit holder shall possess on the licensed premises any barrel or other container from which beer is drawn, unless there is attached to the spigot or other dispensing apparatus the name of the manufacturer of the product contained in the barrel or other container; provided that, if the beer is served at a bar, the manufacturer's name or brand shall appear in full view of the purchaser. The Ohio Liquor Control Commission shall regulate the size and character of the devices provided for in this section.

(g) ~~Gift Certificates. Except as otherwise provided in this division, no sale of any gift certificate shall be permitted whereby beer or intoxicating liquor of any kind is to be exchanged for the certificate, unless the gift certificate can be exchanged only for food, and beer or intoxicating liquor, for on-premises consumption and the value of the beer or intoxicating liquor does not exceed more than thirty percent (30%) of the total value of the gift certificate.~~ The sale of gift certificates for the purchase of beer, wine, or mixed beverages shall be permitted for the purchase of beer, wine, or mixed beverages for on- or off-premises consumption. Limitations on the use of a gift certificate for the purchase of beer, wine, or mixed beverages for on- or off-premises consumption may be expressed by clearly stamping or typing on the face of the certificate that the certificate may not be used for the purchase of beer, wine, or mixed beverages.

(ORC 4301.22)

(h) Penalties.

- (1) Whoever violates division (a)(1) of this section is guilty of a misdemeanor of the third degree, and shall be fined not less than five hundred and not more than one thousand dollars (\$500 - \$1,000) and, in addition to the fine, may be imprisoned for a definite term of not more than six (6) months).
- (2) Whoever violates divisions (a)(2) or (c) of this section is guilty of a misdemeanor of the fourth degree.
- (3) Whoever violates divisions (a)(3) or (b) of this section is guilty of a misdemeanor of the third degree.
- (4) Whoever violates divisions (e), (d), (f) or (g) of this section is guilty of a minor misdemeanor.

(ORC 4301.99)

(i) ~~Definitions. As used in this division:~~

"Tasting Sample" means one of the following, as applicable:

- ~~(1) An amount not to exceed two ounces (2 oz.) of beer;~~
- ~~(2) An amount not to exceed two ounces (2 oz.) of wine;~~
- ~~(3) An amount not to exceed a quarter ounce (0.25 oz.) of spirituous liquor.~~

"D Permit Holder" means a person that has been issued a ~~D-1, D-2, D-2X, D-3, D-3a, D-3x, D-4, D-5a, D-5c, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-6 or D-7 permit.~~

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Rules for sales of beer and intoxicating liquor under all classes of permits and from state liquor stores, see ORC 4301.22~~

~~Penalty, see ORC 4301.99~~

**529.04. Restrictions Applicable To Sale Of Beer Or Intoxicating Liquor For Consumption On Premises**

The sale of beer or intoxicating liquor for consumption on the premises is subject to the following restrictions, in addition to those imposed by the rules and orders of the Ohio Division of Liquor Control:

- (a) Seated Patrons. Except as otherwise provided in ORC Chapter 4301, beer or intoxicating liquor may be served to a person not seated at a table unless there is reason to believe that the beer or intoxicating liquor so served will be consumed by a person under twenty-one (21) years of age.
  
- (b) Hotels. Beer or intoxicating liquor may be served by a hotel in the room of a bona fide guest, and may be sold by a hotel holding a D-5a permit, or a hotel holding a D-3 or D-5 permit that otherwise meets all of the requirements for holding a D-5a permit, by means of a controlled access alcohol and beverage cabinet that shall be located only in the hotel room of ~~the~~ a registered guest. A hotel may sell beer or intoxicating liquor as authorized by its permit to a registered guest by means of a controlled access alcohol and beverage cabinet, in accordance with the following requirements:
  - (1) Only a person twenty-one (21) years of age or older who is a guest registered to stay in a guestroom shall be provided a key, magnetic card, or other similar device necessary to obtain access to the contents of a controlled access alcohol and beverage cabinet in that guestroom.
  - (2) The hotel shall comply with Section 529.03 and ORC 4301.22 in connection with the handling, restocking, and replenishing of the beer and intoxicating liquor in the controlled access alcohol and beverage cabinet.
  - (3) The hotel shall replenish or restock beer and intoxicating liquor in any controlled access alcohol and beverage cabinet only during the hours during which the hotel may serve or sell beer and intoxicating liquor.
  - (4) The registered guest shall verify, in writing, that the guest has read and understands the language that shall be posted on the controlled access alcohol and beverage cabinet as required by division (b)(5) of this section.
  - (5) A hotel authorized to sell beer and intoxicating liquor pursuant to division (b) of this section shall post on the controlled access alcohol and beverage cabinet, in conspicuous language, the following notice; ~~required under ORC 4301.21(B)(5).~~

"The alcoholic beverages contained in this cabinet shall not be removed from the premises."

(6) The hotel shall maintain a record of each sale of beer or intoxicating liquor made by the hotel by means of a controlled access alcohol and beverage cabinet for any period in which the permit holder is authorized to hold the permit pursuant to ORC 4303.26 and 4303.27 and any additional period during which an applicant exercises its right to appeal a rejection by the Ohio Department of Commerce or Ohio Division of Liquor Control to renew a permit pursuant to ORC 4303.271. The records maintained by the hotel shall comply with both of the following:

(a) Include the name, address, age, and signature of each hotel guest who is provided access by the hotel to a controlled access alcohol and beverage cabinet pursuant to division (b)(1) of this section;

(b) Be made available during business hours to authorized agents of the Ohio Division of Liquor Control pursuant to ORC 4301.10(A)(6) or to enforcement agents of the Ohio Department of Public Safety pursuant to ORC 5502.13 to 5502.19.

~~(6)~~ (7) The hotel shall observe all other applicable rules adopted by the Ohio Division of Liquor Control and the Ohio Liquor Control Commission.

~~(c)~~ Purchase of Food. The seller shall not Neither the seller nor the Ohio Liquor Control Commission by its regulations shall require the purchase of food with the purchase of beer or intoxicating liquor; nor shall the seller of beer or intoxicating liquor give away food of any kind in connection with the sale of beer or intoxicating liquor, except as authorized by rule of the Ohio Liquor Control Commission.

~~(d)~~ Removal from Premises. Except as provided in ORC 4301.62(B)(8), the seller shall not permit the purchaser to remove beer or intoxicating liquor so sold from the premises.

~~(e)~~ A hotel authorized to sell beer and intoxicating liquor pursuant to division (b) of this section shall provide a registered guest with the opportunity to refuse to accept a key, magnetic card, or other similar device necessary to obtain access to the contents of a controlled access alcohol and beverage cabinet in that guest room. If a registered guest refuses to accept such key, magnetic card, or other similar device, the hotel shall not assess any charges on the registered guest for use of the controlled access alcohol and beverage cabinet in that guest room.

(ORC 4301.21)

~~(e)~~ (f) Penalties.

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

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

(ORC 4301.99)

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Rules for sale of beer or intoxicating liquor for consumption on the premises, see ORC 4301.21~~

~~Penalty, see ORC 4301.99~~

**529.05. Hours Of Sale Or Consumption Of Alcoholic Beverages**

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

(b) Hours of Sale or Consumption for Certain Classes of Permits. No beer, wine, mixed beverages, or spirituous liquor shall be sold or delivered by an A-1, A-1c, 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-5H, D-5K, D-8, F, F-1, F-2, F-3, F-4, F-5, F-6, F-8, F-9, G, or I permit holder:

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

(2) On Sunday between the hours of one (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) Hours of Sale or Consumption for Other Classes of Permits. 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- 5G, D-5I, D-5J, D-5I, D-5m, D-5n, D5o or D-7 permit holder:

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

(2) On Sunday between the hours of two-thirty (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) Retail Sales. 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) Sunday Hours. The hours on Sunday during which sales, delivery or consumption of alcoholic beverages may take place are established by State law, but in no event shall they begin prior to 5:30 a.m.
- (f) F-2 Permits. No association, corporation, local unit of an association or corporation, or ~~D-permit~~ 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 such permit and on any officer, agent, or employee of such permit holder.

(ORC 4303.202(D)(2) F-2 Permit)

- (g) F-8 Permits. 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.

(ORC 4303.208(C) F-8 Permits)

- (h) Penalties.
- (1) Whoever violates divisions (a), (b), (c), (d) or (e) of this section is guilty of a misdemeanor of the fourth degree.
- (2) Whoever violates divisions (f) or (g) of this section is guilty of a misdemeanor of the fourth degree.

(ORC 4303.99)

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~F-2 permit, see ORC 4303.202~~

~~F-8 permits to nonprofit organizations for public events, ORC 4303.208~~

~~Penalty, see ORC 4303.99~~

Hours of sale of alcoholic beverages, see (Ohio Administrative Code) (OAC) 4301:1-1-49

**529.07. Purchase Or Consumption By Person Under Twenty-One**

- (a) Minimum Age for Purchases. Except as otherwise provided in this Chapter or ORC Chapter 4301, no person under the age of twenty-one (21) years shall purchase beer or intoxicating liquor.

(ORC 4301.63)

- (b) Prohibition; Minors under Eighteen Years: Low Alcohol Beverages. As used in this division, "underage person" means a person under eighteen (18) years of age.

- (1) No underage person shall purchase any low-alcohol beverage.
- (2) No underage person shall order, pay for, share the cost of, or attempt to purchase any low-alcohol beverage.
- (3) 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.
- (4) No underage person shall knowingly show or give false information concerning the person's name, age, or other identification for the purpose of purchasing or otherwise obtaining any low-alcohol beverage in any place in this City.
- (5) 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 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.

No permit issued by the Ohio Division of Liquor Control shall be suspended, revoked, or canceled because of a violation of this division or division (6) of this section.

- (6) 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~~ low-alcohol beverage.

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.

(7) No underage person shall knowingly possess or consume any ~~low-alcohol~~ low-alcohol beverage in any public or private place, unless ~~he 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~~ the physician's practice or given for established religious purposes.

(8) 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.

(ORC 4301.631)

(c) Misrepresentation to Obtain Alcoholic Beverage for a Minor Prohibited. Except as otherwise provided in this Chapter or in ORC Chapter 4301, no person shall knowingly furnish any false information as to the name, age, or other identification of any person under twenty-one (21) years of age for the purpose of obtaining, or with the intent to obtain, beer or intoxicating liquor for a person under twenty-one (21) years of age, by purchase, or as a gift.

(ORC 4301.633)

(d) Misrepresentation by a Minor. Except as otherwise provided in this Chapter or in ORC Chapter 4301, no person under the age of twenty-one (21) years shall knowingly show or give false information concerning the person's name, age, or other identification for the purpose of purchasing or otherwise obtaining beer or intoxicating liquor in any place in this City where beer or intoxicating liquor is sold under a permit issued by the Ohio Division of Liquor Control or sold by the Division.

(ORC 4301.634)

(e) Compliance Checks.

(1) As used in this division:

(A) "Compliance check" means an attempt on behalf of a law enforcement agency or the Ohio Division of Liquor Control to purchase any beer, wine, mixed beverages, or intoxicating liquor in the enforcement of any section of this Chapter or any rule of the Ohio Liquor Control Commission in which the age of the purchaser is an element of the offense.

(B) "Confidential informant" means a person who is under twenty-one (21) years of age and who is engaged in conducting compliance checks.

(C) "Law enforcement agency" means the Franklin Police Division or an organization or unit made up of law enforcement officers authorized to enforce this Chapter or ORC Chapter 4301, and also includes the investigative unit of the Ohio Department of Public Safety described in ORC 5502.13.

- (2) Within a reasonable period of time after the conduct of a compliance check, the law enforcement agency that conducted the compliance check, or the Ohio Division of Liquor Control if the Division conducted the compliance check, shall send written notification of it to the permit holder that was its subject. If the confidential informant who participated in the compliance check was able to purchase beer, wine, mixed beverages, or intoxicating liquor, the citation issued for the violation constitutes that notification. If the confidential informant who participated in the compliance check was unable to purchase beer, wine, mixed beverages, or intoxicating liquor, the notification shall indicate the date and time of the compliance check, the law enforcement agency that conducted the compliance check, or, when applicable, that the Ohio Division of Liquor Control conducted the compliance check, and the permit holder or a general description of the employee of the permit holder who refused to make the sale.

(ORC 4301.635)

- (f) (1) Printed Warnings to be Posted on Licensed Premises. Except as otherwise provided in ORC 4301.691, every place in the City 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, the a printed card, required by ORC 4301.637, which shall be furnished by the Ohio 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 one thousand dollars, or imprisonment up to six 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 per cent of alcohol by volume in any public place, or furnish false information as to name, age, or other identification, you are subject to a fine of up to two hundred fifty dollars or to imprisonment up to thirty days, or both."

No person shall be subject to any criminal prosecution or any proceedings before the Ohio Division of Liquor Control or the Ohio Liquor Control Commission for failing to display this card. No permit issued by the Ohio Division of Liquor Control

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

- (2) Every place in the City for which a D permit has been issued under ORC Chapter 4303 shall be issued a printed card by the Ohio 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 ORC Chapter 4303, you may be guilty of a felony and may be subjected to a prison term of up to one year."

No person shall be subject to any criminal prosecution or any proceedings before the Ohio Division of Liquor Control or the Ohio Liquor Control Commission for failing to display this card. No permit issued by the Division shall be suspended, revoked, or canceled because of the failure of the permit holder to display this card.

(ORC 4301.637)

- (g) No Modification of Other Sections Intended. Nothing in this section shall be deemed to modify or affect Section 529.03(a) or Section 529.08 of this Chapter.

(ORC 4301.638)

- (h) Immunity of Permit Holder, Agent or Employee.

- (1) No permit holder, agent or employee of a permit holder, or any other person may be found guilty of a violation of any section of this Chapter, ORC Chapter 4301, or any rule of the Ohio Liquor Control Commission in which age is an element of the offense, if the Ohio Liquor Control Commission or any court of record finds all of the following:

- (A) That the person buying, at the time of so doing, exhibited to the permit holder, the agent or employee of the permit holder, or the other person a driver's or commercial driver's license, an identification card (as defined in ORC 4301.61), a military identification card issued by the United States Department of Defense, or a United States or foreign passport, that displays a picture of the individual for whom the license, card, or passport was issued and shows that the person buying was then at least twenty-one (21) years of age, if the person was buying beer (as defined in Section 529.01) or intoxicating liquor, or that the person was then at least eighteen (18) years of age, if the person was buying any low-alcohol beverage.

- (B) That the permit holder, the agent or employee of the permit holder, or the other person made a bona fide effort to ascertain the true age of the person buying by checking the identification presented, at the time of the purchase, to ascertain that the description on the identification compared with the appearance of the buyer and that the identification compared with the appearance of the buyer and that the identification presented ~~has~~ had not been altered in any way;
- (C) That the permit holder, the agent or employee of the permit holder, or the other person had reason to believe that the person buying was of legal age.
- (2) In any hearing before the Ohio Liquor Control Commission and in any action or proceeding before a court of record in which a defense is raised under division (h)(1) of this section, the registrar of motor vehicles or deputy registrar who issued an identification card under ORC 4507.50 to 4507.52 shall be permitted to submit certified copies of the records, in the registrar's or deputy registrar's possession, of that issuance in lieu of the testimony of the personnel of or contractors with the Ohio Bureau of Motor Vehicles at the hearing, action, or proceeding.
- (3) The defense provided by division (h)(1) of this section is in addition to the affirmative defense provided by Section 529.13 or ORC 4301.611.

(ORC 4301.639)

(i) Penalties.

- (1) Whoever violates divisions (a) or (b)(1) of this section shall be fined not less than twenty-five nor more than one hundred dollars (\$25.00 - \$100.00). The court imposing a fine for a violation of divisions (a) or (b)(1) may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed.

(ORC 4301.99(E))

- (2) Whoever violates divisions (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), (b)(7) or (b)(8) of this section is guilty of a misdemeanor of the fourth degree.

(ORC 4301.99(B))

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

(ORC 4301.99(C))

- (4) (A) Whoever violates division (d) of this section is guilty of a misdemeanor of the first degree. If, in committing a first violation of this section, the offender

presented to the permit holder or the permit holder's 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 two hundred fifty and not more than one thousand dollars (\$250 - \$1,000), and may be sentenced to a term of imprisonment of not more than six (6) months.

(B) On a second violation in which, for the second time, the offender presented to the permit holder or the permit holder's 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 five hundred nor more than one thousand dollars (\$500 - \$1,000), and may be sentenced to a term of imprisonment of not more than six (6) 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 operating privilege from the range specified in ORC 4510.02(A)(7).

(C) On a third or subsequent violation in which, for the third or subsequent time, the offender presented to the permit holder or the permit holder's 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 five hundred nor more than one thousand dollars (\$500 - \$1,000), and may be sentenced to a term of imprisonment of not more than six (6) months. Except as provided in this division, the court also may 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 ORC 4510.02(A)(6), and the court may order that the suspension or denial remain in effect until the offender attains the age of twenty-one (21) years. The court, in lieu of suspending the offender's temporary instruction permit, probationary driver's license, or driver's license, instead 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.

(ORC 4301.99(F))

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Purchase of beer or intoxicating liquor by persons under twenty-one prohibited, see ORC 4301.63~~

~~Purchase or consumption low-alcohol beverage by persons under eighteen prohibited, see ORC 4301.634~~

~~Furnishing false information to obtain beer or intoxicating liquor for person under twenty-one, see ORC 4301.633~~

~~Furnishing false information to obtain beer or intoxicating liquor by person under twenty-one, see ORC 4301.634~~

~~Compliance check, see ORC 4301.635~~

~~Warning cards as to underage persons and person carrying firearms, see ORC 4301.637~~

~~Modification on other sections not intended, see ORC 4301.638~~

~~False identification accepted in good faith, see ORC 4301.639~~

~~Penalty, see ORC 4301.99~~

**529.08. Sale To Underage Persons; Restrictions Relating To Public And Private Places And Accommodations**

- (a) Sales to Underage Persons. Except as otherwise provided in this Chapter or in ORC 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 Ohio 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 ORC 4301.22(A)(1).

- (b) Allowing Underage Persons to Remain. 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) Use of Accommodations. 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 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~~ professional authorized to prescribe drugs and has the drug of abuse in the original container in which it was dispensed to the person.

(d) Rights of Accommodation's Owner or Manager.

- (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 twenty-one (21) years of age or older for the purpose of violating this section.

- (e) Underage Persons. 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.

- (f) Liability of Parent, Spouse or Guardian. 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 Section 529.07 (a), (c) or (d), or ORC 4301.63, 4301.633, or 4301.634.

- (g) Duty of Operator. 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) Penalties.

- (1) Whoever violates division (a) of this section is guilty of a misdemeanor, shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00), and in addition to the fine, may be imprisoned for a definite term of not more than six (6) months.

(ORC 4301.99(I))

- (2) Whoever violates division (b), (c), (d), (e), or (f), of this section is guilty of a misdemeanor of the first degree.

(ORC 4301.99(C))

- (A) If an offender who violates division ~~(e)(4)~~ (e) of this section was under the age of eighteen (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 not less than six (6) months and not more than one (1) year. If the offender is fifteen (15) years and six (6) 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 (6) months. If the offender has not attained the age of fifteen (15) years and six (6), the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of sixteen (16) years.

(ORC 4301.99(C))

- (B) If a person is charged with violating division ~~(e)(4)~~ (e) of this section in a complaint filed under ORC 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 ORC 2151.356 through 2151.358. If the child fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.

- (C) If a person is charged in a criminal complaint with violating division ~~(e)(4)~~ (e) of this section, ORC 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 (h)(2)B. or C. 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 ORC 2953.52. If the person fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.

(ORC 4301.69(E)(2))

- (i) Definitions. As used in this section:

- (1) "Drug of Abuse" has the same meaning as in ORC 3719.011.
- (2) "Hotel" has the same meaning as in ORC 3731.01.
- (3) "Licensed Health Professional Authorized to Prescribe Drugs" and "Prescription" have the same meanings as in ORC 4729.01.
- (4) "Minor" means a person under the age of eighteen (18) years.
- (5) "Underage Person" means a person under the age of twenty-one (21) years.

(ORC 4301.69(H))

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Underage persons offenses concerning liquor control, see ORC 4301.69~~  
~~Penalty, see ORC 4301.99~~

**529.09. Open Container Prohibited; Exceptions**

(a) Definitions. As used in this section:

"Chauffeured Limousine" means a vehicle registered under ORC 4503.24.

"Street," "Highway," and "Motor Vehicle" have the same meanings as in ORC 4511.01.

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

- (1) Except as provided in division ~~(b)(1)E.~~ (c)(1)(E) of this section, in an agency store;
- (2) Except as provided in division ~~(b)~~ (c) or (i) of this section, on the premises of the holder of any permit issued by the Ohio Division of Liquor Control;
- (3) Except as provided in Section 529.13, in any other public place;
- (4) Except as provided in division ~~(e) or (d)~~ (d) or (e) of this section, while operating or being a passenger in or on a motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking;
- (5) Except as provided in division ~~(e) or (d)~~ (d) or (e) of this section, while being in or on a stationary motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

~~(b)~~ (c) Exceptions.

- (1) A person may have in the person's possession an opened container of any of the following:
  - (A) Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-2f, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7, or F-8 permit;
  - (B) Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit, wine served as a tasting sample by an A-2, S-1, or S-2 permit holder or ~~S permit holder~~ for consumption on the premises of a farmers market for which an F-10 permit has been issued, or wine served for consumption on the premises by a 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 ORC 4303.201;
  - (D) Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Ohio Liquor Control Commission;
  - (E) Spirituous liquor to be consumed for purposes of a tasting sample, as defined in ORC 4301.171.
- (2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this division, "music festival" means a series of outdoor live musical performances, extending for a period of at least three (3) consecutive days and located on an area of land of at least forty (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 ~~(b)~~ (c)(3)(A) of this section:
    - (i) "Orchestral performance" means a concert comprised of a group of not fewer than forty (40) musicians playing various musical instruments.

- (ii) "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than one hundred fifty (150) acres of land and that is open for performances from the first day of April to the last day of October of each year.
- (4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance, as defined in division ~~(b) (3)B-(i)~~ (c)(3)(B)(i) of this section, if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.
- (5) A person may have in the person's possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending either of the following:
- (a) ~~an~~ An orchestral performance and the holder of the F-9 permit grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued;
- (b) An outdoor performing arts event or orchestral performance that is free of charge and the F-9 permit holder annually hosts not less than twenty-five (25) other events or performances that are free of charge on the permit premises.

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

- (6) (A) A person may have in the person's possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor ~~at an outdoor location within an outdoor refreshment area created under ORC 4301.82 if the opened container of beer or intoxicating liquor was purchased from a qualified permit holder to which~~ that was not purchased from the owner of the facility if both of the following apply:
- ~~(i) The permit holder's premises is located within the outdoor refreshment area; and~~
- ~~(ii) The permit is held by the permit holder has an outdoor refreshment area designation.~~
- (i) The person is attending a racing event at the facility; and
- (ii) The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility.

~~(B) Division (b)(6) of this section does not authorize a person to do either of the following:~~

- ~~(i) Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere; or~~
- ~~(ii) Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area, unless the motor vehicle is stationary and is not being operated in a lane of vehicular travel or unless the possession is otherwise authorized under division (c) or (d) of this section.~~

(B) As used in division (c)(6)(A) of this section:

- (i) "Racing event" means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.
- (ii) "Outdoor motorsports facility" means an outdoor racetrack to which all of the following apply:
  - (I) It is two and four-tenths (2.40) miles or more in length.
  - (II) It is located on two hundred (200) acres or more of land.
  - (III) The primary business of the owner of the facility is the hosting and promoting of racing events.
  - (IV) The holder of a D-1, D-2, or D-3 permit is located on the property of the facility.

(7) (A) A person may have in the person's possession an opened container of beer or intoxicating liquor at an outdoor location within an outdoor refreshment area created under ORC 4301.82 if the opened container of beer or intoxicating liquor was purchased from an A-1, A-1-A, A-1c, A-2, A-2f, D class, or F class permit holder to which both of the following apply:

- (i) The permit holder's premises is located within the outdoor refreshment area.
- (ii) The permit held by the permit holder has an outdoor refreshment area designation.

(B) Division (c)(7) of this section does not authorize a person to do either of the following:

(i) Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere;

(ii) Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area, unless the possession is otherwise authorized under division (d) or (e) of this section.

(C) As used in division (c)(7) of this section, "D class permit holder" does not include a D-6 or D-8 permit holder.

(8) (A) A person may have in the person's possession on the property of a market, within a defined F-8 permit premises, an opened container of beer or intoxicating liquor that was purchased from a D permit premises that is located immediately adjacent to the market if both of the following apply:

(i) The market grants permission for the possession and consumption of beer and intoxicating liquor within the defined F-8 permit premises;

(ii) The market is hosting an event pursuant to an F-8 permit and the market has notified the division of liquor control about the event in accordance with division (A)(3) of section 4303.208 of the Revised Code.

(B) As used in division (c)(8) of this section; "market" means a market, for which an F-8 permit is held, that has been in operation since 1860.

~~(c)~~ (d) Limousines: This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of ~~such a~~ 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; and
- (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.

~~(d)~~ (e) Opened Bottle of Wine. 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 ~~(d)(1)~~ (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.

~~(e)~~ (f) Quadricycles:

- (1) Except as otherwise provided in this Chapter, this section does not apply to a person who, pursuant to a prearranged contract, is a passenger riding on a commercial quadricycle when all of the following apply:

- (A) The person is not occupying a ~~set~~ seat in the front of the commercial quadricycle where the operator is steering or breaking;
- (B) The commercial quadricycle is being operated on a street, highway, or other public or private property open to the public for purposes of vehicular travel or parking;
- (C) The person has in their possession on the commercial quadricycle an ~~open~~ opened container of beer or wine; and
- (D) The person has in their possession on the commercial quadricycle not more than either thirty-six ounces (36 oz.) of beer or eighteen ounces (18 oz.) of wine.

- (2) As used in this section, "commercial quadricycle" means a vehicle that has fully-operative pedals for propulsion entirely by human power and that meets all of the following requirements:

- (A) It has four (4) wheels and is operated in a manner similar to a bicycle;
- (B) It has at least five (5) seats for passengers;
- (C) It is designed to be powered by the pedaling of the operator and the passengers;
- (D) It is used for commercial purposes; and
- (E) It is operated by the vehicle owner or an employee of the owner.

(g) This section does not apply to a person that has in the person's possession an opened container of beer or intoxicating liquor on the premises of a market if the beer or intoxicating liquor has been purchased from a D liquor permit holder that is located in the market.

As used in division (g) of this section, "market" means an establishment that:

(1) Leases space in the market to individual vendors, not less than fifty per cent (50%) of which are retail food establishments or food service operations licensed under ORC Chapter 3717.;

(2) Has an indoor sales floor area of not less than twenty-two thousand (22,000) square feet;

(3) Hosts a farmer's market on each Saturday from April through December.

(h) (1) As used in this section, "alcoholic beverage" has the same meaning as in ORC 4303.185.

(2) An alcoholic beverage in a closed container being transported under ORC 4303.185 to its final destination is not an opened container for the purposes of this section if the closed container is securely sealed in such a manner that it is visibly apparent if the closed container has been subsequently opened or tampered with after sealing.

(i) This section does not apply to a person who has in the person's possession an opened container of beer or intoxicating liquor in a public-use airport, as described in ORC 4303.181(D)(2)(a)(iii), when both of the following apply:

(1) Consumption of the opened container of beer or intoxicating liquor occurs in the area of the airport terminal that is restricted to persons taking flights to and from the airport; and

(2) The consumption is authorized under ORC 4303.181(D)(2)(a).

(j) This section does not apply to a person that has in the person's possession an opened container of homemade beer or wine that is served in accordance with ORC 4301.201(E).

(ORC 4301.62)

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

(ORC 4301.99)

(g) Definitions. ~~As used in this section:~~

~~"Chauffeured Limousine" means a vehicle registered under ORC 4503.24.~~

~~"Street," "Highway," and "Motor Vehicle" have the same meanings as in ORC 4511.04.~~

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Opened container of beer or intoxicating liquor prohibited at certain premises, see ORC 4301.62~~

~~Penalty, see ORC 4301.99~~

**529.10. Prohibition Against Consumption In Motor Vehicle**

- (a) ~~Prohibition:~~ No person shall consume any beer or intoxicating liquor in a motor vehicle. This section does not apply to persons described in Section 529.09(c) or ORC 4301.62(D).

(ORC 4301.64)

- (b) ~~Penalties:~~

- (1) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
- (2) If an offender who violates this section was under the age of eighteen (18) years at the time of the offense, the court, in addition to any other penalties it imposes upon the offender, may suspend the offender's temporary instruction permit, probationary driver's license, or driver's license for a period of not less than six (6) months and not more than one (1) year. In lieu of suspending the offender's temporary instruction permit, probationary driver's license, or driver's license, the court instead may require the offender to perform community service for a number of hours determined by the court. If the offender is fifteen (15) years and six (6) 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 (6) months. If the offender has not attained the age of fifteen (15) years and six (6) months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of sixteen (16) years.

(ORC 4301.99)

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Prohibition against consumption of beer or intoxicating liquor in motor vehicle, see ORC 4301.64~~

~~Penalty, see ORC 4301.99~~

**529.11. Alcohol Vaporizing Devices Prohibited**

(a) Definitions. 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.

~~(a)(b) Prohibitions.~~

- (1) No person shall sell or offer for sale an alcohol vaporizing device.
- (2) No person shall purchase or use an alcohol vaporizing device.

(ORC 4301.65)

~~(b)(c) Penalties.~~

- (1) Whoever violates division (a)(1) of this section is guilty of misdemeanor of the third degree. For a second or subsequent violation occurring within a period of five (5) consecutive years after the first violation, a person is guilty of a misdemeanor of the first degree.
- (2) Whoever violates division (a)(2) of this section is guilty of a minor misdemeanor.

(ORC 4301.99)

~~(c) Definitions.~~ 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.

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Sale, purchase, or use of alcohol vaporizing device prohibited, see ORC 4301.65~~

~~Penalty, see ORC 4301.99~~

**529.12. General Prohibitions**

(a) Obstructing Search of Premises Prohibited. No person shall hinder or obstruct any agent or employee of the Ohio Department of Liquor Control, any enforcement agent of the Ohio Department of Public Safety, or any officer of the Franklin Police Division or any other officer of law, from making inspection or search of any place, other than a bona fide private residence, where beer or intoxicating liquor is possessed, kept, sold, or given away.

(ORC 4301.66)

(b) Illegal Possession of Intoxicating Liquor or Beer Prohibited. No person shall have in that person's possession any spirituous liquor, in excess of one liter (1 L.), in one or more containers, which was not purchased at wholesale or retail from the Ohio

Division of Liquor Control or otherwise lawfully acquired pursuant to ORC Chapters 4301 and 4303, or any other intoxicating liquor or beer, in one or more containers, which was not lawfully acquired pursuant to ORC Chapters 4301 and 4303.

(ORC 4301.67)

- (c) Prohibition Against Sale or Possession of Diluted Liquor and Refilled Containers. No person shall sell, offer for sale, or possess intoxicating liquor in any original container which has been diluted, refilled, or partly refilled.

(ORC 4301.68)

- (d) Sale of Powdered or Crystalline Alcohol Prohibited.

(1) No person shall sell or offer for sale powdered or crystalline alcohol for human consumption.

(2) Division (d)(1) of this section does not apply to any of following:

(A) Any substances regulated by the Food and Drug Administration in the United States Department of Health and Human Services that is not either of the following:

(i) Beer or intoxicating liquor; or

(ii) A compound that could be converted into beer or intoxicating liquor.

(B) A medication that requires a prescription;

(C) An over-the-counter medication.

(3) As used in the section:

(A) "Powered or crystalline alcohol" means a product that is manufactured into a powdered or crystalline form that contains any amount of alcohol.

(B) "Prescription" has the same meaning as in ORC 4729.01.

(C) "Over-the-counter medication" means medication that may be legally sold and purchased without a prescription.

(ORC 4301.71)

- (e) Penalties.

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

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

(3) Whoever violates division (d) of this section is guilty of minor misdemeanor.

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Obstructing inspection or search of premises prohibited, see ORC 4301.66~~

~~Illegal possession of spirituous or intoxicating liquor or beer prohibited, see ORC 4301.67~~

~~Sale of liquor in diluted, refilled, or partly refilled containers prohibited, see ORC 4301.68~~

~~Sale of powdered or crystalline alcohol, see ORC 4301.71~~

~~Penalty, see ORC 4301.99~~

**529.14. Affirmative Defenses**

(a) Defense to Sale to Underage Person. A permit holder or an agent or employee of a permit holder may not be found guilty of a charge of a violation of this Chapter, ORC Chapter 4301, or any rule of the Ohio Liquor Control Commission in which the age of a purchaser of any beer, intoxicating liquor, or low-alcohol beverage is an element of the alleged violation, if the permit holder, agent, or employee raises and proves as an affirmative defense that all of the following occurred:

- (1) The card holder attempting to purchase any beer, intoxicating liquor, or low-alcohol beverage presented a driver's license or commercial driver's license or an identification card;
- (2) 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; and
- (3) The beer, intoxicating liquor, or low-alcohol beverage was sold to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.

(b) Trier of Fact.

- (1) In determining whether a permit holder or an agent or employee of a permit holder has proven the affirmative defense provided by division (a) of this section, the Ohio Liquor Control Commission or the trier of fact in a court of record shall consider any written policy that the permit holder has adopted and implemented and that is intended to prevent violations of Sections 529.03(a)(1), 529.03(a) (2), 529.07(a) and 529.08, and ORC 4301.22(A)(1) or 4301.22(A)(2) and of ORC 4301.63 to 4301.636, 4301.69, and 4301.691.

(2) For the purposes of division (a)(3) of this section, the Commission or trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a permit holder or an agent or employee of a permit holder to exercise reasonable diligence to determine, and that the use of a transaction scan device does not excuse a permit holder or an agent or employee of a permit holder from exercising reasonable diligence to determine, the following:

(A) Whether a person to whom the permit holder or agent or employee of a permit holder sells any beer or intoxicating liquor is ~~twenty-one~~ twenty-one (21) years of age or older or sells any low-alcohol beverage is eighteen (18) years of age or older;

(B) Whether the description and picture appearing on the driver's license or commercial driver's license or identification card presented by a card holder is that of the card holder.

(c) Other Defenses. The affirmative defense provided by division (a) of this section is in addition to the defense provided by Section 529.07(h) and ORC 4301.639.

(d) In any hearing before the Ohio Liquor Control Commission and in any criminal action in which the affirmative defense provided by division (a) of this section is raised, the registrar of motor vehicles or a deputy registrar who issued an identification card under ORC 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 hearing or action.

(ORC 4301.611)

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Transaction scan as affirmative defense where age of purchaser is element of crime, see ORC 4301.614~~

**529.15. Exemptions**

This Chapter and ORC Chapter 4303 do ~~does~~ not prevent ~~any~~ of the following:

(a) Storage. The storage of intoxicating liquor in bonded warehouses, established in accordance with the acts of Congress and under the regulation of the United States, located in this City, or the transportation of intoxicating liquor to or from bonded warehouses of the United States, wherever located.;

(b) Transportation by Owner of Warehouse. A bona fide resident of the State of Ohio who is the owner of a warehouse receipt from obtaining or transporting to the resident's residence for the resident's own consumption and not for resale, spirituous liquor

stored in a government bonded warehouse in this City, this State, or in another state prior to December 1933, subject to such terms as are prescribed by the Ohio Division of Liquor Control;

- (c) Cider. The manufacture of cider from fruit for purpose of making vinegar, and nonintoxicating cider and fruit juices for use and sale;
- (d) Physicians. A licensed physician or dentist from administering or dispensing intoxicating liquor or alcohol to a patient in good faith in the actual course of the practice of the physician's or dentist's profession;
- (e) Sale to Physicians. The sale of alcohol to physicians, dentists, druggists, veterinary surgeons, manufacturers, hospitals, infirmaries, or medical or educational institutions using the alcohol for medicinal, mechanical, chemical, or scientific purposes;
- (f) Medicinal Preparations. The sale, gift, or keeping for sale by druggists and others of any of the medicinal preparations manufactured in accordance with the formulas prescribed by the United States Pharmacopoeia and National Formulary, patent or proprietary preparations, and other bona fide medicinal and technical preparations, which contain no more alcohol than is necessary to hold the medicinal agents in solution and to preserve the same, which are manufactured and sold as medicine and not as beverages, are unfit for use for beverage purposes, and the sale of which does not require the payment of a United States liquor dealer's tax;
- (g) Tinctures. The manufacture and sale of tinctures or of toilet, medicinal, and antiseptic preparations and solutions not intended for internal human use nor to be sold as beverages, and which are unfit for beverage purposes, if upon the outside of each bottle, box, or package of which there is printed in the English language, conspicuously and legibly, the quantity by volume of alcohol in the preparation or solution;
- (h) Flavoring Extracts. The manufacture and keeping for sale of the food products known as flavoring extracts when manufactured and sold for cooking, culinary, or flavoring purposes, and which are unfit for use for beverage purposes;
- (i) Wood and Ethyl Alcohol. The lawful sale of wood alcohol or of ethyl alcohol for external use when combined with other substances as to make it unfit for internal use;
- (j) Ethanol. The manufacture, sale, and transport of ethanol or ethyl alcohol for use as fuel. As used in this division, "ethanol" has the same meaning as in ~~ORC 5733.46~~ 122.075.
- (k) For Use in Manufacturing. The purchase and importation into this City or the purchase at wholesale from A or B permit holders in this City of beer and intoxicating liquor for use in manufacturing processes of nonbeverage food products under terms prescribed by the Ohio Division of Liquor Control, provided that the terms prescribed by the Division shall not increase the cost of the beer or intoxicating liquor to any

person, firm, or corporation purchasing and importing it into this state or purchasing it from an A or B permit holder for that use;

- (l) Out-of-State Purchases. Any resident of this City or State or any member of the armed forces of the United States, who has attained the age of twenty-one (21) years, from bringing into this City, for ~~person~~ personal use and not for resale, not more than one liter (1 L.) of spirituous liquor, four and one-half liters (4.5 L.) of wine, or two hundred eighty-eight ounces (288 oz.) of beer in any thirty (30) day period- , and the same is free of any tax consent fee when the resident or member of the armed forces physically possesses and accompanies the spirituous liquor, wine, or beer on returning from a foreign country, another state, or an insular possession of the United States;
- (m) Commemorative Bottles. Persons, at least twenty-one (21) years of age, who collect ceramic commemorative bottles containing spirituous liquor that have unbroken federal tax stamps on them from selling or trading the bottles to other collectors. The bottles shall originally have been purchased at retail from the Ohio Division of Liquor Control, legally imported under division (l) of this section, or legally imported pursuant to a supplier registration issued by the Division. The sales shall be for the purpose of exchanging a ceramic commemorative bottle between private collectors and shall not be for the purpose of selling the spirituous liquor for personal consumption. The sale or exchange authorized by this division shall not occur on the premises of any permit holder, be made in connection with the business of any permit holder, and shall not be made in connection with any mercantile business.
- (n) Sales at Private Residences. The sale of beer or intoxicating liquor without a liquor permit at a private residence, not more than five (5) times per calendar year at a residence address, at an event that has the following characteristics:
- (1) The event is for a charitable, benevolent, or political ~~purpose~~ purpose, but shall not include any event the proceeds of which are for the profit or gain of any individual;
  - (2) The event has in attendance not more than fifty (50) people;
  - (3) The event shall be for a period not to exceed twelve (12) hours;
  - (4) The sale of beer and intoxicating liquor at the event shall not take place between two-thirty (2:30) a.m. and five-thirty (5:30) a.m.;
  - (5) No person under twenty-one (21) years of age shall purchase or consume beer or intoxicating liquor at the event and no beer or intoxicating liquor shall be sold to any person under twenty-one (21) years of age at the event; and
  - (6) No person at the event shall sell or furnish beer or intoxicating liquor to an intoxicated person.

(o) Colleges and Universities. The possession or consumption of beer or intoxicating liquor by a person who is under twenty-one (21) years of age and who is a student at an accredited college or university, provided that both of the following apply:

- (1) The person is required to taste and expectorate the beer or intoxicating liquor for a culinary, food service, or hospitality course; and
- (2) The person is under the direct supervision of the instructor of the culinary, food service, or hospitality course.

(ORC 4301.20)

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Exemptions from liquor control law, see ORC 4301.20~~

**CHAPTER 531. MINORS**

**531.03. Juvenile Curfew**

(a) Definitions. For the purposes of this section, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the past tense or the future tense; words used in the singular include the plural and the plural the singular.

"Allow" means to permit or neglect to refrain or prevent. "Allow" requires actual or constructive knowledge on the part of the person, that is, the person must actually know the juvenile is violating this section, or the circumstances must be such that a reasonable prudent person should have known the juvenile was violating this section.

"City" shall mean the City of Franklin.

"Juvenile" shall mean any unmarried person under the age of eighteen (18).

"Owner" shall mean any person, firm or corporation operating or having charge of a public place.

"Parent" shall mean the parent, guardian, custodian, person having custody or control, or person, over the age of eighteen (18) years, who is in loco parentis to a juvenile.

"Public Place" shall mean any street, alley, sidewalk, right-of-way, park, parking lot, playground or other place to which the public has access and a right to resort for lawful purposes. "Public place" shall also include, but not be limited to, any store, shop, restaurant, tavern, bar, bowling alley, café, theater, pool room or arcade, shopping center and any other place devoted to amusement, entertainment or retail sales to the

general public, and shall include the property upon which such uses are located, including parking lots.

- (b) Juveniles Twelve Years of Age and Under. No juvenile between the ages of twelve (12) years or younger shall be in, about or upon the streets or other public places in the City during the period of sunset to sunrise, unless accompanied by a parent.
- (c) Juveniles Thirteen to Eighteen Years of Age. No juvenile between the ages of thirteen (13) and eighteen (18) years shall, either on foot or cruising about without a set destination in any vehicle, be in, about or upon on the streets or other public places in the City between the hours of 10:00 p.m. and 6:00 a.m. Sunday through Thursday and between the hours of 12:00 midnight and 6:00 a.m. on Friday and Saturday, unless accompanied by a parent or where the presence of such juvenile is connected with or required by some legitimate employment or occupation.
- (d) Responsibility of Parents. No parent of any juvenile shall allow such juvenile to violate subsections (b) or (c) hereof.
- (e) Responsibility of Business Owners or Operators. No owner, operator, or person in charge or control of any public place shall allow the presence of any juveniles in, about or upon such place in violation of subsections (b) or (c) hereof. Whenever an owner, operator or person in charge or control of any public place finds in, about or upon such place a juvenile who is violating subsection (b) or (c) hereof, such owner, operator or person shall immediately order the juvenile to leave. If the juvenile refuses to leave such place, the owner, operator or person in charge or control shall immediately notify the City Police Division of the violation.
- (f) Affirmative Defenses. The following shall be affirmative defenses to a charge of a violation of subsections (b), (c), (d) or (e) of this section:
  - (1) The juvenile is accompanied by an adult authorized in writing by a parent of the juvenile.
  - (2) The juvenile is exercising First Amendment rights protected by the United State Constitution, such as free exercise of religion, freedom of speech and the right of assembly; provided, however, that written notice signed by the juvenile and countersigned by a parent is in the possession of the juvenile specifying when, where, and in what manner such juvenile will be exercising such First Amendment rights.
  - (3) The juvenile is on the sidewalk of the place where such juvenile resides, or on the sidewalk of either next-door neighbor, who has not communicated an objection to the police officer or the City Police Division.
  - (4) The juvenile is returning home, by a direct route from, and within thirty (30) minutes of, the termination of a school activity, or any activity of a religious or other voluntary association, or activity authorized by permit issued by the City

Manager, as outlined below; provided, however, that justification indicating the place and time of termination of such event can be given to any investigating officer of the City Police Division.

- (5) The juvenile is otherwise lawfully engaged, with written parent consent dated the same date as the juvenile is discovered, in a motor vehicle with a lawfully authorized driver.
- (6) The juvenile is a duly authorized and licensed driver and is operating a motor vehicle within the City for the purpose of passing through, by direct route, from one (1) location to another either within or out of the City, including all juveniles that may also be within the vehicle.
- (7) In the case of reasonable necessity, such as an emergency, but only after such juvenile's parent has communicated to the City Police Division the facts establishing such reasonable necessity or when such emergency is clearly apparent to the investigating officer.
- (8) The juvenile is authorized by permit issued by the City Manager and/or Council in cases involving a number of juveniles, such as trick-or-treating. Such permit should be issued sufficiently in advance to permit publicity through news media and other agencies, such as schools. The permit shall define the activity, the scope of the use of the streets or public places permitted, and the period of time involved. The City Manager shall notify the City Police Division of the issuance of any such permit.

(g) Penalties.

- (1) Any juvenile violating subsection (b) or subsection (c) hereof may be taken into custody by the City Police Division and turned over to the Juvenile Court of Warren County, Ohio, to be dealt with in accordance to Juvenile Court law and procedures.
- (2) Any person who violates subsection (d) or subsection (e) hereof is guilty of an unclassified misdemeanor, and in addition to any other penalties allowed by law, the Court shall fine the person as follows:
  - (A) ~~On a first offense, not less than twenty five dollars (\$25.00);~~
  - (B) ~~On a second offense within one (1) year, not less than fifty dollars (\$50.00);~~
  - (C) ~~On a third offense within one (1) year, not less than one hundred dollars (\$100.00);~~
  - (D) ~~On a fourth offense within one (1) year, not less than two hundred dollars (\$200.00);~~

~~(E) On a fifth offense within one (1) year, not less than four hundred dollars (\$400.00);~~

~~(F) On a sixth offense within two (2) years, not less than six hundred dollars (\$600.00);~~

~~(G) On a seventh offense within two (2) years, not less than eight hundred dollars (\$800.00);~~

~~(H) On an eighth offense or higher within two (2) years, not less than one thousand dollars (\$1,000).~~

(Ord. 2011-19. Passed 10-17-11.)

## **CHAPTER 533. OBSCENITY AND SEX OFFENSES**

### **533.03. Unlawful Sexual Conduct With A Minor**

- (a) No person, who is eighteen 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 thirteen years of age or older but less than sixteen 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 subsection (b)(2) hereof, unlawful sexual conduct with a minor is a felony to be prosecuted under appropriate state law.
  - (2) Except as otherwise provided in subsection (b)(3) hereof, 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 Ohio R.C. 2907.02, 2907.03 or 2907.04, ~~or any substantially equivalent municipal ordinance,~~ or a violation of former Ohio 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.

(ORC 2907.04)

### **533.04. 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 persons' 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 thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen years of age and four or more years older than such 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 previously has been convicted of or pleaded guilty to a violation of this section or of Ohio R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, or former 2907.12, a violation of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, or former 2907.12, or of any combination of those sections, a violation of this section is a misdemeanor of the first degree and, notwithstanding the range of jail terms prescribed in Ohio R.C. 2929.24, the court may impose on the offender a definite jail term of not more than one year.

(ORC 2907.06)

**533.05. 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 in the person's physical proximity, who is a minor, and 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 Ohio R.C. 2907.09 ~~or a substantially equivalent 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 Ohio R.C. 2907.09 ~~or a substantially equivalent 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 Ohio R.C. 2907.09 ~~or a substantially equivalent 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 Ohio R.C. 2907.09 ~~or a substantially equivalent 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

~~Ohio R.C. 2907.09 or a substantially equivalent 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 Ohio R.C. 2907.09 or a substantially equivalent 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 Ohio R.C. 2907.09 or a substantially equivalent 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 Ohio R.C. 2907.09 ~~a substantially equivalent municipal ordinance~~, a violation of division (b)(4) of this section, ~~Ohio R.C. 2907.09~~ is a felony to be prosecuted under appropriate State law.

- (d) A mother is entitled to breast-feed her baby in any location of a place of public accommodation, as defined in Ohio R.C. 4112.01, wherein the mother otherwise is permitted. "Place of public accommodation" shall have the same meaning as in Ohio R.C. 4112.01.

**Statutory reference:**

Public indecency, see Ohio R.C. 2907.09

Breast-feeding in places of public accommodation, see Ohio R.C. 3781.55

Bail considerations for persons charged, see Ohio R.C. 2907.41

**533.09. Soliciting; Loitering To Engage In**

- (a) (1) ~~No person shall solicit another who is eighteen (18) years of age or older to engage with the other person in sexual activity for hire. No person shall knowingly solicit another to engage in sexual activity for hire in exchange for the person receiving anything of value from the other person.~~
- (2) ~~No person shall solicit another to engage with such other person in sexual activity for hire if the other person is sixteen (16) or seventeen (17) years of age and the offender knows that the other person is sixteen (16) or seventeen (17) years of age or is reckless in that regard.~~
- (3) ~~No person shall solicit another to engage with such other person in sexual activity for hire if either of the following applies:~~

~~(A) The other person is less than sixteen (16) years of age, whether or not the offender knows the age of the other person.~~

~~(B) The other person is a person with a developmental disability and the offender knows or has reasonable cause to believe the other person is a person with a developmental disability.~~

(b) ~~(1) Whoever violates division (a) of this section is guilty of soliciting. A violation of division (a)(1) of this section is Soliciting is a misdemeanor of the third degree. A violation of division (a)(2) or (a)(3) of this section is a felony to be prosecuted under appropriate state law.~~

~~(2) If a person is convicted of or pleads guilty to a violation of subsection (a) of this section or an attempt to commit a violation of subsection (a) of this section and if the person, in committing or attempting to commit the violation, was in, was on, or used a motor vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impose upon the offender a class six (6) 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 ORC 4510.02(A)(6). In lieu of imposing upon the offender the class six (6) suspension, the court instead may require the offender to perform community service for a number of hours determined by the court.~~

(c) As used in division (a) of this section:

~~(1) "Person with a developmental disability." Has the same meaning as in ORC 2905.32.~~

~~(2) "Sexual activity for hire." Means an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person.~~

(ORC 2907.24(A), (C)(1), (D), ~~(E)~~)

(d) 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.

(e) As used in subsection (c) of this section:

(1) "Public place" means 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 subsection 1. of this definition.

(C) A place not described in subsection A. or B. of this definition that is open to the public.

(2) "Vehicle" has the same meaning as in ORC 4501.01.

(f) Whoever violates subsection (c) of this section is guilty of loitering to engage in solicitation, a misdemeanor of the third degree.

(ORC 2907.241)

**533.14. Massage Parlors**

(a) No establishment, regardless of whether it is a public or private facility, shall operate as a massage salon, bath parlor, or any similar type business, where any physical contact with the recipient of such services is provided by a person of the opposite sex.

(b) This section shall not apply to a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the State of Ohio, or to a licensed nurse acting under the direct prescription and direction of any such physician, surgeon, chiropractor or osteopath. Also, this section shall not apply to barbershops or beauty parlors in which massage is given to the scalp, the face, the neck or the shoulders.

(c) Any person who violates the provisions of this section shall, upon conviction thereof, be fined not more than one hundred dollars (\$100.00) and each day's operation shall constitute a separate offense.

(Ord. 1975-19. Passed 9-8-75.)

**Statutory reference:**

Municipal regulation of those engaged in the business of massaging, see Ohio R.C. 715.61

**533.15. Body Painting Studios**

- (a) No establishment, public or private, shall engage in any operation wherein there is contact with the human body, such as touch, painting and similar contacts.
- (b) This section shall not apply to bonafide and licensed physicians, beauty shops and healing clinics, also excepted are bonafide establishments engaged in permanent tattooing.
- (c) Any person who violates the provisions of this section shall, upon conviction thereof, be fined not more than one hundred dollars (\$100.00) and each day's operation shall constitute a separate offense.

(Ord. 1975-19. Passed 9-8-75.)

**Statutory reference:**

Local regulation as to tattooing, see Ohio R.C. 3730.11

**CHAPTER 537. OFFENSES AGAINST PERSONS**

**537.01. 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 Section 549.01.
- (b) Whoever violates this section is guilty of negligent homicide, a misdemeanor of the first degree.

(ORC 2903.05)

**537.02. Vehicular Homicide; Vehicular Manslaughter**

- (a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause the death of another or the unlawful termination of another's pregnancy in any of the following ways:
  - (1) (A) As the proximate result of committing a violation of Ohio R.C. 4511.19(A), a substantially equivalent municipal ordinance, or section 333.01 of this Code;
  - (B) As the proximate result of committing a violation of Ohio R.C. 1547.11(A) or of a substantially equivalent municipal ordinance;
  - (C) As the proximate result of committing a violation of Ohio R.C. 4561.15(A)(3) or of a substantially equivalent municipal ordinance.

(2) In one of the following ways:

(A) Recklessly;

(B) As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a reckless operation offense, provided that this division applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the reckless operation offense in the construction zone and does not apply as described in division (d) of this section.

(3) In one of the following ways:

(A) Negligently;

(B) As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense, provided that this division applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in division (d) of this section.

(4) As the proximate result of committing a violation of any provision of any section contained in Ohio R.C. Title 45 that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in Ohio R.C. Title 45 that is a minor misdemeanor.

(b) (1) Whoever violates division (a)(1) or (2) of this section is guilty of aggravated vehicular homicide, a felony to be prosecuted under appropriate State law.

(2) (A) Whoever violates division (a)(3) of this section is guilty of vehicular homicide. Except as otherwise provided in this division, vehicular homicide is a misdemeanor of the first degree. Vehicular homicide committed in violation of division (a)(3) of this section is a felony to be prosecuted under appropriate state law if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault

offense. The court shall impose a mandatory jail term on the offender when required by division (c) of this section.

(B) In addition to any other sanctions imposed pursuant to this division, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(4) or, if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense, a class three suspension ~~fe~~ of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(3), or, if the offender previously had been convicted of or pleaded guilty to a traffic-related murder, felonious assault, or attempted murder offense, 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 Ohio R.C. 4510.02(A)(2).

(3) (A) Whoever violates division (a)(4) of this section is guilty of vehicular manslaughter. Except as otherwise provided in this division, vehicular manslaughter is a misdemeanor of the second degree. Vehicular manslaughter is a misdemeanor of the first degree if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.

(B) In addition to any other sanctions imposed pursuant to this division, the court shall impose upon the offender a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(6) or, if the offender previously has been convicted of or pleaded guilty to a violation of this section, any traffic-related homicide, manslaughter, or assault offense, or a traffic-related murder, felonious assault, or attempted murder offense, a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(4).

(c) The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a felony violation of this section, as provided in Ohio R.C. 2903.06(E).

The court shall impose a mandatory jail term of at least 15 days on an offender who is convicted of or pleads guilty to a misdemeanor violation of division (a)(3)B. of this section and may impose upon the offender a longer jail term as authorized pursuant to Ohio R.C. 2929.24.

(d) Divisions (a)(2)B. and (a)(3)B. of this section do not apply in a particular construction zone unless signs of the type described in Ohio R.C. 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the Director of Transportation under Ohio R.C. 5501.27. The failure to erect signs of the type described in Ohio R.C. 2903.081 in a particular construction zone in accordance with those guidelines and design specifications does not limit or affect the application of division (a)(1), (a)(2)A., (a) (3)A., or (a)(4) of this section in that construction zone or the prosecution of any person who violates any of those divisions in that construction zone.

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

- (A) "Construction zone" has the same meaning as in Ohio R.C. 5501.27.
- (B) "Mandatory prison term" and "mandatory jail term" have the same meanings as in Ohio R.C. 2929.01.
- (C) "Motor vehicle" has the same meaning as in Ohio R.C. 4501.01.
- (D) "Reckless operation offense" means a violation of Ohio R.C. 4511.20 or a municipal ordinance substantially equivalent to Ohio R.C. 4511.20.
- (E) "Speeding offense" means a violation of Ohio R.C. 4511.21 or a municipal ordinance pertaining to speed.
- (F) "Traffic-related homicide, manslaughter, or assault offense" means a violation of Ohio R.C. 2903.04 in circumstances in which division (D) of that section applies, a violation of Ohio R.C. 2903.06 or 2903.08, or a violation of Ohio R.C. 2903.06, 2903.07, or 2903.08 as they existed prior to March 23, 2000.
- (G) "Traffic-related murder, felonious assault, or attempted murder offense" means a violation of Ohio R.C. 2903.01 or Ohio R.C. 2903.02 in circumstances in which the offender used a motor vehicle as the means to commit the violation, a violation of Ohio R.C. 2903.11(A)(2) in circumstances in which the deadly weapon used in the commission of the violation is a motor vehicle, or an attempt to commit aggravated murder or murder in violation of Ohio R.C. 2923.02 in circumstances in which the offender used a motor vehicle as the means to attempt to commit the aggravated murder or murder.

(2) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified

offense includes any violation of any substantially equivalent municipal ordinance, former law of this State, or current or former law of this or another state or the United States.

**Statutory reference:**

Vehicular homicide; vehicular manslaughter, see Ohio R.C. 2903.06

Aggravated vehicular assault, felony, see Ohio R.C. 2903.08

Trial court to suspend driver's license, see Ohio R.C. 4510.05, 4510.10

**537.061. Menacing By Stalking**

- (a) (1) 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 or a family or household member of the other person or cause mental distress to the other person or a family or household member of the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person's family or household member or mental distress to the other person or the other person's family or household member, the other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs.
- (2) No person, through the use of any form of written communication or any electronic method of remotely transferring information, including but not limited to any computer, computer network, computer program, ~~or~~ computer system, or telecommunication device shall post a message or use any intentionally written or verbal graphic gesture with purpose to do either of the following:
- (A) Violate division (A)(1) of this section;
- (B) Urge ~~urge~~ or incite another to commit a violation of division (a)(1) of this section.
- (3) No person, with a sexual motivation, shall violate division (a)(1) or (a)(2) of this section.
- (b) Whoever violates division (a) of this section is guilty of menacing by stalking.
- (1) Except as otherwise provided in division (a)(2) of this section, menacing by stalking is a misdemeanor of the first degree.
- (2) Menacing by stalking is a felony, to be prosecuted under appropriate State law, if any of the following applies:

- (A) The offender previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 2903.211 or a violation of Ohio R.C. 2911.211, ~~or a substantially equivalent municipal ordinance to either of these offenses.~~
- (B) In committing the offense under division (a)(1), (a)(2) or (a)(3) 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)(2) or (a)(3) of this section, a third person induced by the offender's posted message made a threat of physical harm to or against the victim.
- (C) In committing the offense under division (a)(1), (a)(2) or (a)(3) 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)(2) or (a)(3) 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.
- (D) The victim of the offense is a minor.
- (E) 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.
- (F) While committing the offense under division (a)(1) of this section or a violation of division (a)(3) of this section based on conduct in violation of division (a)(1) of this section, the offender had a deadly weapon on or about the offender's person or under the offender's control. Division (b)(2)F. of this section does not apply in determining the penalty for a violation of division (a)(2) of this section or a violation of division (a)(3) of this section based on conduct in violation of division (a)(2) of this section.
- (G) At the time of the commission of the offense, the offender was the subject of a protection order issued under Ohio R.C. 2903.213 or Ohio R.C. 2903.214, regardless of whether or not the person to be protected under the order is the victim of the offense or another person.
- (H) In committing the offense under division (a)(1), (a)(2) or (a)(3) 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)(2) of this section or an offense committed under division (a)(3) of this section based on a violation of division (a)(2) 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.
- (I) 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.

- (J) 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.
- (K) 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.
- (c) Ohio R.C. 2919.271 applies in relation to a defendant charged with a violation of this section.
- (d) As used in division (a) of this section:
- (1) "Computer," "computer network," "computer program," "computer system," and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.
  - (2) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04
  - (3) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
  - (4) "Family or household member" means any of the following:
    - (A) Any of the following who is residing or has resided with the person against whom the act prohibited in division (a)(1) of this section is committed:
      - (i) A spouse, a person living as a spouse, or a former spouse of the person;
      - (ii) A parent, a foster parent, or a child of the person, or another person related by consanguinity or affinity to the person;
      - (iii) A parent or a child of a spouse, person living as a spouse, or former spouse of the person, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the person.
    - (B) The natural parent of any child of whom the person against whom the act prohibited in division (a)(1) of this section is committed is the other natural parent or is the putative other natural parent.

~~(4)~~ (5) "Mental distress" means any of the following:

(A) Any mental illness or condition that involves some temporary substantial incapacity;

(B) 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.

~~(6)~~ (7) "Organization" includes an entity that is a governmental employer.

~~(5)~~ (7) "Pattern of conduct" means two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, or two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, directed at one or more persons employed by or belonging to the same corporation, association, or other organization. Actions or incidents that prevent, obstruct, or delay the performance by a public official, firefighter, rescuer, emergency medical services person, or emergency facility person of any authorized act within the public official's, firefighter's, rescuer's, emergency medical services person's, or emergency facility person's official capacity, or the posting of messages, use of intentionally written or verbal graphic gestures, or receipt of information or data through the use of any form of written communication or 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."

~~(8)~~ (8) "Person living as a spouse" means a person who is living or has lived with the person against whom the act prohibited in division (A)(1) of this section is committed in a common law marital relationship, who otherwise is cohabiting with that person, or who otherwise has cohabited with the person within five years prior to the date of the alleged commission of the act in question.

~~(6)~~ (9) "Post a message" means transferring, sending, posting, publishing, disseminating, or otherwise communicating, or attempting to transfer, send, post, publish, disseminate, or otherwise communicate, any message or information, whether truthful or untruthful, about an individual, and whether done under one's own name, under the name of another, or while impersonating another.

~~(7)~~ (10) "Public official" has the same meaning as in Ohio R.C. 2921.01.

~~(8)~~ (11) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.

- ~~(9)~~ (12) "Third person" means, in relation to conduct as described in division (a) (1)B. of this section, an individual who is neither the offender nor the victim of the conduct.
- (e) 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 ~~(d)(4)B.~~ (d)(5)B. of this section.
- (4) As the proximate result of committing a violation of any provision of any section contained in Ohio R.C. Title 45 that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in Ohio R.C. Title 45 that is a minor misdemeanor.
- (f) (1) ~~Division (a) of this~~ 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.
- (2) Division (f)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is or will be sent in violation of ~~division (a)~~ of this section except as otherwise provided by law.
- (3) Division (f)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of ~~divisions (a) through (f)~~ of this section or who knowingly advertises the availability of material of that nature.

**Statutory reference:**

Menacing by stalking, see Ohio R.C. 2903.211

**537.07. 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 subsection when the parent, guardian, custodian, or person having custody or control of a child treats the physical or mental illness or disability of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

- (b) No person shall do any of the following to a child under 18 years of age or a mentally or physically disabled child under 21 years of age:
- (1) Abuse the child.
  - (2) Torture or cruelly abuse the child.
  - (3) Administer corporal punishment or other physical disciplinary measure, or physically restrain the child in a cruel manner or for a prolonged period, which punishment, discipline or restraint is excessive under the circumstances and creates a substantial risk of serious physical harm to the child.
  - (4) Repeatedly administer unwarranted disciplinary measures to a child when there is a substantial risk that such conduct, if continued, will seriously impair or retard the child's mental health or development.
  - (5) Entice, coerce, permit, encourage, compel, hire, employ, use, or allow the child to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter;
  - (6) Allow the child to be on the same parcel of real property and within 100 feet of, or, in the case of more than one housing unit on the same parcel of real property, in the same housing unit and within 100 feet of, any act in violation of Ohio R.C. 2925.04 or 2925.041 when the person knows that the act is occurring, whether or not any person is prosecuted for or convicted of the violation of Ohio R.C. 2925.04 or 2925.041 that is the basis of the violation of this division.
- (c) (1) No person shall operate a vehicle, as defined by Ohio R.C. 4511.01, within the Municipality and in violation of Ohio R.C. 4511.19(A), ~~or a substantially equivalent municipal ordinance~~, when one or more children under 18 years of age are in the vehicle. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of this division and a violation of Ohio R.C. 4511.19(A), ~~or a substantially equivalent municipal ordinance~~, that constitutes the basis of the charge of the violation of this division. For purposes of Ohio R.C. 4511.191 to 4511.197 and all related provisions of law, a person arrested for a violation of this division shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

(2) As used in division (c)(1) of this section:

(A) "Controlled substance" has the same meaning as in Ohio R.C. 3719.01.

(B) "Vehicle" has the same meanings as in Ohio R.C. 4511.01.

(d) (1) Subsection (b)(5) hereof does not apply to any material or performance that is produced, presented, or disseminated for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies for research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance.

(2) Mistake of age is not a defense to a charge under subsection (b)(5) hereof.

(3) In a prosecution under subsection (b)(5) hereof, the trier of fact may infer that an actor, model, or participant in the material or performance involved is a juvenile if the material or performance, through its title, text, visual representation, or otherwise, represents or depicts the actor, model, or participant as a juvenile.

(4) As used in this subsection and subsection (b)(5) hereof:

"Material," "performance," "obscene," and "sexual activity" have the same meanings as in Ohio R.C. 2907.01.

(5) "Nudity-oriented matter" means any material or performance that shows a minor in a state of nudity and that, taken as a whole by the average person applying contemporary community standards, appeals to the prurient interest.

(6) "Sexually oriented matter" means any material or performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality.

(e) Whoever violates this section is guilty of endangering children.

(1) If the offender violates subsection (a) or (b)(1) of this section, endangering children is one of the following:

(A) Except as otherwise provided in subsection (e)(1) B., C., or D. a misdemeanor of the first degree.

(B) If the offender previously has been convicted of an offense under this section or ~~a substantially equivalent state law or municipal ordinance~~, or of any offense involving neglect, abandonment, or contributing to the delinquency of, or physical abuse of a child, except as otherwise provided in subsection (e)(1) C. or D. of this section, endangering children is a felony to be prosecuted under appropriate state law.

- (C) If the violation is a violation of subsection (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 subsection (b)(1) of this section and results in serious physical harm to the child involved, a felony of the second degree to be prosecuted under appropriate state law.
- (2) If the offender violates subsection (b)(2), (3), (4), (5) or (6) of this section, endangering children is a felony to be prosecuted under appropriate State law.
- (3) If the offender violates subsection (c) of this section, the offender shall be punished as follows:
- (A) Except as provided in subsection (e)(3)B. or C., endangering children in violation of subsection (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 subsection (e)(3)C. of this section,~~ endangering children in violation of subsection (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, Ohio R.C. 2903.06 or 2903.08, Ohio R.C. 2903.07 as it existed prior to March 23, 2000, or Ohio R.C. 2903.04, in a case in which the offender was subject to the sanctions described in subsection ~~(e)~~ (D) of that section, endangering children in violation of subsection (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 subsections (e)(3)A., B. or C. of this section or pursuant to any other provision of law, ~~the court may also impose upon the offender one or both of the following sanctions:~~ and in addition to any suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege under Ohio R.C. Chapter 4506, 4509, 4510, or 4511 or under any other provision of law, the court also may impose upon the offender a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(7).
- ~~(i) It may require the offender, as part of his or her sentence and in the manner described in Ohio R.C. 2919.22(F), to perform not more than 200~~

~~hours of supervised community service work under the authority of any agency, political subsection, or charitable organization of the type described in Ohio R.C. 2951.02(F)(1), provided that the court shall not require the offender to perform supervised community service work under this subsection unless the offender agrees to perform the supervised community service work.~~

~~(ii) It may suspend the driver's license or commercial driver's license or permit or nonresident operating privilege of the offender for up to 90 days, in addition to any suspension or revocation of the offender's driver's license or commercial driver's license or permit or nonresident operating privilege under Ohio R.C. Chapter 4506, 4507, 4509 or 4511, or any other provision of law.~~

(E) In addition to any term of imprisonment, fine, or other sentence, penalty or sanction imposed upon the offender pursuant to subsection (e)(3)A., B., C. or D. of this section or pursuant to any other provision of law for the violation of subsection (c) of this section, if as a part of the same trial or proceeding the offender also is convicted of or pleads guilty to a separate charge charging the violation of Ohio R.C. 4511.19(A) that was the basis of the charge of the violation of subsection (c) of this section, the offender also shall be sentenced, in accordance with Ohio R.C. 4511.99 ~~and also shall be subject to all other sanctions that are required or authorized by any provision of law~~ for that violation of Ohio R.C. 4511.19(A).

~~(f) (1) (A) A court may require an offender to perform not more than two hundred (200) hours of supervised community service work under the authority of an agency, subdivision, or charitable organization. The requirement shall be part of the community control sanction or sentence of the offender, and the court shall impose the community service in accordance with and subject to divisions (f)(1)(a) and (b) of this section. The court may require an offender whom it requires to perform supervised community service work as part of the offender's community control sanction or sentence to pay the court a reasonable fee to cover the costs of the offender's participation in the work, including, but not limited to, the costs of procuring a policy or policies of liability insurance to cover the period during which the offender will perform the work. If the court requires the offender to perform supervised community service work as part of the offender's community control sanction or sentence, the court shall do so in accordance with the following limitations and criteria:~~

~~(i) The court shall require that the community service work be performed after completion of the term of imprisonment or jail term imposed upon the offender for the violation of division (c) of this section, if applicable.~~

~~(ii) The supervised community service work shall be subject to the limitations set forth in Ohio R.C. 2951.02(B)(1), (2), and (3).~~

- (iii) The community service work shall be supervised in the manner described in Ohio R.C. 2951.02(B)(4) by an official or person with the qualifications described in that division. The official or person periodically shall report in writing to the court concerning the conduct of the offender in performing the work.
- (iv) The court shall inform the offender in writing that if the offender does not adequately perform, as determined by the court, all of the required community service work, the court may order that the offender be committed to a jail or workhouse for a period of time that does not exceed the term of imprisonment that the court could have imposed upon the offender for the violation of division (c) of this section, reduced by the total amount of time that the offender actually was imprisoned under the sentence or term that was imposed upon the offender for that violation and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in Ohio R.C. 2949.08 and 2967.191, and that, if the court orders that the offender be so committed, the court is authorized, but not required, to grant the offender credit upon the period of the commitment for the community service work that the offender adequately performed.
- (B) If a court, pursuant to division (f)(1)(a) of this section, orders an offender to perform community service work as part of the offender's community control sanction or sentence and if the offender does not adequately perform all of the required community service work, as determined by the court, the court may order that the offender be committed to a jail or workhouse for a period of time that does not exceed the term of imprisonment that the court could have imposed upon the offender for the violation of division (c) of this section, reduced by the total amount of time that the offender actually was imprisoned under the sentence or term that was imposed upon the offender for that violation and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in Ohio R.C. 2949.08 and 2967.191. The court may order that a person committed pursuant to this division shall receive hour-for-hour credit upon the period of the commitment for the community service work that the offender adequately performed. No commitment pursuant to this division shall exceed the period of the term of imprisonment that the sentencing court could have imposed upon the offender for the violation of division (c) of this section, reduced by the total amount of time that the offender actually was imprisoned under that sentence or term and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in Ohio R.C. 2949.08 and 2967.191.

(2) Division (f)(1) of this section does not limit or affect the authority of the court to suspend the sentence imposed upon a misdemeanor offender and place the offender under a community control sanction pursuant to Ohio R.C. 2929.25, to require a misdemeanor or felony offender to perform supervised community service work in accordance with Ohio R.C. 2951.02(B), or to place a felony offender under a community control sanction.

(g) (1) If a court suspends an offender's driver's or commercial driver's license or permit or nonresident operating privilege under division (e)(3)(D) of this section, the period of the suspension shall be consecutive to, and commence after, the period of suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege that is imposed under Ohio R.C. Chapter 4506, 4509, 4510, or 4511 or under any other provision of law in relation to the violation of division (c) of this section that is the basis of the suspension under division (e)(3)(D) of this section or in relation to the violation of Ohio R.C. 4511.19(A) that is the basis for that violation of division (c) of this section.

(2) An offender is not entitled to request, and the court shall not grant to the offender, limited driving privileges if the offender's license, permit, or privilege has been suspended under division (e)(3)(D) of this section and the offender, within the preceding six years, has been convicted of or pleaded guilty to three or more violations of one or more of the following:

(A) Division (c) of this section;

(B) Any equivalent offense, as defined in Ohio R.C. 4511.181.

(f) (h) (1) If a person violates subsection (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 subsection (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 subsection (c) of this section but the person is not also convicted of and does not also plead guilty to a separate charge of violating Ohio R.C. 4511.19(A) that was the basis of the charge of the violation of subsection (c) of this section, both of the following apply:

(i) For purposes of the provisions of Ohio R.C. 4511.99 that set forth the penalties and sanctions for a violation of Ohio R.C. 4511.19(A), the conviction of or plea of guilty to the violation of subsection (c) of this section shall not constitute a violation of Ohio R.C. 4511.19(A).

(ii) For purposes of the provisions of law that refers to a conviction of or plea of guilty to a violation of Ohio R.C. 4511.19(A) and that is not described in subsection (f)(2)A.(i) of this section, the conviction of or plea of guilty

to the violation of subsection (c) of this section shall constitute a conviction or plea of guilty to a violation of Ohio R.C. 4511.19(A).

- (B) If a person is convicted of or pleads guilty to a violation of subsection (c) of this section and the person also is convicted of or pleads guilty to a separate charge of violating Ohio R.C. 4511.19(A) that was the basis of the charge of the violation of subsection (c) of this section, the conviction of or plea of guilty to the violation of subsection (c) of this section shall not constitute, for the purposes of any provision of law that refers to a conviction of or a plea of guilty to a violation of Ohio R.C. 4511.19(A), a conviction of or a plea of guilty to a violation of Ohio R.C. 4511.19(A).

(i) Definitions. As used in this section:

(1) "Community control sanction" has the same meaning as in Ohio R.C. 2929.01;

(2) "Limited driving privileges" has the same meaning as in Ohio R.C. 4501.01;

~~(ORC 2919.22(A)–(C), (E), (H)) (ORC 2919.22)~~

**Statutory reference:**

Community service, requirements, see Ohio R.C. 2919.22(F)

License suspension, requirements, see Ohio R.C. 2919.22(G)

**537.14. Domestic Violence**

- (a) No person shall knowingly cause or attempt to cause physical harm to a family or household member.
- (b) No person shall recklessly cause serious physical harm to a family or household member.
- (c) 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.
- (d) (1) Whoever violates this section is guilty of domestic violence, and the court shall sentence the offender as provided in divisions (d)(2) to (d)(6) of this section.
- (2) Except as otherwise provided in division (d)(3) to (d)(5) of this section, a violation of division (c) is a misdemeanor of the fourth degree and a violation of division (a) or (b) is a misdemeanor of the first degree.
- (3) Except as otherwise provided in division (d)(4) 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~~ similar to domestic violence, a violation of Ohio 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~~ similar 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) or (b) is a felony to be prosecuted under appropriate state law, and a violation of division (c) is a misdemeanor of the second degree.

- (4) 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 (d)(3) 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) or (b) of this section is a felony to be prosecuted under appropriate state law, and a violation of division (c) of this section is a misdemeanor of the first degree.
  - (5) Except as otherwise provided in division (d)(3) or (d)(4) of this section, if the offender knew that the victim of the violation was pregnant at the time of the violation, a violation of division (a) or (b) of this section is a felony to be prosecuted under appropriate state law, and a violation of division (c) of this section is a misdemeanor of the third degree.
- (e) 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.
- (f) As used in this section and Ohio R.C. 2919.251 and 2919.26:
- (1) "Family or household member." ~~Any~~ means any of the following:
    - (A) Any of the following who is residing or has resided with the offender:
      - (i) A spouse, a person living as a spouse ~~as defined below~~, or a former spouse of the offender;
      - (ii) A parent, a foster parent, or a child of the offender, or another person related by consanguinity or affinity to the offender;
      - (iii) 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.

- (B) The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.
- (2) "Person living as a spouse" means 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.
- (3) "Pregnant woman's unborn" has the same meaning as "such other person's unborn," as set forth in section 2903.09 of the Revised Code, as it relates to the pregnant woman. Division (C) of that section applies regarding the use of the term in this section, except that the second and third sentences of division (C)(1) of that section shall be construed for purposes of this section as if they included a reference to this section in the listing of Revised Code sections they contain.
- (4) "Termination of the pregnant woman's pregnancy" has the same meaning as "unlawful termination of another's pregnancy," as set forth in section 2903.09 of the Revised Code, as it relates to the pregnant woman. Division (C) of that section applies regarding the use of the term in this section, except that the second and third sentences of division (C)(1) of that section shall be construed for purposes of this section as if they included a reference to this section in the listing of Revised Code sections they contain.

**Statutory reference:**

Domestic violence, see Ohio R.C. 2919.25

**537.15. Violating A Protection Order**

Violating a Protection Order, Consent Agreement, Anti-stalking Protection Order or Order Issued by a Court of Another State.

- (a) No person shall recklessly violate the terms of any of the following:
- (1) A protection order issued or consent agreement approved pursuant to Ohio R.C. 2919.26 or Ohio R.C. 3113.31;
- (2) A protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or Ohio R.C. 2903.214;
- (3) A protection order issued by a court of another state.
- (b) (1) Whoever violates this section is guilty of violating a protection order.

- (2) Except as otherwise provided in division (b)(3) or (b)(4) of this section, violating a protection order is a misdemeanor of the first degree.
- (3) Violating a protection order is a felony to be prosecuted under appropriate state law if the offender previously has been convicted of, or pleaded guilty to, or been adjudicated a delinquent child for any of the following:
- (A) a violation of a protection order issued pursuant to Ohio R.C. 2903.213 or Ohio R.C. 2903.214, or consent agreement approved pursuant to Ohio R.C. 2151.34, 2903.213, 2903.214, 2919.26, or 3113.31;
- (B) Two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.211, or any combination of those offenses, that involved the same person who is the subject of the protection order or consent agreement; or sections 537.05, 537.06 or 537.061 of this Code; ; a substantially equivalent 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.
- (C) One or more violations of this section.
- (4) 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.
- (5) If the protection order violated by the offender was an order issued pursuant to Ohio R.C. 2903.214 that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires under this division that the offender be electronically monitored, unless the court determines that the offender is indigent, the court shall order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device. If the court determines that the offender is indigent, the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device shall be paid out of funds from the reparations fund created pursuant to Ohio R.C. 2743.191.
- (c) 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 and and 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).

- (d) As used in this section, "protection order issued by a court of another state" means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a pendente lite order in a proceeding for other relief, if the court issued it in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection. ~~The term~~ "Protection order issued by a court of another state" 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.

**Statutory reference:**

Violating a protection order, see Ohio R.C. 2919.27

**537.16. Illegal Distribution Of Cigarettes, Other Tobacco Products, Or Alternative Nicotine Products; Transaction Scans**

- (a) Illegal Distribution of Cigarettes, Other Tobacco Products, or Alternative Nicotine Products.

- (1) As used in this section:

(A) "Age verification." A service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes) that compares information available from a commercially available database, or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is ~~eighteen (18)~~ twenty-one (21) years of age or older.

(B) "Alternative nicotine product."

- (i) Subject to division 2. of this definition, an electronic ~~cigarette~~ smoking device, vapor product, or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving, or inhaling.

- (ii) The phrase does not include any of the following:

- (1) Any cigarette or other tobacco product;

- (2) Any product that is a "drug" as that term is defined in 21 U.S.C. § 321(g)(1);
- (3) Any product that is a "device" as that term is defined in 21 U.S.C. § 321(h);
- (4) Any product that is a "combination product" as described in 21 U.S.C. § 353(g).

~~(C)~~ "Child." Has the same meaning as in ORC 2151.011.

~~(D)~~ (C) "Cigarette." Includes clove cigarettes and hand-rolled cigarettes.

~~(E)~~ (D) "Distribute." Means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.

~~(F)~~ (E) "Electronic cigarette."

~~(i)~~ Subject to division 2. of this definition, any electronic product or device that produces a vapor that delivers nicotine or any other substance to the person inhaling from the device to simulate smoking and that is likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarillo, or electronic pipe.

~~(ii)~~ The phrase does not include any item, product, or device described in division 2. of the definition for "alternative nicotine product" in this section.

"Electronic smoking device" means any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device including an electronic cigarette, electronic cigar, electronic hookah, vaping pen, or electronic pipe. "Electronic smoking device" includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. "Electronic smoking device" does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).

~~(G)~~ (F) "Proof of age." Means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under ORC 4507.50 to 4507.52 that shows that a person is eighteen (18) years of age or older.

~~(H)~~ (G) "Tobacco product." Means any product that is made from tobacco, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, or snuff. or derived from tobacco or that contains any form of

nicotine, if it is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. "Tobacco product" also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. "Tobacco product" does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).

(I) "Vapor product" means a product, other than a cigarette or other tobacco product as defined in Chapter 5743. of the Revised Code, that contains or is made or derived from nicotine and that is intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. "Vapor product" includes any component, part, or additive that is intended for use in an electronic smoking device, a mechanical heating element, battery, or electronic circuit and is used to deliver the product. "Vapor product" does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g). "Vapor product" includes any product containing nicotine, regardless of concentration.

~~(J)~~ (J) "Vending machine." Has the same meaning as "coin machine" in ORC 2913.01.

(2) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, and no other person shall do any of the following:

(A) Give, sell, or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any ~~child~~ person under twenty-one (21) years of age;

(B) Give away, sell, or distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a sign stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under ~~eighteen (18)~~ twenty-one (21) years of age is prohibited by law;

(C) Knowingly furnish any false information regarding the name, age, or other identification of any ~~child~~ person under twenty-one (21) years of age with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that ~~child~~ person;

- (D) Manufacture, sell, or distribute in this state any pack or other container of cigarettes containing fewer than twenty (20) cigarettes or any package of roll-your-own tobacco containing less than ~~six-tenths~~ six-tenths of one ounce of tobacco;
  - (E) Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;
  - (F) Give, sell, or otherwise distribute alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes over the internet or through another remote method without age verification.
- (3) No person shall sell or offer to sell cigarettes, other tobacco products, or alternative nicotine products by or from a vending machine, except in the following locations:
- (A) An area within a factory, business, office, or other place not open to the general public;
  - (B) An area to which ~~children~~ persons under twenty-one (21) years of age are not generally permitted access;
  - (C) Any other place not identified in division (a)(3)A. or (a)(3)B. of this section, upon all of the following conditions:
    - (i) The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes, other tobacco product, and alternative nicotine product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.
    - (ii) The vending machine is inaccessible to the public when the place is closed.
    - (iii) A clearly visible notice is posted in the area where the vending machine is located that states the following in letters that are legibly printed and at least one-half inch high:  
  
"It is illegal for any person under the age of 21 to purchase tobacco or alternative nicotine products."

- (4) The following are affirmative defenses to a charge under division (a)(2)A. of this section:
- (A) The ~~child~~ person under twenty-one (21) years of age was accompanied by a parent, spouse who is ~~eighteen (18)~~ twenty-one years of age or older, or legal guardian of the ~~child~~ person under twenty-one (21) years of age.
  - (B) The person who gave, sold, or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a ~~child~~ person under twenty-one (21) years of age under division (a)(2)A. of this section is a parent, spouse who is ~~eighteen (18)~~ twenty-one (21) years of age or older, or legal guardian of the ~~child~~ person under twenty-one (21) years of age.
- (5) It is not a violation of division (a)(2)A. or (a)(2)B. of this section for a person to give or otherwise distribute to a ~~child~~ person under twenty-one (21) years of age cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes while the ~~child~~ person under twenty-one (21) years of age is participating in a research protocol if all of the following apply:
- (A) The parent, guardian, or legal custodian of the ~~child~~ person under twenty-one (21) years of age has consented in writing to the ~~child~~ person under twenty-one (21) years of age participating in the research protocol.
  - (B) An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol.
  - (C) The ~~child~~ person under twenty-one (21) years of age is participating in the research protocol at the facility or location specified in the research protocol.
- (6) (A) Whoever violates division (a)(2)A., (a)(2)B., (a)(2)D., (a)(2)E., or (a) (2)F. or (a)(3) of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of division (a)(2)A., (a)(2)B., (a) (2)D., (a)(2)E., or (a)(2)F. or (a)(3) of this section, Ohio R.C. 2927.02(B)(1), (2), (4), (5), or (6) or (C), or a substantially equivalent State law or municipal ordinance, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
- (B) Whoever violates division (a)(2)C. of this section is guilty of permitting ~~children~~ a person under twenty-one (21) years of age to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, permitting ~~children~~ a person under twenty-one (21) years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been

convicted of a violation of division (a)(2)C. of this section or a ~~substantially equivalent State law or municipal ordinance~~ Ohio R.C. 2927.02(B)(3), permitting ~~children~~ a person under twenty-one (21) years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

- (7) Any cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a ~~child~~ person under twenty-one (21) years of age in violation of this section and that are used, possessed, purchased, or received by a ~~child~~ person under twenty-one (21) years of age in violation of ORC 2151.87 are subject to seizure and forfeiture as contraband under ORC Chapter 2981.

(ORC 2927.02)

(b) Transaction Scan.

- (1) As used in this division and division (c) of this section:

- (A) "Card holder" means any person who presents a driver's or commercial driver's license or an identification card to a seller, or an agent or employee of a seller, to purchase or receive cigarettes, other tobacco products, or alternative nicotine products from a seller, agent, or employee.
- (B) "Identification card" means an identification card issued under Ohio R.C. 4507.50 to 4507.52.
- (C) "Seller" means a seller of cigarettes, other tobacco products, or alternative nicotine products and includes any person whose gift of or other distribution of cigarettes or other tobacco products, or alternative nicotine products is subject to the prohibitions of division (a) of this section.
- (D) "Transaction scan" means the process by which a seller or an agent or employee of a seller checks, by means of a transaction scan device, the validity of a driver's or commercial driver's license or an identification card that is presented as a condition for purchasing or receiving cigarettes, other tobacco products, or alternative nicotine products.
- (E) "Transaction scan device" means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver's or commercial driver's license or an identification card.

- (2) (A) A seller or an agent or employee of a seller may perform a transaction scan by means of a transaction scan device to check the validity of a driver's or commercial driver's license or identification card presented by a card holder

as a condition for selling, giving away, or otherwise distributing to the card holder cigarettes, other tobacco products, or alternative nicotine products.

- (B) If the information deciphered by the transaction scan performed under division (b)(2)A. of this section fails to match the information printed on the driver's or commercial driver's license or identification card presented by the card holder, or if the transaction scan indicates that the information so printed is false or fraudulent, neither the seller nor any agent or employee of the seller shall sell, give away, or otherwise distribute any cigarettes, other tobacco products, or alternative nicotine products to the card holder.
  - (C) Division (b)(2)A. of this section does not preclude a seller or an agent or employee of a seller from using a transaction scan device to check the validity of a document other than a driver's or commercial driver's license or identification card, if the document includes a bar code or magnetic strip that may be scanned by the device, as a condition for selling, giving away, or otherwise distributing cigarettes, other tobacco products, or alternative nicotine products to the person presenting the document.
- (3) Rules adopted by the Registrar of Motor Vehicles under Ohio R.C. 4301.61(C) apply to the use of transaction scan devices for purposes of this division (b) and division (c) of this section.
- (4) (A) No seller or agent or employee of a seller shall electronically or mechanically record or maintain any information derived from a transaction scan, except for the following:
- (i) 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;
  - (ii) 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 ORC 2927.022 or another section of the Ohio Revised Code, or division (c) of this section ~~or another section of this code~~.

- (5) Nothing in this division (b) or division (c) of this section relieves a seller or an agent or employee of a seller of any responsibility to comply with any other applicable local, state, or federal laws or rules governing the sale, giving away, or other distribution of cigarettes, other tobacco products, or alternative nicotine products.
- (6) Whoever violates division (b)(2)B. or (b)(4) of this section is guilty of engaging in an illegal tobacco product or alternative nicotine product transaction scan, and the court may impose upon the offender a civil penalty of up to one thousand dollars (\$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.

(ORC 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, other tobacco products, or alternative nicotine products is an element of the alleged violation, if the seller, agent, or employee raises and proves as an affirmative defense that all of the following occurred:
  - (A) A card holder attempting to purchase or receive cigarettes, other tobacco products, or alternative nicotine products presented a driver's or commercial driver's license or an identification card.
  - (B) A transaction scan of the driver's or commercial driver's license or identification card that the card holder presented indicated that the license or card was valid.
  - (C) The cigarettes, other tobacco products, or alternative nicotine products were sold, given away, or otherwise distributed to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.
- (2) In determining whether a seller or an agent or employee of a seller has proven the affirmative defense provided by division (c)(1) of this section, the trier of fact in the action for the alleged violation of division (a) of this section shall consider any written policy that the seller has adopted and implemented and that is intended to prevent violations of division (a) of this section. For purposes of division (c)(1)C. of this section, the trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a seller or an agent or employee of a seller to exercise reasonable

diligence to determine, and that the use of a transaction scan device does not excuse a seller or an agent or employee of a seller from exercising reasonable diligence to determine, the following:

- (A) Whether a person to whom the seller or agent or employee of a seller sells, gives away, or otherwise distributes cigarettes, other tobacco products, or alternative nicotine products is 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 Ohio R.C. 4507.50 to 4507.52 shall be permitted to submit certified copies of the records of that issuance in lieu of the testimony of the personnel of or contractors with the Bureau of Motor Vehicles in the action.

(ORC 2927.022)

(d) Shipment of Tobacco Products.

- (1) As used in this division (d):
  - (A) "Authorized recipient of tobacco products" means a person who is:
    - (i) Licensed as a cigarette wholesale dealer under ORC 5743.15;
    - (ii) Licensed as a retail dealer as long as the person purchases cigarettes with the appropriate tax stamp affixed;
    - (iii) An export warehouse proprietor as defined in Section 5702 of the Internal Revenue Code;
    - (iv) An operator of a customs bonded warehouse under 19 U.S.C. § 1311 or 19 U.S.C. § 1555;
    - (v) An officer, employee, or agent of the federal government or of this state acting in the person's official capacity;
    - (vi) A department, agency, instrumentality, or political subdivision of the federal government or of this state;
    - (vii) A person having a consent for consumer shipment issued by the Tax Commissioner under ORC 5743.71.

- (B) "Motor carrier." Has the same meaning as in ORC 4923.01.
- (2) The purpose of this division (d) is to prevent the sale of cigarettes to minors and to ensure compliance with the Master Settlement Agreement, as defined in Ohio R.C. 1346.01.
- (3) (A) No person shall cause to be shipped any cigarettes to any person in this Municipality other than an authorized recipient of tobacco products.
- (B) No motor carrier or other person shall knowingly transport cigarettes to any person in this Municipality that the carrier or other person reasonably believes is not an authorized recipient of tobacco products. If cigarettes are transported to a home or residence, it shall be presumed that the motor carrier, or other person knew that the person to whom the cigarettes were delivered was not an authorized recipient of tobacco products.
- (4) No person engaged in the business of selling cigarettes who ships or causes to be shipped cigarettes to any person in this Municipality in any container or wrapping other than the original container or wrapping of the cigarettes shall fail to plainly and visibly mark the exterior of the container or wrapping in which the cigarettes are shipped with the words "cigarettes".
- (5) A court shall impose a fine of up to one thousand dollars (\$1,000.00) for each violation of division (d)(3)A., (d)(3)B. or (d)(4) of this section.

(ORC 2927.023)

**537.17. 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 fourteen 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 of such persons, but, at the time the actor undertakes the activity, the actor is not acting within the scope of the actor's lawful duties in that capacity.~~
- ~~(b) No person, with a sexual motivation, shall violate division (a) of this section.~~

~~(c) No person, for any unlawful purpose other than, or in addition to, that proscribed by division (a) of this section, shall engage in any activity described in division (a) of this section.~~

~~(d) It is an affirmative defense to a charge under subsection (a) hereof 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.~~

~~(e) Whoever violates division (a), (b) or (c) of this section is guilty of criminal child enticement, a misdemeanor of the first degree if the offender has not previously been convicted of a violation of this section, Ohio R.C. 2907.02, 2907.03, 2907.12, or 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 of the fifth degree.~~

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

~~(1) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.~~

~~(2) "Vehicle" has the same meaning as in Ohio R.C. 4501.01.~~

~~(3) "Vessel" has the same meaning as in Ohio R.C. 1546.01.~~

~~{ORC 2905.05}~~

### **537.18. Nonsupport Of Dependents**

(a) No person shall abandon, or fail to provide adequate support to:

(1) ~~His or her~~ The person's spouse, as required by law;

(2) ~~His or her legitimate or illegitimate~~ The person's child who is under age 18, or mentally or physically ~~disabled~~ handicapped child who is under age 21;

(3) ~~His or her~~ The person's aged or infirm parent or adoptive parent, who from lack of ability and means is unable to provide adequately for ~~his or her~~ the parent's own support.

(b) (1) No person shall abandon, or fail to provide support as established by court order to, another person whom, by court order or decree, the person:

(A) is ~~is~~ legally obligated to support; or

(B) Was legally obligated to support, and an amount for support;

(i) Was due and owing prior to the date the person's duty to pay current support terminated; and

(ii) Remains unpaid.

(2) The period of limitation under Ohio R.C. 2901.13 applicable to division (b)(1)(B) of this section shall begin to run on the date the person's duty to pay current support terminates.

- (c) No person shall aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming a dependent child, as defined in Ohio R.C. 2151.04, or a neglected child, as defined in Ohio R.C. 2151.03.
- (d) It is an affirmative defense to a charge of failure to provide adequate support under division (a) of this section or a charge of failure to provide support established by a court order under division (b) of this section that the accused was unable to provide adequate support or the established support, but did provide the support that was within ~~his or her~~ the accused's ability and means.
- (e) It is an affirmative defense to a charge under subsection (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 subsection (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 subsection, whoever violates subsection (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 subsection (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 subsection (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 subsection (a)(2) or (b) of this section is a felony to be prosecuted under appropriate state law.  
  
(2) If the offender previously has been convicted of or pleaded guilty to a felony violation of this section or ORC 2919.21 ~~a substantially equivalent state law or municipal ordinance~~, a violation of subsection (a)(2) or (b) of this section is a felony to be prosecuted under appropriate state law.  
  
(3) If the offender is guilty of nonsupport of dependents by reason of failing to provide support to ~~his or her~~ the offender's child as required by a child support order issued on or after April 15, 1985, pursuant to Ohio R.C. 2151.23, 2151.231, 2151.232, 2151.33, 3105.21, 3109.05, 3111.13, 3113.04, 3113.31, 3115.401, or former Ohio R.C. 3115.31, the court, in addition to any other sentence imposed, shall assess all court costs arising out of the charge against the person and

require the person to pay any reasonable attorney's fees of any adverse party other than the state, as determined by the court, that arose in relation to the charge.

- ~~(3)~~ (4) Whoever violates subsection (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 subsection (c) of this section is a separate offense.

(ORC 2919.21)

### **537.20. Hazing**

- (a) As used in this section, "Hazing" means doing any act, or coercing another, including the victim, to do any act, of initiation into any student or other organization, ~~which act causes or creates a substantial risk of causing mental or physical harm to any person.~~ or any act to continue or reinstate membership in or affiliation with any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person, including coercing another to consume alcohol or a drug of abuse, as defined in Ohio R.C. 3719.011.

"Organization" includes a national or international organization with which a fraternity or sorority is affiliated.

- (b) (1) No person shall recklessly participate in the hazing of another.
- (2) No administrator, employee, faculty member, teacher, consultant, alumnus, or volunteer of any organization, including any primary, secondary, or post-secondary school or any other educational institution, public or private, shall recklessly permit the hazing of any person associated with the organization.
- (c) (1) No person shall recklessly participate in the hazing of another when the hazing includes coerced consumption of alcohol or drugs of abuse resulting in serious physical harm to the other person.
- (2) No administrator, employee, or faculty member, teacher, consultant, alumnus, or volunteer of any organization, including of any primary, or secondary, or post-secondary school, or of any other educational institution, public or private, shall recklessly permit the hazing of any person associated with the organization when the hazing includes coerced consumption of alcohol or drugs of abuse resulting in serious physical harm to that person.

(ORC 2903.31)

- (d) Any person who is subjected to the hazing, as defined in subsection (a) hereof, may commence a civil action for injury or damages, including mental and physical pain and suffering, that result from the hazing. The action may be brought against any participants in the hazing, any organization whose local or national directors, trustees

or officers authorized, requested, commanded or tolerated the hazing, and any local or national director, trustee or officer of the organization who authorized, requested, commanded or tolerated the hazing. If the hazing involves students in a primary, secondary or post-secondary school, university, college, or any other educational institution, an action may also be brought against any administrator, employee or faculty member of the school, university, college, or other educational institution who knew or reasonably should have known of the hazing and who did not make reasonable attempts to prevent it and against the school, university, college or other educational institution. If an administrator, employee, or faculty member is found liable in a civil action for hazing, then notwithstanding Ohio R.C. Chapter 2743, the school, university, college, or other educational institution that employed the administrator, employee, or faculty member may also be held liable.

The negligence or consent of the plaintiff or any assumption of the risk by the plaintiff is not a defense to an action brought pursuant to this section. In an action against a school, university, college, or other educational institution, it is an affirmative defense that a school, university, college, or other institution was actively enforcing a policy against hazing at the time the cause of action arose.

(ORC 2307.44)

- (e) Whoever violates ~~any of the provisions of~~ this section is guilty of hazing, ~~a misdemeanor of the fourth degree.~~ A violation of division (b)(1) or (2) of this section is a misdemeanor of the second degree. A violation of division (c)(1) or (2) of this section is a felony to be prosecuted under appropriate state law.

(ORC 2903.31)

- (f) The penalty provided for in subsection (e) hereof shall be in addition to the civil remedy provided for in subsection (d) hereof.

(Ord. 1983-13. Passed 4-18-83.)

**537.21. Contributing To Unruliness Or Delinquency Of A Child**

(a) As used in this section:

(1) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02.

(2) "Unruly child" has the same meaning as in Ohio R.C. 2151.022.

~~(a)~~ (b) No person, including a parent, guardian, or other custodian of a child, shall do any of the following:

- (1) Aid, abet, induce, cause, encourage or contribute to a child or a ward of the juvenile court becoming an unruly child ~~as defined in Ohio R.C. 2151.022,~~ or a delinquent child ~~as defined in Ohio R.C. 2152.02.~~

- (2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child ~~as defined in Ohio R.C. 2151.022~~, or a delinquent child ~~as defined in Ohio R.C. 2152.02~~.
- (3) Act in a way that contributes to an adjudication of the child as a delinquent child based on the child's violation of a court order adjudicating the child an unruly child for being an habitual truant;
- ~~(3)~~ (4) If the person is the parent, guardian, or custodian of a child who has the duties under Ohio R.C. Chapters 2152 and 2950 to register, register a new residence address, and periodically verify a residence address, and, if applicable, to send a notice of intent to reside, and if the child is not emancipated, as defined in Ohio R.C. 2919.121, fail to ensure that the child complies with those duties under Ohio R.C. Chapters 2152 and 2950.
- ~~(b)~~ (c) Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of violation of this section is a separate offense.

(ORC 2919.24)

**537.22. Unlawful Collection Of Bodily Substances**

- (a) No person shall knowingly collect any blood, urine, tissue, or other bodily substance of another person without privilege or consent to do so.
- (b) (1) Division (a) of this section does not apply to any of the following:
  - (A) The collection of any bodily substance of a person by a law enforcement officer, or by another person pursuant to the direction or advice of a law enforcement officer, for purposes of a chemical test or tests of the substance under Ohio R.C. 1547.111 (A)(1) or Ohio R.C. 4511.191(A)(2) to determine the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the bodily substance;
  - (B) The collection of any bodily substance of a person by a peace officer, or by another person pursuant to the direction or advice of a peace officer, for purposes of a test or tests of the substance as provided in Ohio R.C. 4506.17(A) to determine the person's alcohol concentration or the presence of any controlled substance or metabolite of a controlled substance.
- (2) Division (b)(1) of this section shall not be construed as implying that the persons identified in divisions (b)(1)A. and B. of this section do not have privilege to collect the bodily substance of another person as described in those divisions or as limiting the definition of "privilege" set forth in Ohio R.C. 2901.01.

(c) Whoever violates division (a) of this section is guilty of unlawful collection of a bodily substance. Except as otherwise provided in this division, unlawful collection of a bodily substance is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (a) of this section or a ~~substantially equivalent state law or municipal ordinance~~ Ohio R.C. 2927.15, unlawful collection of a bodily substance is a felony to be prosecuted under appropriate State law.

(ORC 2927.15)

## **CHAPTER 541. PROPERTY OFFENSES**

### **541.02. Arson**

(a) Prohibitions Concerning Land: No person, by means of fire or explosion, shall knowingly do any of the following:

(1) ~~cause~~ Cause, or create a substantial risk of, physical harm to any property of another without the other person's consent; ;

(2) Cause, or create a substantial risk of, physical harm to any property of the offender or another, with purpose to defraud;

(3) Cause, or create a substantial risk of, physical harm to a courthouse, school building, or other building or structure that is owned or controlled by the City, or any department, agency, or instrumentality of the City, and that is used for public purposes;

(4) Cause, or create a substantial risk of, physical harm, through the offer or the acceptance of an agreement for hire or other consideration, to any property of another without the other person's consent or to any property of the offender or another with purpose to defraud;

(5) Cause, or create a substantial risk of, physical harm to any park, preserve, wildlands, brush-covered land, cut-over land, forest, timberland, greenlands, woods, or similar real property that is owned or controlled by another person or the City, without the consent of the other person or the City;

(6) With purpose to defraud, cause, or create a substantial risk of, physical harm to any park, preserve, wildlands, brush-covered land, cut-over land, forest, timberland, greenlands, woods, or similar real property that is owned or controlled by the offender, another person, or the City.

(b) Prohibitions Concerning Structures: No person, by means of fire or explosion, shall knowingly do any of the following:

- (1) ~~cause Cause~~, or create a substantial risk of, physical harm to any structure of another that is not an occupied structure- ;
  - (2) ~~Cause~~, or create a substantial risk of, physical harm, through the offer or the acceptance of an agreement for hire or other consideration, to any structure of another that is not an occupied structure;
  - (3) ~~Cause~~, or create a substantial risk of, physical harm to any structure that is not an occupied structure and that is in or on any park, preserve, wildlands, brush-covered land, cut-over land, forest, timberland, greenlands, woods, or similar real property that is owned or controlled by another person or the City.
- (c) (1) Affirmative Defense: It is an affirmative defense to a charge under division (b)(1) or (2) of this section that the defendant acted with the consent of the other person.
- (2) It is an affirmative defense to a charge under division (b)(3) of this section that the defendant acted with the consent of the other person or the City.
- (d) Penalties:
- (1) Whoever violates this section is guilty of arson.
  - (2) A violation of division (a) or (b) of this section is one of the following:
    - (A) Except as otherwise provided in division (d)(2)B. of this section, a misdemeanor of the first degree;
    - (B) If the value of the property or the amount of physical harm ~~involve~~ involved is one thousand dollars (\$1,000) or more, a felony to be prosecuted under appropriate state law.
  - (3) A violation of division (a)(2), (3), (4), (5), or (6), or (b)(2) or (3), of this section is a felony to be prosecuted under appropriate state law.

(Ord. 2017-22. Passed 8-7-17.)

**Statutory reference:**

Arson, see ORC 2909.03

**541.04. Criminal Mischief**

- (a) Prohibitions: No person shall:
- (1) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with either of the following:
    - (A) The property of another;

- (B) One's own residential real property with the purpose to decrease the value of or enjoyment of the residential real property, if both of the following apply:
- (i) The residential real property is subject to a mortgage.
  - (ii) The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that real property. As used in this division, "pending" including the time between judgment entry and confirmation of sale.
- (2) With purpose to interfere with the use or enjoyment of property of another, employ a tear gas device, stink bomb, smoke generator or other device releasing a substance which 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<sub>1</sub> 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<sub>1</sub> or computer program, knowingly do any of the following:
- (A) In any manner or by any means<sub>1</sub> including, but not limited to, computer hacking, alter, damage, destroy<sub>1</sub> or modify a computer, computer system, computer network, computer software<sub>1</sub> or computer program or data contained in a computer, computer system, computer network, computer software<sub>1</sub> or computer program;
  - (B) Introduce a computer contaminant into a computer, computer system, computer network, computer software<sub>1</sub> or computer program.
- (7) Without privilege to do so, knowingly destroy or improperly tamper with a critical infrastructure facility.

(b) (1) Penalties: Whoever violates this section is guilty of criminal mischief, and shall be punished as follows: provided in division (b)(2), (3), or (4) of this section.

~~(4)~~ (2) 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.~~ one of the following:

(A) If the violation creates a risk of physical harm to any person, except as otherwise provided in division (b)(2)(b) of this section, criminal mischief committed in violation of division (a)(1), (2), (3), (4), or (5) of this section is a felony to be prosecuted under appropriate state law.

(B) If the violation creates a substantial risk of physical harm to any person or if the property involved in a violation of this section is an occupied aircraft, criminal mischief committed in violation of division (a)(1), (2), (3), (4), or (5) of this section is a felony to be prosecuted under appropriate state law.

~~(2)~~ (3) Except as otherwise provided in this division, criminal mischief committed in violation of division (a)(6) of this section is misdemeanor of the first degree. Except as otherwise provided in this division, 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 one thousand dollars (\$1,000) or more and less than ten thousand dollars (\$10,000), 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, criminal mischief committed in violation of division (a)(6) of this section is a felony to be prosecuted under appropriate State law. 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 ten thousand dollars (\$10,000) or more, or if the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (a)(6) of this section is used or intended to be used in the operation of an aircraft and the violation creates a substantial risk of

physical harm to any person or the aircraft in question is an occupied aircraft, criminal mischief committed in violation of division (A)(a) of this section is a felony to be prosecuted under appropriate State law.

(4) Criminal mischief committed in violation of division (a)(7) of this section is a felony to be prosecuted under appropriate state law.

(c) Definitions: As used in this section:

(1) "Safety Device" means any fire extinguisher, fire hose, or fire axe, or any fire escape, emergency exit, or emergency escape equipment, or any life line, life-saving ring, life preserver, or life boat or raft, or any alarm, light, flare, signal, sign or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal, or gate, or any first-aid or survival equipment, or any other device, apparatus, or equipment intended for the protecting or preserving the safety of persons or property.

(2) "Critical infrastructure facility" has the same meaning as in section 2911.21 of the Revised Code.

(3) "Improperly tamper" means to change the physical location or the physical condition of the property.

(Ord. 2017-22. Passed 8-7-17.)

**Statutory reference:**

Criminal mischief, see ORC 2909.07

**541.05. Criminal Trespass**

(a) Prohibitions: 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 conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either: ;

(5) Knowingly enter or remain on a critical infrastructure facility.

(b) Defenses:

(1) 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.

(2) 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 such authorization was secured by deception.

(c) Penalties:

(1) Whoever violates this section is guilty of criminal trespass. Criminal trespass in violation of division (a)(1), (2), (3), or (4) of this section is a misdemeanor of the fourth degree. Criminal trespass in violation of division (a)(5) of this section is a misdemeanor of the first degree.

(2) Notwithstanding ORC 2929.28, if the person, in committing the violation of this section, used a snowmobile, off-highway motorcycle or all-purpose vehicle, the court shall impose a fine of two times (2x) the usual amount imposed for the violation.

(3) If an offender previously has been convicted of or pled guilty to two (2) or more violations of this section, ORC 2911.21 or a substantially equivalent municipal ordinance, and the offender, in committing each violation, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration of that snowmobile or ~~off-highway~~ off-highway motorcycle or the certificate of registration and license plate of that all-purpose vehicle for not less than sixty (60) days. In such a case, ORC 4519.47 applies.

(d) Notwithstanding any provision, if the offender, in committing the violation of this section, used an all-purpose vehicle, the clerk of the court shall pay the fine imposed pursuant to this section to the state recreational vehicle fund created by ORC 4519.11.

~~(d)~~ (e) Definitions: As used in this section:

(1) "All-Purpose Vehicle," "Off-Highway Motorcycle" and "Snowmobile" have the same meanings as ORC 4519.01.

- (2) "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.
- (3) "Production operation," "well," and "well pad" have the same meanings as in ORC 1509.01.
- (4) "Critical infrastructure facility" means:
- (A) One of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with signs that are reasonably likely to come to the attention of potential intruders and that indicate entry is forbidden without site authorization:
- (i) A petroleum or alumina refinery;
- (ii) An electric generating facility, substation, switching station, electrical control center, or electric transmission and distribution lines and associated equipment;
- (iii) A chemical, polymer, or rubber manufacturing facility;
- (iv) A water intake structure, water treatment facility, waste water facility, drainage facility, water management facility, or any similar water or sewage treatment system and its water and sewage piping;
- (v) A natural gas company facility or interstate natural gas pipeline, including a pipeline interconnection, a natural gas compressor station and associated facilities, city gate or town border station, metering station, above-ground piping, regulator station, valve site, delivery station, fabricated assembly, or any other part of a natural gas storage facility involved in the gathering, storage, transmission, or distribution of gas;
- (vi) A telecommunications central switching office or remote switching facility or an equivalent network facility that serves a similar purpose;
- (vii) Wireline or wireless telecommunications infrastructure, including telecommunications towers and telephone poles and lines, including fiber optic lines;
- (viii) A port, trucking terminal, or other freight transportation facility;
- (ix) A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;
- (x) A transmission facility used by a federally licensed radio or television station;

- (xi) A steel-making facility that uses an electric arc furnace to make steel;
- (xii) A facility identified and regulated by the United States department of homeland security's chemical facility anti-terrorism standards program under 6 C.F.R. part 27;
- (xiii) A dam that is regulated by the state or federal government;
- (xiv) A crude oil or refined products storage and distribution facility, including valve sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline, or piping and truck loading or off-loading facility;
- (xv) A video service network and broadband infrastructure, including associated buildings and facilities, video service headends, towers, utility poles, and utility lines such as fiber optic lines. As used in this division, "video service network" has the same meaning as in ORC 1332.21.
- (xvi) Any above-ground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, or other storage facility;
- (xvii) Any above-ground portion of a well, well pad, or production operation;
- (xviii) A laydown area or construction site for pipe and other equipment intended for use on an interstate or intrastate natural gas or crude oil pipeline;
- (xix) Any mining operation, including any processing equipment, batching operation, or support facility for that mining operation.
- (B) With respect to a video service network or broadband or wireless telecommunications infrastructure, the above-ground portion of a facility installed in a public right-of-way on a utility pole or in a conduit;
- (C) Any railroad property;
- (D) An electronic asset of any of the following:

  - (i) An electric light company that is a public utility under section 4905.02;
  - (ii) An electric cooperative, as defined in ORC 4928.01;
  - (iii) A municipal electric utility, as defined in ORC 4928.01;
  - (iv) A natural gas company that is a public utility under ORC 4905.02;

(v) A telephone company that is a public utility under ORC 4905.02;

(vi) A video service provider, including a cable operator, as those terms are defined in ORC 1332.21.

(f) "Electronic asset" includes, but is not limited to, the hardware, software, and data of a programmable electronic device; all communications, operations, and customer data networks; and the contents of those data networks.

(Ord. 2017-22. Passed 8-7-17.)

**Statutory reference:**

Criminal trespass, see ORC 2911.21

**541.06. Aggravated Trespass**

(a) Prohibitions:

(1) 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~~ that person.

(2) No person shall enter or remain on a critical infrastructure facility with purpose to destroy or tamper with the facility.

(b) Penalties: Whoever violates this section is guilty of aggravated trespass, ~~a misdemeanor of the first degree.~~ Aggravated trespass in violation of division (a)(1) of this section is a misdemeanor of the first degree. Aggravated trespass in violation of division (a)(2) of this section is a felony to be prosecuted under appropriate state law.

(c) Definitions: As used in this section, "critical infrastructure facility" has the same meaning as in ORC 2911.21.

(Ord. 2017-22. Passed 8-7-17.)

**Statutory reference:**

Aggravated trespass, see ORC 2911.211

**541.11. Vehicular Vandalism; Railroad Vandalism**

(a) Vehicular Vandalism:

(1) 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.

(2) Whoever violates division (a)(1) this section is guilty of vehicular vandalism. Except as otherwise provided in this division (a)(2), vehicular vandalism is a misdemeanor of the first degree. If the violation of division (a)(1) of this section creates a substantial risk of physical harm or causes physical harm or serious physical harm to any person or if the violation of division (a)(1) of this section causes serious physical harm to property, vehicular vandalism is a felony to be prosecuted under appropriate State law.

(3) As used in this division:

(A) "Alley," "Street," and "vehicle" have the same meanings as in ORC 4511.01.

(B) "Highway" means any highway as defined in ORC 4511.01 or any lane, road, street, alley, bridge or overpass.

(C) "Vessel" and "Waters of this State" have the same meanings as in ORC 1546.01.

(b) Railroad Vandalism:

(1) No person shall knowingly, and by any means, drop or throw any object at, onto or in the path of any railroad rail, railroad track, locomotive, engine, railroad car<sub>1</sub> or other vehicle of a railroad company which such vehicle is on a railroad track.

(2) No person, without privilege to do so, shall climb upon or into any locomotive, engine, railroad car<sub>1</sub> or other vehicle of a railroad company when it is on a railroad track.

(3) No person, without privilege to do so, shall disrupt, delay<sub>1</sub> or prevent the operation of any train or other vehicle of a railroad company while such vehicle is on a railroad track.

~~(4) No person, without privilege to do so, shall knowingly enter or remain on the land or premises of a railroad company.~~

~~(5)~~ (4) Whoever violates division (b)(1) of this section is guilty of railroad vandalism. Whoever violates division (b)(2) of this section is guilty of criminal trespass on a locomotive, engine railroad car or other railroad vehicle. Whoever violates division (b)(3) of this section is guilty of interference with the operation of a train.

~~(6)~~ (5) Except as otherwise provided in this division ~~(b)(6)~~ railroad vandalism; criminal trespass on a locomotive, engine, railroad car<sub>1</sub> or other railroad vehicle; and interference with the operation of a train each is a misdemeanor of the first degree. Except as otherwise provided in this division ~~(b)(6)~~, if the violation of division

(b)(1), (b)(2), or (b)(3) of this section causes ~~serious~~ physical harm to property or creates a substantial risk of physical harm to any person, the violation is a felony to be prosecuted under appropriate State law.

Except as otherwise provided in this division, if the violation of division (b)(1), (b)(2), or (b)(3) of this section causes physical harm to any person, the violation is a felony to be prosecuted under appropriate State law.

~~(7) Whoever violates division (b)(4) of this section is guilty of criminal trespass on the land or premises of a railroad company, a misdemeanor of the fourth degree.~~

(c) Railroad Grade Crossing Device Vandalism.

(1) No person shall knowingly deface, damage, obstruct, remove or otherwise impair the operation of any railroad grade crossing warning signal or other protective device, including any gate, bell, light, crossbuck, stop sign, yield sign, advance warning sign or other advance pavement marking.

(2) Whoever violates division (c)(1) this section is guilty of railroad grade crossing device vandalism. Except as otherwise provided in this division, railroad grade crossing device vandalism is a misdemeanor of the first degree. Except as otherwise provided in this division (c)(2), if the violation of this section causes serious physical harm to property or creates substantial risk of physical harm to any person, the violation is a felony to be prosecuted under appropriate State law.

(Ord. 2017-22. Passed 8-7-17.)

**Statutory reference:**

Vehicular vandalism, see ORC 2909.09

Railroad vandalism, see ORC 2909.10

Railroad grade crossing device vandalism, ORC 2909.101

**541.111. Endangering Aircraft**

(a) Prohibitions: 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.

(b) 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 the United States, or a law enforcement officer, authorized to discharge firearms and acting within the scope of the officer's, agent's, or employee's 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.

~~(b)~~ (c) Penalties:

(1) Whoever violates division (a) of this section is guilty of endangering aircraft, a misdemeanor of the first degree. If the violation creates a 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 state law.

(2) Whoever violates division (b) 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, endangering airport operations is a felony to be prosecuted under appropriate state law. If the violation creates a substantial risk of physical 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 (b) of this section while hunting shall be suspended or revoked pursuant to ORC 1533.68.

(3) Any bow and arrow, air gun, spring-operated gun, or firearm that has been used in a felony violation of this section shall be seized or forfeited, and shall be disposed of pursuant to ORC Chapter 2981.

~~(e)~~ (d) Definitions:

"Air Gun" means a hand pistol or rifle that propels its projectile by means of releasing compressed air, carbon dioxide, or other gas.

"Airport operational surface" means 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.

"Firearm" has the same meaning as in ORC Section 2923.11.

"Spring-Operated Gun" means a hand pistol or rifle that propels a projectile not less than four or more than five millimeters (4 mm - 5 mm) in diameter by means of a spring.

(Ord. 2017-22. Passed 8-7-17.)

**Statutory reference:**

Endangering aircraft or airport operations, see ORC 2909.08

**541.16. Diminishing Or Interfering With Forfeitable Property**

- (a) Prohibitions: 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 City's lawful authority to take the property into its custody or control under ORC 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 proceeding under ORC Chapter 2981.
- (b) Penalties: Whoever violates this section is guilty of interference with or diminishing forfeitable property. Except as otherwise provided in this division, interference with or diminishing forfeitable property is a misdemeanor of the first degree. If the value of the property is ~~five hundred dollars (\$500)~~ one thousand dollars (\$1,000) or more, interference with or diminishing forfeitable property is a felony to be prosecuted under appropriate state law.

(Ord. 2017-22. Passed 8-7-17.)

**Statutory reference:**

Interference with or diminishing forfeitable property, see ORC 2981.07

**CHAPTER 545. THEFT AND FRAUD**

**545.02. Theft**

- (a) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:
- (1) Without the consent of the owner or person authorized to give consent;
  - (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
  - (3) By deception;
  - (4) By threat;

- (5) By intimidation.
- (b) (1) 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.
- (2) If any of the following criteria are met, then a violation of this section is a felony to be prosecuted under appropriate state law:
- (A) If the value of the property or services is ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000.00) or more;
- (B) If the property stolen is any of the property listed in Ohio R.C. 2913.71;
- (C) If the victim of the offense is an elderly person or disabled adult;
- (D) If the victim of the offense is an active duty service member, or spouse of an active duty service member;
- ~~(D)~~ (E) If the property stolen is a firearm or dangerous ordnance;
- ~~(E)~~ (F) If the property stolen is a motor vehicle;
- ~~(F)~~ (G) If the property stolen is any dangerous drug, or if the offender previously has been convicted of a felony drug abuse offense; ~~or~~
- ~~(G)~~ (H) 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
- ~~(H)~~ (I) If the property stolen is anhydrous ammonia.
- (c) In addition to the penalties described in division (b)(1) and (b)(2)A. of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:
- (1) Unless division (c)(2) of this section applies, suspend for not more than six months the offenders driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;
- (2) If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to division (c)(I) of this section, ~~Ohio R.C. 2913.02(B)(9)(a)~~ Ohio R.C. 2913.02(B)(10)(a), ~~or a substantially equivalent~~

~~municipal ordinance~~, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in Ohio R.C. 4510.02(A)(7), provided that the suspension shall be at least six months.

- (d) In addition to the penalties described in division (b)(1) and (b)(2)A. of this section, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to section 501.99 of this Code, or Ohio R.C. 2929.18 or 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit the theft of rented property or rental services shall be determined pursuant to the provisions of section 545.19 of this Chapter or Ohio R.C. 2913.72.
- (e) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under division (c) of this section may grant the offender limited driving privileges during the period of the suspension in accordance with Ohio R.C. Chapter 4510.

**Statutory reference:**

Theft, see Ohio R.C. 2913.02

Felony theft provisions, see Ohio R.C. 2913.02(B)

**545.03. Unauthorized Use Of A Vehicle**

- (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 ~~knowing~~ knowingly use or operate an aircraft, motor vehicle, ~~motor boat~~ 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 forty-eight (48) hours.
- ~~(c) No person shall knowingly enter into or upon an aircraft, motor vehicle, motorcycle, motor boat or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.~~
- ~~(d)~~ (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 the actor 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.

~~(e)~~ (d) Whoever violates this section is guilty of unauthorized use of a vehicle.

- (1) A violation of division (a) of this section is a misdemeanor of the first degree, except that 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, the violation is a felony offense to be prosecuted under appropriate State law.
- (2) A violation of division (b) of this section is a felony offense to be prosecuted under appropriate State law.
- (3) A violation of division (c) of this section is a misdemeanor of the first degree.

**Statutory reference:**

Unauthorized use of a vehicle, see Ohio R.C. 2913.03

**545.04. Unauthorized Use Of Property**

- (a) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent.
- (b) No person, in any manner and by any means, including but not limited to computer hacking, shall knowingly gain access to, attempt to gain access to, or cause access to be gained to any computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service without the consent of, or beyond the scope of the express or implied consent of, the owner of the computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service or other person authorized to give consent.
- (c) Except as permitted under Ohio R.C. 5503.101, no person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the law enforcement automated database system created pursuant to Ohio R.C. 5503.10 without the consent of, or beyond the scope of the express or implied consent of, the chair of the law enforcement automated data system steering committee.
- ~~(e)~~ (d) No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the law enforcement ~~automated database system created~~ gateway established and operated pursuant to Ohio R.C. ~~5503.10~~ 109.57(C)(1) 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~~ the superintendent of the Bureau of Criminal Identification and Investigation.

No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the Ohio law

enforcement gateway established and operated pursuant to Ohio R.C. 109.57(C)(1) without the consent of, or beyond the scope of the express or implied consent of, the superintendent of the Bureau of Criminal Identification and Investigation.

~~(d)~~ (e) The affirmative defenses contained in section 545.03(d) of this Chapter are affirmative defenses to a charge under this section.

~~(e)~~ (f) Whoever violates division (a) of this section is guilty of unauthorized use of property. Except as otherwise provided in subdivision ~~(e)(1) or (e)(2)~~ (f)(1) or (f)(2), unauthorized use of property is a misdemeanor of the fourth degree.

(1) Except as otherwise provided in subdivision ~~(e)(2)~~ (f)(2), 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 ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000.00) or more, a violation of division (a) of this section 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)~~ (g) Whoever violates division (b) of this section is guilty of unauthorized use of computer, cable, or telecommunication property, a felony to be prosecuted under appropriate State law.

~~(g)~~ (h) Whoever violates division (c) of this section is guilty of unauthorized use of the law enforcement automated database system, a felony to be prosecuted under appropriate State law.

~~(h)~~ (i) As used in this section:

(1) "Cable operator" means any person or group of persons that does either of the following:

(A) Provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in that cable system;

(B) Otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.

(2) "Cable service" means any of the following:

- (A) The one-way transmission to subscribers of video programming or of information that a cable operator makes available to all subscribers generally;
  - (B) Subscriber interaction, if any, that is required for the selection or use of video programming or of information that a cable operator makes available to all subscribers generally, both as described in this definition;
  - (C) Any cable television service.
- (3) "Cable system" means any facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community. "Cable system" does not include any of the following:
- (A) Any facility that serves only to retransmit the television signals of one or more television broadcast stations;
  - (B) Any facility that serves subscribers without using any public right-of-way;
  - (C) Any facility of a common carrier that, under ~~47 U.S.C. 522(7)(e)~~ 47 U.S.C. 522(7)(c), is excluded from the term "cable system" as defined in 47 U.S.C. 522(7);
  - (D) Any open video system that complies with 47 U.S.C. 573;
  - (E) Any facility of any electric utility used solely for operating its electric utility system.

**Statutory reference:**

Unauthorized use of property, see Ohio R.C. 2913.04

Telecommunications: fraud and unlawful use of a device, felony offenses, see Ohio R.C. 2913.05 and 2913.06

**545.05. Passing Bad Checks**

(a) As used in this section:

- (1) "Check" includes any form of debit from a demand deposit account, including but not limited to any of the following:
  - (A) A check, bill of exchange, draft, order of withdrawal, or similar negotiable or non-negotiable instrument;

(B) An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check, or any form of automated clearing house transaction.

(2) "Issue a check" means causing any form of debit from a demand deposit account.

(b) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored or knowing that a person has ordered or will order stop payment on the check or other negotiable instrument.

(c) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored if either of the following occurs:

(1) The drawer has no account with the drawee at the time of issue or the stated date, whichever is later.

(2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within thirty (30) days after issue or the stated date, whichever is later, and the liability of the drawer, indorser, or any party who may be liable thereon is not discharged by payment or satisfaction within ten (10) days after receiving notice of dishonor.

~~(d) For purposes of this section, a person who issues or transfers a check, bill of exchange, or other draft is presumed to have the purpose to defraud if the drawer fails to comply with Ohio R.C. 1349.16 by doing any of the following when opening a checking account intended for personal, family, or household purposes at a financial institution:~~

~~(1) Falsely stating that he or she has not been issued a valid driver's or commercial driver's license or identification card issued under Ohio R.C. 4507.50;~~

~~(2) Furnishing the license or card, or another identification document that contains false information;~~

~~(3) Making a false statement with respect to the drawer's current address or any additional relevant information reasonably required by the financial institution.~~

~~(e)~~ (d) In determining the value of the payment for purposes of division ~~(f)~~ (e) 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 one hundred eighty (180) consecutive days.

~~(f)~~ (e) 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 one thousand dollars (\$1,000) 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 one thousand five hundred dollars (\$1,500) or more, passing bad checks is a felony to be prosecuted under appropriate State law.

(ORC 2913.11)

**545.06. 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;
  - (3) As an officer, employee, or appointee of the City or as a public servant as defined under Ohio R.C. 2921.01, knowingly misuse a credit card account held by the City.
- (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 such 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 such 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 such 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 subsection (d)(3) hereof, a violation of subsection (a), (b)(1), or (c) hereof is a misdemeanor of the first degree.
  - (2) Except as otherwise provided in this subsection or subsection (d)(3) hereof, a violation of subsection (b)(2), (3), or (4) hereof is a misdemeanor of the first

degree. If the cumulative retail value of the property and services involved in one or more violations of subsection (b)(2), (3), or (4) hereof, which violations involve one or more credit card accounts and occur within a period of ninety (90) consecutive days commencing on the date of the first violation, is one thousand dollars (\$1,000) 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 subsection (b)(1) or (b)(2) hereof, misuse of credit cards is a felony to be prosecuted under appropriate state law.

(ORC 2913.21)

**545.10. Tampering With Records**

- (a) No person, knowing ~~that he or she~~ the person has no privilege to do so, and with purpose to defraud or knowing that ~~he or she~~ the person 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 subsection (a)(1) hereof.

- (b) Whoever violates this section is guilty of tampering with records.

- (1) Except as provided in subsection (b)(3) hereof, if the offense does not involve data or computer software, tampering with records is whichever of the following is applicable:

- (A) If subsection (b)(1)B. hereof does not apply, a misdemeanor of the first degree.

- (B) If the writing or record is a will unrevoked at the time of the offense, a violation of this section is a felony to be prosecuted under appropriate State law.

- (2) Except as provided in subsection (b)(3) hereof, if the offense involves a violation of subsection (a) hereof involving data or computer software, tampering with records is whichever of the following is applicable:

- (A) Except as otherwise provided in subsection (b)(2)B. hereof, 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 ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000.00) or a violation of this section 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, a violation of this section is a felony to be prosecuted under appropriate State law.

**Statutory reference:**

Tampering with records, see Ohio R.C. 2913.42

**545.11. 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 ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000.00) or more, or if the victim of the offense is an elderly person, or disabled adult, active duty service member, or spouse of an active duty service member, a violation of this section is a felony to be prosecuted under appropriate to State law.

**Statutory reference:**

Securing writings by deception, see Ohio R.C. 2913.43

**545.13. Defrauding Creditors**

- (a) No person, with purpose to defraud one or more of the person's creditors, shall do any of the following:
- (1) Remove, conceal, destroy, encumber, convey or otherwise deal with any of the person's property;
- (2) Misrepresent or refuse to disclose to a fiduciary appointed to administer or manage the person's affairs or estate, the existence, amount or location of any of the person's property, or any other information regarding such property that the person is legally required to furnish to the fiduciary.
- (b) Whoever violates this section is guilty of defrauding creditors, a misdemeanor of the first degree if the value of the property involved is less than one thousand dollars (\$1,000.00). If the value of the property involved is one thousand dollars (\$1,000.00) or more, it is a felony to be prosecuted under appropriate state law.

**Statutory reference:**

Defrauding creditors, see Ohio R.C. 2913.45

**545.15. Solicitation Of Contributions; Prohibitions**

- (a) The following acts and practices are hereby prohibited and declared unlawful as applied to the planning, conducting, or executing of any solicitation of contributions for a charitable organization or charitable purpose or to the planning, conducting, or executing of a charitable sales promotion:
- (1) Committing any deceptive act or practice;
  - (2) Misleading any person as to any material fact concerning the solicitation of contributions for a charitable organization or charitable purpose or concerning a charitable sales promotion;
  - (3) Using any representation that implies that the contribution is for or on behalf of a charitable organization, or using any emblem, device, or printed matter belonging to or associated with a charitable organization, without having first been authorized in writing to do so by the charitable organization;
  - (4) Using a name, symbol, or statement that is so closely related or similar to that used by another charitable organization, public official, or public agency in such a manner that the use of the name, symbol, or statement tends to confuse or mislead a person being solicited for contributions, except that the name, symbol, or statement may be used if written permission is obtained from the other charitable organization, public official, or public agency and filed with the Ohio Attorney General prior to any solicitation for a charitable purpose or prior to engaging in any charitable sales promotion;
  - (5) Misleading any person in any manner in the belief, or making or using any representation to any person that implies, that the organization on whose behalf a solicitation or charitable sales promotion is being conducted is a charitable organization or that the proceeds of the solicitation or charitable sales promotion will be used for charitable purpose if either of those is not the fact;
  - (6) Misleading any person in any manner in the belief, or making or using any representation to any person that implies, that any other person sponsors, endorses, or approves of the solicitation or charitable sales promotion when that other person has not given its consent in writing to that representation or to the use of its name for any of those purposes;
  - (7) Using or exploiting the fact of registration in such a manner as to lead any person to believe that the registration in any manner constitutes and endorsement or approval by the State of Ohio;
  - (8) Representing directly or by implication that a charitable organization will receive a fixed or estimated percentage of the gross revenue for a solicitation campaign that is greater than that set forth in the contract filed with the Ohio Attorney General pursuant to Ohio R.C. 1716.08, or that a charitable organization will receive an actual or estimated dollar amount or percentage per unit of goods or

services purchased or used in a charitable sales promotion that is greater than that agreed to by the commercial co-venturer and the charitable organization;

- (9) Filing false or misleading information in any document required to be filed with the Ohio Attorney General under Ohio R.C. Chapter 1716;
  - (10) Filing false or misleading information in response to a request from the Ohio Attorney General under Ohio R.C. 1716.15;
  - (11) Failing to provide complete and timely payment to a charitable organization of the proceeds from a solicitation campaign or charitable sales promotion;
  - (12) Operating in violation of, or failing to comply with, any of the requirements of Ohio R.C. Chapter 1716 or any rule adopted thereunder.
- (b) ~~Whoever violates any provisions of this section, other than subdivision (a)(1), is guilty of a misdemeanor of the first degree. Each occurrence of a solicitation of a contribution from any person in violation this section, other than subdivision (a) (1), is considered a separate offense. The act of soliciting contributions for any charitable organization or charitable purpose or engaging in a charitable sales promotion without complying with the requirements of Ohio R.C. Chapter 1716 or any rule adopted pursuant thereto, is a nuisance.~~
- (c) Whoever violates subdivision (a)(1) of this section is guilty of solicitation fraud. Except as otherwise provided in division (d) hereof, solicitation fraud is one of the following:
- (1) A misdemeanor of the first degree.
  - (2) If the offender previously has been convicted of or pleaded guilty to a theft offense or a violation of (a)(1) of this section, or Ohio R.C. 1716.14(A)(1) ~~or a substantially equivalent municipal ordinance~~, a felony to be prosecuted under appropriate State law.
  - (3) If the value of the contribution or contributions made in violation is ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000.00) or more, a felony to be prosecuted under appropriate State law.
  - (4) When an offender commits a series of offenses in violation of division (a)(1) of this section as part of a common scheme or plan to defraud multiple victims, all of the offenses may be tried as a single offense. If the offenses are tried as a single offense, the value of the contributions for purposes of determining the value as required by this division is the aggregate value of all contributions involved in all offenses in the common scheme or plan to defraud multiple victims. In prosecuting a single offense under this division, 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 offenses as part

of a common scheme or plan to defraud multiple victims as described in this division.

- (d) If the victim of the offense is an elderly person or disabled adult, a violation of division (a)(1) of this section is a felony to be prosecuted under appropriate State law, and section 545.17 and Ohio R.C. 2913.61 ~~applies~~ apply to the solicitation fraud.

**Statutory reference:**

Solicitation of contributions; prohibitions, see Ohio R.C. 1716.14

Penalties, see Ohio R.C. 1716.99

**545.16. 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 division (d) hereof, solicitation fraud is one of the following:
- (1) A misdemeanor of the first degree.
  - (2) If the value of the property involved is ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000.00) or more, a felony to be prosecuted under appropriate State law.
  - (3) If the property involved is any of the property listed in section 545.18 or Ohio R.C. 2913.71, a felony to be prosecuted under appropriate State law.
  - (4) If the property involved is a motor vehicle, as defined in Ohio R.C. 4501.01; a dangerous drug, as defined in Ohio R.C. 4729.01; or if the property involved is a firearm or dangerous ordnance, as defined in Ohio R.C. 2923.11, a felony to be prosecuted under appropriate State law.

**Statutory reference:**

Receiving stolen property, see Ohio R.C. 2913.51

**545.17. Value Of Stolen Property**

- (a) When a person is charged with a theft offense, or with a violation of section 545.15(a)(1) involving a victim who is an elderly person or disabled adult that involves property valued at ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000.00) or

more, the value of the stolen property shall be determined in accordance with Ohio R.C. 2913.61(A).

- (b) If more than one item of property or services is involved in a theft offense or in a violation of section 545.15(a)(1) involving a victim who is an elderly person or disabled adult, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property or services involved in the offense.
- (c) (1) When a series of offenses under section 545.02, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of section 545.15(a)(1), section 545.02, section 545.03, section 545.04, section 545.06(b)(1) or (b)(2), section 545.11 or Ohio R.C. 2913.31, involving a victim who is an elderly person or disabled adult, is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses shall be tried as a single offense. When a series of offenses under section section 545.02, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of section 545.02 involving a victim who is an active duty service member or spouse of an active duty service member is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses shall be tried as a single offense. The value of the property or services involved in the series of offenses for the purpose of determining the value 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 section 545.02 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 section 545.15(a)(1), section 545.02, section 545.03, section 545.04, section 545.06(b)(1) or (b)(2), section 545.11 or Ohio R.C. 2913.31, whether committed against one victim or more than one victim, involving a victim who is an elderly person or disabled adult, 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 is the aggregate value of all property and services involved in all of the offenses in the course of conduct.
- (3) In prosecuting a single offense under subsection (c)(1) or (c)(2) hereof, 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 in the offender's same employment, capacity, or relationship to another as described in subsection (c)(1) hereof, 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 subsection (c)(2) hereof.

- (d) 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 subsection (d)(1) hereof, and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing such property with new property of like kind and quality.
  - (3) The value of any real or personal property that is not covered under subsection (d)(1) or (d)(2) hereof, and the value of services, is the fair market value of the property or services. As used in this section, "fair market value" is the money consideration which a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.
  
- (e) Without limitation on the evidence that may be used to establish the value of property 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 market 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 such 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 that 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.

**Statutory reference:**

Value of stolen property, see Ohio R.C. 2913.61

**545.18. 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 section 545.02 or 545.16 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 Ohio R.C. 4503.22, a temporary ~~license placard or windshield sticker~~ motor vehicle license registration as prescribed by Ohio R.C. 4503.182, or any comparable temporary motor vehicle license plate, placard or sticker registration as prescribed by the applicable law of another state of 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 Ohio R.C. 4505.07;
- (e) A blank form for any license listed in Ohio R.C. 4507.01(A).

**Statutory reference:**

Degree of offense when certain property involved, see Ohio R.C. 2913.71

**545.22. Admissibility Of Evidence Of Lack Of Capacity To Consent**

- (a) In a prosecution for any alleged violation of a provision of this chapter, if the lack of consent of the victim is an element of the provision that allegedly was violated, evidence that, at the time of the alleged violation, the victim lacked the capacity to give consent is admissible to show that the victim did not give consent.
- (b) As used in this section, "lacks the capacity to consent" means being impaired for any reason to the extent that the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person or the person's resources.

**Statutory reference:**

Admissibility of evidence of lack of capacity to consent, see Ohio R.C. 2913.73

**CHAPTER 549. WEAPONS AND EXPLOSIVES**

**549.01. Definitions**

As used in this chapter:

"Automatic Firearm." Any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. ~~"Automatic firearm also means any semi-automatic firearm designed or specially adapted to fire more than thirty one (31) cartridges without reloading, other than a firearm chambering only .22 caliber short, long, or long-rifle cartridges."~~

"Ballistic Knife." A knife with a detachable blade that is propelled by a spring-operated mechanism.

"Dangerous Ordnance."

(a) Any of the following, except as provided in subdivision (b) of this definition:

- (1) Any automatic or sawed-off firearm, zip-gun, or ballistic knife;
- (2) Any explosive device or incendiary device;
- (3) Nitrolycerin, 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;

- (4) 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;
- (5) Any firearm muffler or ~~silencer~~ or suppressor;
- (6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.
- ~~(7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol, tobacco, firearms, and explosives under the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the bureau not to be regulated under the "National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a).~~

(b) "Dangerous Ordinance" does not include any of the following:

- (1) 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;
- (2) 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;
- (3) 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;
- (4) Black powder, priming quills, and percussion caps possessed and lawfully used to ~~fire~~ fire a cannon of a type defined in subdivision (b)(3) of this ~~definition~~ 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;
- (5) 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;
- (6) Any device that is expressly excepted from the ~~definition~~ definition of a destructive device pursuant to the Gun Control Act of 1968, 82 Stat. 1213, 18 U.S.C. 921(a)(4), as amended, and regulations issued under that Act;

(7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives under the Gun Control Act of 1968. 82 Stat. 1213. 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the National Firearms Act, 68A Stat. 725 (1934), 26 U.S.C. 5845(a).

"Deadly Weapon." Any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.

"Explosive." Any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. ~~"Explosives"~~ "Explosive" does not include "fireworks," as defined in Ohio R.C. ~~3743.01, or 3743.01,~~ or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored or used in any activity described in Ohio R.C. 3743.80, provided the activity is conducted in accordance with all applicable laws, rules and regulations including, but not limited to, the provisions of Ohio R.C. 3743.80 and the rules of the Fire Marshal adopted pursuant to Ohio R.C. 3737.82.

"Explosive Device." Any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.

"Firearm."

- (a) 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.
- (b) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence including, but not limited to, the representations and actions of the individual exercising control over the firearm.

"Handgun." Means any of the following:

- (a) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;
- (b) Any combination of parts from which a firearm, of a type described in definition "Handgun", subdivision (a), can be assembled.

"Incendiary Device." Any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agent and a means to ignite it.

"Sawed-Off Firearm." A shotgun with a barrel less than eighteen (18) inches long, or a rifle with a barrel less than sixteen (16) inches long, or a shotgun or rifle less than twenty-six (26) inches long overall. "Sawed-off firearm" does not include any firearm with an overall length of at least ~~twenty-six~~ twenty-six inches that is approved for sale by the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives under the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the "National Firearms Act." 68A Stat. 725 (1934), 26 U.S.C. 5845(a).

"Semi-Automatic Firearm." Any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

"Zip-Gun." Any of the following:

- (a) Any firearm of crude and extemporized manufacture;
- (b) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
- (c) Any industrial tool, signaling device, or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried, or used as a firearm.

**Statutory reference:**

Weapons control definitions, see Ohio R.C. 2923.11

HISTORY

*Amended by Ord. 2019-28 on 12/2/2019*

*Amended by Ord. 2019-29 on 12/16/2019*

**549.02. Carrying Concealed Weapons**

- (a) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:
  - (1) A deadly weapon other than a handgun;

- (2) A handgun other than a dangerous ordnance;
  - (3) A dangerous ordnance.
- (b) No person who has been issued a concealed handgun license ~~or temporary emergency license to carry a concealed handgun under Ohio R.C. 2923.125 or 2923.1213~~ or a license to carry a concealed handgun that was issued by another state with which the Ohio Attorney General has entered into a reciprocity agreement under Ohio 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; before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then is carrying a concealed handgun, provided that it is not a violation of this division if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop;~~
  - (2) If the person is stopped for a law enforcement purpose and ~~if the person~~ is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;
  - (3) If the person is stopped for a law enforcement purpose, if the person is carrying a concealed handgun, and if the person is approached by any law enforcement officer while stopped, knowingly remove or attempt to remove the loaded handgun from the holster, pocket, or other place in which the person is carrying it, knowingly grasp or hold the loaded handgun, or knowingly have contact with the loaded handgun by touching it with the person's hands or fingers at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person removes, attempts to remove, grasps, holds, or has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer;
  - (4) If the person is stopped for a law enforcement purpose and 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 Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in this subdivision (c)(1)B, or Ohio R.C. 2923.12(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 subdivisions (b), (c), (e), (f), (i) and (j) of Section 549.01, 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 subdivisions (b), (c), (e), (f), (i) and (j) of Section 549.01, in the actor's own home for any lawful purpose.
- (2) ~~Subdivision (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 Ohio 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 Ohio R.C. 109.69~~ has been issued a concealed handgun license that is valid at the time of the alleged carrying or possession of a handgun or who, at the time of the alleged carrying or possession of a handgun, is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division Ohio R.C. 2923.125(G)(1), unless the person knowingly is in a place described in section 549.03(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) (1) ~~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 license under Ohio R.C. 2923.125 or 2923.1213 as a condition for the dismissal of the charge.~~
- (2) ~~If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (B)(1) of this section as it existed prior to June 13, 2022 (the effective date of the amendment to Ohio R.C. 2923.12), the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.~~
- (f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this division or subdivision (t)(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 subdivision (f)(2) of this section, if the offender previously has been convicted of a violation of this section, Ohio R.C. 2923.12, or ~~any substantially equivalent 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 subdivision (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 subdivision (a)(2) of this section promptly produces a valid license or temporary emergency license to carry a concealed handgun issued under Ohio R.C. 2923.125 or 2923.1213, or a license to carry a concealed handgun that was issued by another state with which the Ohio Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69, and if at the time of the violation the person was not knowingly in a place described in section 549.03(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 these 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:~~

- ~~(i) Within ten (10) days after the arrest, the offender presents a license or temporary emergency license to carry a concealed handgun issued under Ohio 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 Ohio R.C. 109.69, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.~~
- ~~(ii) At the time of the arrest, the offender was not knowingly in a place described in section 549.03(b).~~

(2) A person shall not be arrested for a violation of division (a)(2) of this section solely because the person does not promptly produce a valid concealed handgun license. If a person is arrested for a violation of division (a)(2) of this section and is convicted of or pleads guilty to the violation, the offender shall be punished as follows:

(A) The offender shall be guilty of a minor misdemeanor if both of the following apply:

- (i) Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest, to the law enforcement agency that employs the arresting officer.
- (ii) At the time of the arrest, the offender was not knowingly in a place described in Ohio R.C. 2923.126(B).

(B) The offender shall be guilty of a misdemeanor and shall be fined five hundred dollars (\$500.00) if all of the following apply:

- (i) The offender previously had been issued a license to carry a concealed handgun under Ohio 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 Ohio R.C. 109.69 and that was similar in nature to a license issued under Ohio R.C. 2923.125 concealed handgun license, and that license expired within the two (2) years immediately preceding the arrest.
- (ii) Within forty-five (45) days after the arrest, the offender presents any type of license identified in subdivision (f) (2)A.I. of this section a concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in Ohio R.C. 2945.71.

(iii) At the time of the commission of the offense, the offender was not knowingly in a place described in section 549.03(b).

(C) If neither subdivision (f)(2)A. nor (f)(2)B. of this section applies, the offender shall be punished under subdivision (f)(1) of this section.

(3) ~~Except as otherwise provided in this division, carrying~~ Carrying concealed weapons in violation of subdivision (b)(1) of this section is a misdemeanor of the ~~first~~ second degree and, ~~in addition to any other penalty or sanction imposed for a violation of subdivision (b)(1) of this section, the offender's license or temporary emergency license to carry a concealed handgun shall be suspended pursuant to Ohio R.C. 2923.128(A)(2). If, at the time of the stop of the offender for a law enforcement purpose that was the basis of the violation, any law enforcement officer involved with the stop had actual knowledge that the offender has been issued a license or temporary emergency license to carry a concealed handgun, carrying concealed weapons in violation of subdivision (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 Ohio R.C. 2923.128(A)(2).~~

(4) Carrying concealed weapons in violation of subdivision (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 subdivision (b)(2) or (b)(4) of this section, ~~or Ohio R.C. 2923.12(B)(2) or (B)(4) (B)(4), or any substantially equivalent 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 subdivision (b)(2) or (b)(4) of this section, the offender's concealed handgun license ~~or temporary emergency license to carry a concealed handgun~~ shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

(5) Carrying concealed weapons in violation of division (b)(3) of this section is a felony to be prosecuted under appropriate State law.

(6) If a person being arrested for a violation of division (a)(2) of this section is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), and if at the time of the violation the person was not knowingly in a place described in Ohio R.C. 2923.126(B), the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1) and if the person is not in a place described in Ohio R.C. 2923.126(B), the officer shall issue a citation and the offender shall be assessed a civil penalty of not more than five hundred dollars (\$500.00). The citation shall be automatically dismissed and the civil penalty shall not be assessed if both of the following apply:

- (A) Within ten (10) days after the issuance of the citation, the offender presents a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), which were both valid at the time of the issuance of the citation to the law enforcement agency that employs the citing officer.
- (B) At the time of the citation, the offender was not knowingly in a place described in Ohio R.C. 2923.126(B).
- (7) If a person being arrested for a violation of division (a)(2) of this section is knowingly in a place described in Ohio R.C. 2923.126(B)(5) and is not authorized to carry a handgun or have a handgun concealed on the person's person or concealed ready at hand under that division, the penalty shall be as follows:
- (A) Except as otherwise provided in this division, if the person produces a valid concealed handgun license within ten days after the arrest and has not previously been convicted or pleaded guilty to a violation of division (a)(2) of this section, the person is guilty of a minor misdemeanor;
- (B) Except as otherwise provided in this division, if the person has previously been convicted of or pleaded guilty to a violation of division (a)(2) of this section, the person is guilty of a misdemeanor of the fourth degree;
- (C) Except as otherwise provided in this division, if the person has previously been convicted of or pleaded guilty to two (2) violations of division (a)(2) of this section, the person is guilty of a misdemeanor of the third degree;
- (D) Except as otherwise provided in this division, if the person has previously been convicted of or pleaded guilty to three (3) or more violations of division (a)(2) of this section, or convicted of or pleaded guilty to any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is a dangerous ordnance, the person is guilty of a misdemeanor of the second degree.
- (g) If a law enforcement officer stops a person to question the person regarding a possible violation of this section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If the Court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division, Ohio R.C. 2923.163(B) applies.

(h) For purposes of this section, "deadly weapon" or "weapon" does not include any knife, razor, or cutting instrument if the instrument was not used as a weapon.

(ORC 2923.12)

**Statutory reference:**

Carrying concealed weapons, see Ohio R.C. 2923.12

Carrying concealed handguns, licensing through county sheriff, see Ohio R.C. 2923.124 et seq.

Conveyance or possession of deadly weapons or dangerous ordnance on school premises, felony offense, see Ohio R.C. 2923.122

Conveyance, possession, or control of deadly weapon or dangerous ordinance in a courthouse, felony offense, see Ohio R.C. 2923.123

Possession of deadly weapon while under detention, felony offense, see Ohio R.C. 2923.131

Possession of firearm in liquor permit premises, felony offense, see Ohio R.C. 2923.121

**549.03. Notice To Law Enforcement; Prohibited Places; Private Employers And Signage; Reciprocity**

(a) Notice to Law Enforcement upon Stop:

~~(1) Except as provided in subdivisions (b)(2) and (b)(3) of this section, a licensee who has been issued a license under Ohio R.C. 2923.125 or 2923.1213 may carry a concealed handgun anywhere in this City if the licensee also carries a valid license when the licensee is in actual possession of a concealed handgun. A concealed handgun license that is issued under Ohio R.C. 2923.125 shall expire five (5) years after the date of issuance. A licensee who has been issued a license under that section shall be granted a grace period of thirty (30) days after the licensee's license expires during which the licensee's license remains valid. Except as provided in divisions (b) and (c) of this section, a licensee who has been issued a concealed handgun license under Ohio R.C. 2923.125 or 2923.1213 may carry a concealed handgun anywhere in this state if the license is valid when the licensee is in actual possession of a concealed handgun. The licensee shall give notice of any change in the licensee's residence address to the sheriff who issued the license within 45 days after that change.~~

~~(2) 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 section 549.07(e), after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves.~~

~~(3) 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 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 section 549.02, after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves.~~

(b) Prohibited Places: A valid concealed handgun license does not authorize the licensee to carry a concealed handgun in any manner prohibited under section 549.02(b) or in any manner prohibited under section 549.07. A valid license does not authorize the licensee to carry a concealed handgun into any of the following places:

- (1) A police station, sheriff's office, or State Highway Patrol station, premises controlled by the Bureau of Criminal Identification and Investigation, a State correctional institution, jail, workhouse, or other detention facility; any area of an airport passenger terminal that is beyond a passenger or property screening checkpoint or to which access is restricted through security measures by the airport authority or a public agency; or an institution that is maintained, operated, managed, and governed pursuant to Ohio R.C. 5119.02(A) or Ohio R.C. 5123.03(A)(1);
- (2) A school safety zone, if the licensee's carrying the concealed handgun is in violation of Ohio R.C. 2923.122;
- (3) A courthouse or another building or structure in which a courtroom is located if the licensee's carrying the concealed handgun is in violation of ~~Ohio R.C. 2923.123~~ Ohio R.C. 2923.1233;

- (4) Any premises or open air arena for which a D permit has been issued under Ohio R.C. Chapter 4303, if the licensee's carrying the concealed handgun is in violation of Ohio R.C. 2923.121;
- (5) Any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle or unless the licensee is carrying the concealed handgun pursuant to a written policy, rule, or other authorization that is adopted by the institution's board of trustees or other governing body and that authorizes specific individuals or classes of individuals to carry a concealed handgun on the premises;
- (6) Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;
- ~~(7) 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;~~
- (7) 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)(3) of this section, unless the governing body with authority over the building has enacted a statute, ordinance, or policy that permits a licensee to carry a concealed handgun into the building;
- ~~(8) 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;~~
- (8) A place in which federal law prohibits the carrying of handguns.
- ~~(9) Any building that is a government facility of this State or any 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 subdivision (b)(3) of this section;~~
- ~~(10) A place in which federal law prohibits the carrying of handguns.~~

(c) Private Employers and Signage:

- (1) Nothing in this section 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 section 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.
  
- (2) (A) 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.~~
  
- (B) A political subdivision shall be immune from liability in a civil action, to the extent and in the manner provided in Ohio R.C. Chapter 2744, for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto any premises or property owned, leased, or otherwise under the control of the political subdivision. As used in this division, "political subdivision" has the same meaning as in Ohio R.C. 2744.01.
  
- (C) An institution of higher education shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises of the institution, including motor vehicles owned by the institution, unless the institution acted with malicious purpose. An institution of higher education is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the institution's decision to permit a licensee or class of licensees to bring a handgun onto the premises of the institution.
  
- (D) A nonprofit corporation shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises of the nonprofit corporation, including any motor vehicle owned by the nonprofit corporation, or to any event organized by the nonprofit corporation, unless the nonprofit corporation acted with malicious purpose. A nonprofit corporation is immune from liability in a civil action for any injury, death, or loss to person or property

that allegedly was caused by or related to the nonprofit corporation's decision to permit a licensee to bring a handgun onto the premises of the nonprofit corporation or to any event organized by the nonprofit corporation.

- (3) (A) Except as otherwise provided in subdivision (c)(3)B. and subdivision (d) below, 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 section 541.05(a)(4) of this Code 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 section 541.05(a)(4) of this Code, and instead is subject only to a civil cause of action for trespass based on the violation.

If a person knowingly violates a posted prohibition of the nature described in this division and the posted land or premises is a child day-care center, type A family day-care home, or type B family day-care home, unless the person is a licensee who resides in a type A family day-care home or type B family day-care home, the person is guilty of aggravated trespass in violation of Ohio R.C. 2911.211. Except as otherwise provided in this division, the offender is guilty of a misdemeanor of the first degree. If the person previously has been convicted of a violation of this division or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, the offender is guilty of a felony to be prosecuted under appropriate state law.

- (B) 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.

- (C) As used in this division (c)(3):

- (i) "Residential Premises" has the same meaning as in Ohio R.C. 5321.01, except "residential premises" does not include a dwelling unit that is owned or operated by a college or university.
- (ii) "Landlord," "tenant," and "rental agreement" have the same meaning as in Ohio R.C. 5321.01.

(D) Law Enforcement and Investigator Possession:

- (i) Subject to division (2) of this section, an establishment serving the public may not prohibit or restrict a law enforcement officer or investigator who is carrying validating identification from carrying a weapon on the premises that the officer or investigator is authorized to carry, regardless of whether the officer or investigator is acting within the scope of that officer's or investigator's duties while carrying the weapon.
- (ii) Division (1) of this section does not apply with respect to a law enforcement officer's or investigator's carrying of a weapon on the premises of an establishment serving the public if the officer or investigator is not acting within the scope of the officer's or investigator's duties, the weapon is a firearm issued or approved by the law enforcement agency served by the officer or by the bureau of criminal identification and investigation with respect to an investigator, and the agency or bureau has a restrictive firearms carrying policy.
- (iii) (1) Subject to division (3)(B) of this section, the owner of an establishment serving the public, the operator of an establishment serving the public, and the employer of persons employed at an establishment serving the public shall be immune from liability in a civil action for injury, death, or loss to person or property that allegedly was caused by or related to a law enforcement officer or investigator bringing a weapon into the establishment or onto the premises of the establishment.  
  
(2) The immunity provided in division (3)(A) of this section is not available to an owner, operator, or employer of an establishment serving the public with respect to injury, death, or loss to person or property of the type described in that division if the owner, operator, or employer engaged in an act or omission that contributed to the injury, death, or loss and the owner's, operator's, or employer's act or omission was with malicious purpose, in bad faith, or in a wanton or reckless manner.
- (iv) As used in this section:
  - (1) "Establishment serving the public" means a hotel, a restaurant or other place where food is regularly offered for sale, a retail business or other commercial establishment or office building that is open to the public, a sports venue, or any other place of public accommodation, amusement, or resort that is open to the public.
  - (2) "Hotel" has the same meaning as in section 3731.01 of the Revised Code.

- (3) "Sports venue" means any arena, stadium, or other facility that is used primarily as a venue for sporting and athletic events for which admission is charged.
- (4) "Investigator" has the same meaning as in section 109.541 of the Revised Code.
- (5) "Restrictive firearm carrying policy" and "validating identification" have the same meanings as in section 2923.121 of the Revised Code.
- (6) "Law enforcement officer" has the same meaning as in section 9.69 of the Revised Code.

(d) Reciprocity:

- (1) A person who holds a valid concealed handgun license ~~to carry a concealed handgun that was~~ issued pursuant to the law of by another state that is recognized by the Ohio Attorney General pursuant to a reciprocity agreement entered into pursuant to section 109.69 of the Revised Code or a person who holds a valid concealed handgun license under the circumstances described in Ohio R.C. 109.69(B) has the same right to carry a concealed handgun in this municipality as a person who was issued a concealed handgun license ~~to carry a concealed handgun~~ under section 2923.125 of the Revised Code and is subject to the same restrictions that apply to a person who ~~carries a license~~ has been issued a license under that section that is valid at the time in question.
- (2) A peace officer has the same right to carry a concealed handgun in this municipality as a person who was issued a license to carry a concealed handgun under section 2923.125 of the Revised Code, provided that the officer when carrying a concealed handgun under authority of this division is carrying validating identification. For purposes of reciprocity with other states, a peace officer shall be considered to be a licensee in this State.
- (3) (A) A qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to Ohio R.C. 2923.126(F)(2) and a valid firearms requalification certification issued pursuant to Ohio R.C. 2923.126(F)(3) has the same right to carry a concealed handgun in this municipality as a person who was issued a license to carry a concealed handgun under section 2923.125 of the Revised Code 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 (F)(2) of Ohio R.C. 2923.126 and a valid firearms requalification certification issued pursuant to division (F)(3) of Ohio R.C. 2923.126 shall be considered to be a licensee in this State.

(ii) (a.) 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:

(1.) 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.

(2.) 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.

(3.) 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.

(4.) Before retiring from service as a peace officer with that agency, the person was regularly employed as a peace officer for an aggregate of fifteen 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.

(b.) A retired peace officer identification card issued to a person under division (F)(2)(a) 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 in this section. In addition to the required content specified in this division, a retired peace officer identification card issued to a person under this section may include the firearms requalification certification described in 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 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 this section, provided that the credentials so issued to retired peace officers are stamped with the word "RETIRED."

(c.) 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 this section.

(iii) 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 (F)(2)(a)(i) to (iv) of this section, the public agency may provide the retired peace officer with the opportunity to attend a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801. The retired peace officer may be required to pay the cost of the course.

If a retired peace officer who satisfies the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section attends a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801 of, the retired peace officer's successful completion of the firearms requalification program requalifies the retired peace officer for purposes of division (F) 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 (F)(2)(a)(i) to (iv) 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 (F)(2) of this section.

A retired peace officer who attends a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801 may be required to pay the cost of the program.

(B) An active duty member of the armed forces of the United States who is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1) has the same right to carry a concealed handgun in this City as a person who was issued a concealed handgun license under Ohio R.C. 2923.125 and is subject to the same restrictions as specified in this section.

(C) A tactical medical professional who is qualified to carry firearms while on duty under Ohio R.C. 109.771 has the same right to carry a concealed handgun in

this City as a person who was issued a concealed handgun license under Ohio R.C. 2923.125.

(e) As used in this section:

- (1) "Qualified retired peace officer" means a person who satisfies all of the following:
  - (A) The person satisfies the criteria set forth in Ohio R.C. 2923.126 (F) (2)(a)(i) to (v).
  - (B) The person is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
  - (C) The person is not prohibited by federal law from receiving firearms.
- (2) "Retired peace officer identification card" means an identification card that is issued pursuant to Ohio R.C. 2923.126(F)(2) to a person who is a retired peace officer.
- (3) "Government facility of this State or a political subdivision of this State" means any of the following:
  - (A) A building or part of a building that is owned or leased by the government of this State or a political subdivision of this State and where employees of the government of this state or the political subdivision regularly are present for the purpose of performing their official duties as employees of the State or political subdivision;
  - (B) The office of a deputy registrar serving pursuant to Ohio R.C. Chapter 4503 that is used to perform deputy registrar functions.
- (4) "Validating identification" means photographic identification issued by the agency for which an individual serves as a peace officer that identifies the individual as a peace officer of the agency.
- (5) "Governing body" has the same meaning as in Ohio R.C. 154.01.
- (6) "Tactical medical professional" has the same meaning as in Ohio R.C. 109.71.
- (7) "Nonprofit corporation" means any private organization that is exempt from federal income taxation pursuant to subsection 501(a) and described in subsection 501(c) of the Internal Revenue Code.

**Statutory reference:**

Duties of licensed individual, see Ohio R.C. 2923.126

Establishment serving public may not prohibit or restrict law enforcement officer or investigator from carrying weapon on premises; immunity, see Ohio R.C. 2923.1214

Amended by Ord. 2019-28 on 12/2/2019

Amended by Ord. 2019-29 on 12/16/2019

**549.05. Responsibility For Posting And Location Of Signs**

~~(a) The following persons, boards, and entities, or designees, Each person, board, or entity that owns or controls any place or premises identified in Ohio R.C. 2923.126(B) as a place into which a valid license does not authorize the licensee to carry a concealed handgun, or a designee of such a person, board, or entity, shall post in one or more conspicuous the following locations in the premises a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto these premises."~~

~~(1) 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;~~

~~(2) Each sheriff, chief of police, or person in charge of every county, multicounty, municipal, municipal county, or multicounty municipal jailer 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;~~

~~(3) 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;~~

~~(4) 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;~~

~~(5) 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;~~

~~(6) 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 section 549.03 of this Code, 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)(3) of that section.~~

~~(b) 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 Ohio Revised Code section 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."~~

~~(1) 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;~~

~~(2) A governing body of a school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code 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;~~

~~(3) The principal or chief administrative officer of a nonpublic school in a conspicuous location on property owned or controlled by that nonpublic school.~~

(ORC 2923.1212)

#### **549.06. 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.

(ORC 2923.15)

#### **549.07. 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 twenty-four (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 eighteen (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 section 333.01(a) of this Code or Ohio R.C. 4511.19(A), regardless of whether the person at the time of the transportation or possession as described in this division is the operator of or a passenger in the motor vehicle.
- (e) ~~No person who has been issued a license or temporary emergency license to carry a concealed handgun under Ohio R.C. 2923.125 or 2923.1213 shall do any of the following:~~ concealed handgun license or who is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in Ohio R.C. 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:
- ~~(1) 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 subdivision (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 Ohio 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 subdivision (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.~~

(1) Before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop;

(2) Before or at the time an employee of the motor carrier enforcement unit asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the commercial motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an employee of the unit during the stop and the person already has notified another employee of the unit of that fact during the same stop;

(3) Knowingly fail to remain in the motor vehicle while stopped or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;

(4) Knowingly have contact with the loaded handgun by touching it with the person's hands or fingers in the motor vehicle at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer;

(5) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

(f) (1) Divisions (a), (b), (c), and (e) of this section do not apply to any of the following:

- (A) An officer, agent, or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's, or employee's duties;
  - (B) Any person who is employed in this state, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subdivision (f) (1)B. of this section 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 either is zoned for agriculture or is used for agriculture.
  - (C) The person owns the real property described in subdivision (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:
    - (i) While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;
    - (ii) In the direction of a street, highway, or other public or private property used by the public for vehicular traffic or parking;
    - (iii) At or into an occupied structure that is a permanent or temporary habitation;
    - (iv) 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 Ohio R.C. 1533.103 by the chief of the division of wildlife.
- (B) The person discharges a firearm at a wild quadruped or game bird as defined in Ohio R.C. 1531.01 during the open hunting season for the applicable wild quadruped or game bird.
- (C) The person discharges a firearm from a stationary ~~electric-powered~~ all-purpose vehicle as defined in Ohio R.C. 1531.01 from private or publicly owned lands 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:
- (i) While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;
  - (ii) 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;
  - (iii) At or into an occupied structure that is a permanent or temporary habitation;
  - (iv) 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 either is zoned for agriculture or is used for agriculture.
  - (C) The person owns the real property described in subdivision (d)(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 subdivision (d)(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~~ has been issued a concealed handgun license issued to the person under Ohio 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 Ohio R.C. 109.69. that is valid at the time in question or the person is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1).

(B) The person transporting or possessing the handgun is not knowingly in a place described in section 549.03(b) of this Code.

~~(C) One of the following applies:~~

~~(i) The handgun is in a holster on the person's person.~~

~~(ii) 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.~~

~~(iii) 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 Ohio 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 Ohio R.C. 1531.01 or a motor vehicle during the open hunting season for a wild quadruped or game bird.

(C) The person is on or in an ~~electric-powered~~ all-purpose vehicle as defined in Ohio R.C. 1531.01 on private or publicly owned lands 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 divisions (d)(1) and (2) of section 549.02 of this Code are affirmative defenses to a charge under division (b) or (c) of this section that involves a firearm other than a handgun.

(2) It is an affirmative defense to a charge under division (b) or (c) of this section of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that this affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by division (b) or (c) of this section while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.

(h) (1) No person who is charged with a violation of division (b), (c), or (d) of this section shall be required to obtain a ~~license or temporary emergency license to carry a concealed handgun~~ license under Ohio R.C. 2923.125 or 2923.1213 as a condition for the dismissal of the charge.

(2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (e) of this section as it existed prior to September 30, 2011, and the conduct that was the basis of the violation no longer would be a violation of division (e) of this section on or after September 30, 2011, or if a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (e)(1) or (2) of this section as it existed prior to the effective date of this amendment, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.

If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (b) or (c) of this section as the division existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of division (b) or (c) of this section on or after September 30, 2011, due to the application of division (f)(5) of this section as it exists on and after September 30, 2011, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.

(i) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. ~~Violation~~ A violation of division (a) of this section is a felony to be prosecuted under appropriate State law. A 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. ~~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 Ohio 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 Ohio 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 Ohio R.C. 2923.128 (a)(2). A violation of division (e)(1), (2), or (5) of this section is a felony to be prosecuted under appropriate State law. A violation of division (e)(4) or (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 (6) of this section, 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 (6) of this section, the offender's license or temporary emergency license to carry a concealed handgun shall be suspended pursuant to Ohio 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 Ohio R.C. 2923.125 or 2923.1213, or a license to carry a concealed handgun that was issued by another state with which the Ohio Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69 and the offender was not knowingly in a place described in section 549.03(b) of this Code, 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, 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.~~

A violation of division (e)(1) or (2) of this section is a misdemeanor of the second degree. A violation of division (e)(4) of this section is a felony to be prosecuted under appropriate State law. A violation of division (e)(3) or (5) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of division (e)(3) or (5) of this section, a felony to be prosecuted under appropriate State law. In addition to any other penalty or sanction imposed for a misdemeanor violation of division (e)(3) or (5) of this section, the offender's concealed handgun license shall be suspended pursuant to division Ohio R.C. 2923.128(A)(2). A violation of division (B) of this section is a felony to be prosecuted under appropriate State law.

(j) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense,

the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division, Ohio R.C. 2923.163(B) applies.

(k) As used in this section:

(1) "Motor vehicle," "street," and "highway" have the same meanings as in Ohio R.C. 4511.01.

(2) "Occupied structure" has the same meaning as in Ohio R.C. 2909.01.

(3) "Agriculture" has the same meaning as in Ohio R.C. 519.01.

(4) "Tenant" has the same meaning as in Ohio R.C. 1531.01.

~~(5) "Unloaded" means 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. For the purposes of division (k)(5)A. of this section, ammunition held in stripper clips or in en bloc clips is not considered ammunition that is loaded into a magazine or speed loader.~~

~~(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.~~

(5) (A) "Unloaded" means, with respect to a firearm other than a firearm described in division (K)(6) of this section, that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm in question, and one of the following applies:

(i) There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.

(ii) Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.

(B) For the purposes of division (k)(5)(A)(ii) of this section, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:

(i) A package, box, or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;

(ii) A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.

(C) For the purposes of divisions (k)(5)(a) and (b) of this section, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.

(6) "Unloaded" means, with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.

~~(6)~~ (7) "Commercial motor vehicle" has the same meaning as in Ohio R.C. 4506.25(A).

~~(7)~~ (8) "Motor carrier enforcement unit" means the motor carrier enforcement unit in the department of public safety, division of state highway patrol that is created by Ohio R.C. 5503.34.

(I) Divisions (k)(5)(A) and (B) of this section do not affect the authority of a person who has been issued a concealed handgun license that is valid at the time in question to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in those divisions, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter. A person who has been issued a concealed handgun license that is valid at the time in question may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter.

**Statutory reference:**

Improperly handling firearms in a motor vehicle, see Ohio R.C. 2923.16

**549.09. Unlawful Transactions In Weapons**

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

- (1) Recklessly sell, lend, give, or furnish any firearm to any person prohibited by Ohio R.C. 2923.13 or 2923.15 from acquiring or using any firearm, or recklessly sell, lend, give, or furnish any dangerous ordnance to any person prohibited by Ohio R.C. 2923.13, 2923.15 or section 549.06 of this Code, or Ohio R.C. 2923.17 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) of this section;
- (3) Except as otherwise provided in division (b) of this section, knowingly solicit, persuade, encourage, or entice a federally licensed firearms dealer or private seller to transfer a firearm or ammunition to any person in a manner prohibited by state or federal law;
- (4) Except as otherwise provided in division (b) of this section, with an intent to deceive, knowingly provide materially false information to a federally licensed firearms dealer or private seller;
- (5) Except as otherwise provided in division (b) of this section, knowingly procure, solicit, persuade, encourage, or entice a person to act in violation of division (a)(3) or (4) of this section;
- ~~(6) 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;~~
- ~~(7) (6)~~ When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing him to be authorized to acquire dangerous ordnance pursuant to Ohio R.C. 2923.17, or negligently fail to take a complete record of the transaction and forthwith forward a copy of that record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;
- ~~(8) (7)~~ Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.

(b) Divisions (a)(3), (4), and (5) of this section do not apply to any of the following:

- (1) A law enforcement officer who is acting within the scope of the officer's duties;
- (2) A person who is acting in accordance with directions given by a law enforcement officer described in division (b)(1) of this section.

(c) Whoever violates this section is guilty of unlawful transactions in weapons. A violation of division (a)(1) or (2) of this section is a felony to be prosecuted under appropriate State law. A violation of division (a)(3), (4), or (5) of this section is a felony of the third degree. A violation of division (a)(6) ~~or (7)~~ of this section is a misdemeanor of the second degree. A violation of division ~~(a)(8)~~ (a)(7) of this section is a misdemeanor of the fourth degree.

(d) As used in this section:

- (1) "Ammunition" has the same meaning as in section 2305.401 of the Revised Code.
- (2) "Federally licensed firearms dealer" has the same meaning as in section 5502.63 of the Revised Code.
- (3) "Materially false information" means information regarding the transfer of a firearm or ammunition that portrays an illegal transaction as legal or a legal transaction as illegal.
- (4) "Private seller" means a person who sells, offers for sale, or transfers a firearm or ammunition and who is not a federally licensed firearms dealer.

**Statutory reference:**

Unlawful transactions in weapons, see Ohio R.C. 2923.20

*Amended by Ord. 2019-28 on 12/2/2019*

*Amended by Ord. 2019-29 on 12/16/2019*



# LEGISLATIVE COVER MEMO

**Introduction:** April 18, 2022

**Public Hearing:** May 2, 2022

**Effective Date:** June 1, 2022

**Agenda Item:** **Ordinance 2022-14**

AMENDING CERTAIN SECTIONS OF THE CITY OF FRANKLIN GENERAL OFFENSES CODE TO BE CONCURRENT WITH STATE LAW

**Submitted by:** Khristi Dunn, Clerk of Council

**Scope/Description:** MuniCode has provided a legal review of the City’s General Offenses Code. This code was last updated in 2019. This Ordinance would amend the following sections of Part Five – General Offenses Code: SECTIONS 501.01, 501.09, 501.10, 501.14, 501.15, 501.99; 509.03, 509.07; 513.01, 513.02, 513.03, 513.05, 513.07, 513.08, 513.10, 513.11, 513.12; 517.01, 517.03, 517.06, 517.07, 517.09, 517.11, 517.12, 517.13; 525.01, 525.02, 525.05, 525.10, 525.11, 525.13, 525.16; 529.01, 529.02, 529.03, 529.04, 529.05, 529.07, 529.08, 529.09, 529.10, 529.11, 529.12, 529.14, 529.15; 533.03, 533.04, 533.05, 533.09; 537.01, 537.02, 537.061, 537.07, 537.14, 537.15, 537.16, 537.17 (REPEALED / DELETED), 537.18, 537.20, 537.21, 537.22; 541.02, 541.04, 541.05, 541.06, 541.11, 541.111, 541.16; 545.02, 545.03, 545.04, 545.05, 545.06, 545.10, 545.11, 545.13, 545.15, 545.16, 545.17, 545.18, 545.22; 549.01, 549.02, 549.03, 549.05, 549.06, 549.07, AND 549.09

**Vote Required for Passage:** Per Section 4.03 of the City’s Charter, the passage of this Ordinance requires the affirmative vote of a majority of Council members present.

**Exhibits:** Exhibit A: Part Five– General Offenses Code Amendments

**Recommendation:** Approval.

CITY OF FRANKLIN, OHIO  
ORDINANCE 2022-14

AMENDING CERTAIN SECTIONS OF THE CITY OF FRANKLIN GENERAL OFFENSES CODE  
TO BE CONCURRENT WITH STATE LAW

WHEREAS, Part Five of the Codified Ordinances of the City of Franklin sets forth the City's local General Offenses Code; and

WHEREAS, the City of Franklin Council desires to amend certain sections of the General Offenses Code, as set forth herein, in order to make the local General Offenses Code consistent with parallel general offenses laws set forth in the Ohio Revised Code.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FRANKLIN, WARREN COUNTY, OHIO THAT:

Section 1. The Codified Ordinances of the City of Franklin, Ohio, Part five – General Offenses Code, is hereby amended as set forth in Exhibit A.

Section 2. All ordinances or parts of ordinances that conflict with this Ordinance are hereby repealed.

Section 3. Codifier and Codification. The codifier, being the person, agency, or organization authorized to prepare the codification and supplement to the City's Codified Ordinances, is authorized to exclude and omit any provisions of this ordinance that are inapplicable to the Codified Ordinances.

Section 4. Supplementation of Code.

- a. In preparing a supplement to the Codified Ordinances, all portions of this ordinance which have been repealed shall be excluded from the Codified Ordinances by the omission thereof from reprinted pages.
- b. When preparing a supplement to the City's Codified Ordinances, the codifier may make formal, non-substantive changes in and to this ordinance and parts of this ordinance included in the supplement, insofar as it is necessary to do so as to embody them into a unified code. For example, the codifier may:
  - (1) Organize the ordinance material into appropriate subdivisions;
  - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Codified Ordinances printed in the supplement, and make changes in such catchlines, headings and titles;
  - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Codified Ordinances and, where necessary to accommodate new material, change existing section or other subdivision numbers;
  - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_ to \_\_\_\_," inserting section numbers to indicate the sections of the Codified Ordinances which embody the substantive sections or the ordinance incorporated therein; and

- (5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the Codified Ordinances; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Codified Ordinances.
- c. In preparing a supplement to the Codified Ordinances, the pages of a supplement shall be so numbered such that they will fit properly into the Codified Ordinances and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared such that when they have been inserted, the Codified Ordinances will be current through the date of the adoption of the most recent ordinance included in the supplement.

Section 5. Effective Date of Provisions that Track Statutes. Provisions of Section 6 that duplicate or track state statutes which do not become effective until after the effective date of this ordinance, shall not take effect until such statutes take effect.

Section 6. Sections Amended. The following sections and subsections of the Codified Ordinances, Part Five – General Offenses Code, are new or have been amended with new matter or deletions and are hereby approved, adopted and enacted, the body of each to read as set forth in Exhibit A.

Section 7. Penalty. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the General Offenses Code, as amended herein, shall be punished by a fine or imprisonment, or both. The fine shall not exceed five hundred dollars (\$500.00) and imprisonment shall not exceed six (6) months.

Section 8. This Ordinance shall go into effect on June 1, 2022.

INTRODUCED: April 18, 2022

ADOPTED: May 2, 2022

ATTEST: \_\_\_\_\_  
Khristi Dunn, Clerk of Council

APPROVED: \_\_\_\_\_  
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council do hereby certify that the foregoing is a true and correct copy of Ordinance 2022-14 passed by that body on May 2, 2022.

\_\_\_\_\_  
Khristi Dunn, Clerk of Council

Approved as to form: \_\_\_\_\_  
Ben Yoder, Law Director

## **CHAPTER 501. GENERAL PROVISIONS AND PENALTY**

### **501.01. Definitions**

As used in the Codified Ordinances:

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

(2) "Deadly Force" means any force that carries a substantial risk that it will proximately result in the death of any person.

(3) "Physical Harm to Persons" means any injury, illness or other physiological impairment, regardless of its gravity or duration.

(4) "Physical Harm to Property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

(5) "Serious Physical Harm to Persons" means any of the following:

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

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

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

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

(e) 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.

(6) "Serious Physical Harm to Property" means any physical harm to property which does either of the following:

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

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

- (7) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.
- (8) "Substantial Risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.
- (9) "Offense of Violence" means any of the following:
- (a) A violation of Ohio 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, 2905.32, 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, or of division (A)(1) of Ohio R.C. 2903.34, division (A)(1), (2), or (3) of Ohio R.C. 2911.12, or of division (B)(1), (2), (3), or (4) of Ohio R.C. 2919.22 or felonious sexual penetration in violation of former Ohio R.C. 2907.12.
  - (b) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any ~~definition~~ section, division, or offense listed in "Offense of Violence" listed in subsection (a) hereof;
  - (c) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed, purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;
  - (d) A conspiracy or attempt to commit, or complicity in committing, any offense under ~~definition "Offense of Violence"~~ subsection (a), (b) or (c) hereof.
- ~~(a)(1)~~ (10) (a) "Property" means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" 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. "Financial 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)~~ (b) As used in this definition, "trade secret" has the same meaning as in Ohio R.C. 1333.61, and "telecommunications service" and "information service" have the same meanings as in Ohio R.C. 2913.01.

~~(3)~~ (c) As used in this definition and in the definition of "contraband" in this section, "cable television service," "computer," "computer network," "computer software," "computer system," "data," and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.

(11) "Law Enforcement Officer" means any of the following:

- (a) A sheriff, deputy sheriff, constable, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D) or state highway patrolman;
- (b) 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;
- (c) A mayor, in the mayor's capacity as chief conservator of the peace within the mayor's municipal corporation;
- (d) A member of an auxiliary police force organized by county, township, or municipal law enforcement authorities, within the scope of the member's appointment or commission;
- (e) A person lawfully called pursuant to Ohio R.C. 311.07 to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;
- (f) A person appointed by a mayor pursuant to Ohio 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;
- (g) 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;
- (h) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor;
- (i) A veterans' home police officer appointed under Ohio R.C. 5907.02;
- (j) A member of a police force employed by a regional transit authority under Ohio R.C. ~~306.23(Y)~~ 306.35(Y);

- (k) A special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28;
  - (l) The House of Representatives Sergeant at Arms if the House of Representatives Sergeant at Arms has arrest authority pursuant to Ohio R.C. 101.311(E)(1) and an Assistant House of Representatives Sergeant at Arms;
  - (m) The Senate Sergeant at Arms and an Assistant Senate Sergeant at Arms;
  - (n) 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.
- (12) "Privilege" means an immunity, license or right conferred by law, bestowed by express or implied grant, arising out of status, position, office or relationship, or growing out of necessity.
- (13) "Contraband" means 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:
- (a) Any controlled substance, as defined in Ohio R.C. 3719.01, or any device or paraphernalia related thereto;
  - (b) Any unlawful gambling device or paraphernalia;
  - (c) Any dangerous ordnance or obscene material.
- ~~(a)~~ (14) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in Ohio R.C. 2901.05 that at the time of the commission of the offense, he did not know, as a result of a severe mental disease or defect, the wrongfulness of his acts.

~~"Person."~~

- (15) ~~(A)~~ (A) "Person."~~(a)(4)~~ Subject to subsection (b) of this definition, as used in any section contained in Title XIII of this code that sets forth a criminal offense, "person" includes all of the following:
- ~~(A)~~ (i) An individual, corporation, business trust, estate, trust, partnership and association.

- ~~(B)~~ (ii) An unborn human who is viable.
- ~~(2)~~ (a) As used in any section contained in Title XIII of this code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, partnership and association.
- ~~(3)~~ (b) As used in subsection ~~(a)(1)(B)~~ (a)(ii) 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.
- ~~(b)~~ (B) Notwithstanding subsection ~~(a)(1)~~ (15)(a) of this definition, in no case shall the portion of the definition of the term "person" that is set forth in subsection ~~(1)A-2~~ (15)(a)(ii) of this definition be applied or construed in any section contained in Title XIII of this code that sets forth a criminal offense in any of the following manners:
- ~~(1)~~ (i) Except as otherwise provided in subsection ~~(b)(1)~~ (b)(i) 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 any violation of Ohio R.C. 2903.01, ~~through 2903.06, 2903.08, 2903.11 through~~ 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, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence but that does violate Ohio R.C. 2919.12, 2919.13(B), 2919.15, 2919.151, 2919.17 or 2919.18 may be punished as a violation of such section, as applicable. Consent is sufficient under this subsection if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with Ohio R.C. 2919.12.
- ~~(2)~~ (ii) 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)~~ (a) Her delivery of a stillborn baby.
- ~~(B)~~ (b) Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying.

(C) ~~(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)~~ (d) Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human.

~~(E)~~ (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.

(16) "School," "School Building," and "School Premises" have the same meanings as in Ohio R.C. 2925.01.

(17) "School Activity" means 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 Ohio 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 Ohio R.C. 3301.07.

(18) "School Bus" has the same meaning as in Ohio R.C. 4511.01.

(19) "School Safety Zone" consists of a school, school building, school premises, school activity, and school bus.

(ORC 2901.01)

(20) "Repeat Offender" means a person who has a history of persistent criminal activity and whose character and condition reveal a substantial risk that he or she will commit another offense. It is prima facie evidence that a person is a repeat offender if any of the following applies:

(a) Having been convicted of one or more offenses of violence, as defined in Ohio R.C. 2901.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent offense of violence;

(b) Having been convicted of one or more sexually oriented offenses, or child-victim oriented offenses, both as defined in Ohio R.C. 2950.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent sexually oriented offense or child-victim oriented offense;

- (c) Having been convicted of one or more theft offenses, as defined in Ohio R.C. 2913.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent theft offense;
- (d) Having been convicted of one or more felony drug abuse offenses, as defined in Ohio R.C. 2925.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent felony drug abuse offense;
- (e) Having been convicted of two or more felonies, and having been imprisoned pursuant to sentence for any such offense, he or she commits a subsequent offense;
- (f) 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, he or she commits a subsequent offense.

~~(ORC 2901.04)~~ (ORC 2935.36)

**501.09. Attempt**

- (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 impossible under the 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, ~~or~~ of complicity in the commission of such 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 the actor's effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of the actor's 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 Ohio 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 Ohio R.C. Chapter 3734, other than Ohio 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 Ohio 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 Ohio 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 Ohio R.C. 2971.03.

(f) As used in this section:

- (1) "Drug abuse offense" has the same meaning as in Ohio R.C. 2925.01.
- (2) "Motor vehicle" has the same meaning as in Ohio R.C. 4501.01.

(ORC 2923.02)

#### **501.10. 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 Ohio R.C. 2923.01;
  - ~~(3)~~ (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 Section 501.09.
- (d) No person shall be convicted of complicity under this section solely upon the testimony of an accomplice, unsupported by other evidence.
- (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 complicity, under circumstances manifesting a complete and voluntary renunciation of his 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 were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense.

(ORC 2923.03)

**501.14. Self Defense: Limitations On Duty To Retreat Prior To Using Force**

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

(ORC 2901.09)

**501.15. Burden Of Proof; Reasonable Reasonable Doubt; Self-Defense**

- (a) Every person accused of an offense is presumed innocent until proven guilty beyond a reasonable doubt, and the burden of proof for all elements of the offense is upon the prosecution. The burden of going forward with the evidence of an affirmative defense, and the burden of proof, by a preponderance of the evidence, for an affirmative defense other than self-defense, defense of another, or defense of the accused's residence presented as described in division (B)(1) of this section, is upon the accused.
- (b) (1) A person is allowed to act in self-defense, defense of another, or defense of that person's residence. If, at the trial of a person who is accused of an offense that involved the person's use of force against another, there is evidence presented that tends to support that the accused person used the force in self-defense, defense of another, or defense of that person's residence, the prosecution must prove beyond a reasonable doubt that the accused person did not use the force in self-defense, defense of another, or defense of that person's residence, as the case may be.
- (2) Subject to division (b)(3) of this section, a person is presumed to have acted in self-defense or defense of another when using defensive force that is intended or likely to cause death or great bodily harm to another if the person against whom the defensive force is used is in the process of unlawfully and without privilege to do so entering, or has unlawfully and without privilege to do so entered, the residence or vehicle occupied by the person using the defensive force.
- (3) The presumption set forth in division (b)(2) of this section does not apply if either of the following is true:
- (A) The person against whom the defensive force is used has a right to be in, or is a lawful resident of, the residence or vehicle.
- (B) The person who uses the defensive force uses it while in a residence or vehicle and the person is unlawfully, and without privilege to be, in that residence or vehicle.
- (4) The presumption set forth in division (b)(2) of this section is a rebuttable presumption and may be rebutted by a preponderance of the evidence, provided that the prosecution's burden of proof remains proof beyond a reasonable doubt as described in divisions (a) and (b)(1) of this section.
- (c) As part of its charge to the jury in a criminal case, the court shall read the definitions of "Reasonable Doubt" and "Proof Beyond a Reasonable Doubt," contained in division ~~(D)~~ (e) of this section.
- (d) As used in this section:

- (1) An "affirmative defense" is either of the following:
  - (A) A defense expressly designated as affirmative;
  - (B) A defense involving an excuse or justification peculiarly within the knowledge of the accused, on which the accused can fairly be required to adduce supporting evidence.
- (2) "Dwelling" means a building or conveyance of any kind that has a roof over it and that is designed to be occupied by people lodging in the building or conveyance at night, regardless of whether the building or conveyance is temporary or permanent or is mobile or immobile. As used in this division, a building or conveyance includes, but is not limited to, an attached porch, and a building or conveyance with a roof over it includes, but is not limited to, a tent.
- (3) "Residence" means a dwelling in which a person resides either temporarily or permanently or is visiting as a guest.
- (4) "Vehicle" means a conveyance of any kind, whether or not motorized, that is designed to transport people or property.
- (e) "Reasonable Doubt" is present when the jurors, after they have carefully considered and compared all the evidence, cannot say they are firmly convinced of the truth of the charge. It is a doubt based on reason and common sense. Reasonable doubt is not mere possible doubt, because everything relating to human affairs or depending on moral evidence is open to some possible or imaginary doubt. "Proof beyond a reasonable doubt" is proof of such character that an ordinary person would be willing to rely and act upon it in the most important of the person's own affairs.

(ORC 2901.05)

**Statutory reference:**

~~Burden of proof – reasonable doubt – self defense, see ORC 2901.05~~

HISTORY

*Amended by Ord. 2019-28 on 12/2/2019*

*Amended by Ord. 2019-29 on 12/16/2019*

**501.99. Penalties For Misdemeanors; Suspension Of Driver's License**

- (a) Considerations in Misdemeanor Sentencing.
  - (1) A court that sentences an offender for a misdemeanor or minor misdemeanor violation of any provision of the Ohio Revised Code, or of any municipal ordinance that is substantially equivalent to a misdemeanor or minor misdemeanor violation of a provision of the Ohio Revised Code, shall be guided by the overriding purposes of misdemeanor sentencing. The overriding purposes of misdemeanor

sentencing are to protect the public from future crime by the offender and others and to punish the offender. To achieve those purposes, the sentencing court shall consider the impact of the offense upon the victim and the need for changing the offender's behavior, rehabilitating the offender, and making restitution to the victim of the offense, the public, or the victim and the public.

- (2) A sentence imposed for a misdemeanor or minor misdemeanor violation of an Ohio Revised Code provision or for a violation of a municipal ordinance that is subject to division (b)(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 (b)(1) of this section shall not base the sentence upon the race, ethnic background, gender, or religion of the offender.
- (4) Divisions (b)(1) and (b)(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 (b)(1) to (b)(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.

(ORC 2929.21)

(b) Misdemeanor Jail Terms.

- (1) Except as provided in Section 533.99 of this Code, Ohio R.C. 2929.22 or 2929.23, or division (b)(5) or (b)(6) of this section and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this chapter, the court shall impose a definite jail term that shall be one of the following:
  - (A) For a misdemeanor of the first degree, not more than 180 days;
  - (B) For a misdemeanor of the second degree, not more than 90 days;
  - (C) For a misdemeanor of the third degree, not more than 60 days;
  - (D) For a misdemeanor of the fourth degree, not more than 30 days.

- (2) A 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 Ohio R.C. 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the County Jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the County Jail Industry Program.
- (4) If a person is sentenced to a jail term pursuant to division (b) of this section, the court may impose as part of the sentence pursuant to division (f)(1)C. of this section a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to Ohio R.C. 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and Ohio R.C. 2929.37, both of the following apply:
  - (A) The court shall specify both of the following as part of the sentence:
    - (i) If the person is presented with an itemized bill pursuant to Ohio R.C. 2929.37 for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.
    - (ii) If the person does not dispute the bill described in division (b)(4)A.(i) of this section and does not pay the bill by the times specified in Ohio R.C. 2929.37, the Clerk of the Court may issue a certificate of judgment against the person as described in that section.
  - (B) The sentence automatically includes any certificate of judgment issued as described in division (b)(4)A.(ii) of this section.
- (5) If an offender who is convicted of or pleads guilty to a violation of section 333.01(b) or Ohio R.C. 4511.19(B), also is convicted of or also pleads guilty to a specification of the type described in Ohio R.C. 2941.1414 2941.1416 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 this Code or 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 section 533.08, 533.09 or 533.10 of this Code, and to a specification of the type described in Ohio R.C. 2941.1421 and if the court imposes a jail term on

the offender for the misdemeanor violation, the court may impose upon the offender an additional definite jail term as follows:

- (i) Subject to division (b)(6)A.(ii) of this section, an additional definite jail term of not more than 60 days;
- (ii) If the offender previously has been convicted of or pleaded guilty to one or more misdemeanor or felony violations of Ohio R.C. 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25, section 533.08, 533.09 or 533.10 of this Code or any substantially equivalent municipal ordinance, and also was convicted of or pleaded guilty to a specification of the type described in Ohio R.C. 2941.1421 regarding one or more of those violations, an additional definite jail term of not more than 120 days.

(B) In lieu of imposing an additional definite jail term under division (b) (6)A. of this section, the court may directly impose on the offender a sanction that requires the offender to wear a real-time processing, continual tracking electronic monitoring device during the period of time specified by the court. The period of time specified by the court shall equal the duration of an additional jail term that the court could have imposed upon the offender under division (b)(6)A. of this section. A sanction imposed under this division shall commence on the date specified by the court, provided that the sanction shall not commence until after the offender has served the jail term imposed for the misdemeanor violation of Ohio R.C. 2907.23, 2907.24, 2907.241, or 2907.25, section 533.08, 533.09 or 533.10 of this Code or any substantially equivalent municipal ordinance, and any residential sanction imposed for the violation under division (d) of this section or Ohio R.C. 2929.26. A sanction imposed under this division shall be considered to be a community control sanction for purposes of division (c) or this section or Ohio R.C. 2929.25, and all provisions of this Code and the Ohio Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

- (7) If an offender is convicted of or pleads guilty to a misdemeanor violation of section 537.03 of this Code and also is convicted of or pleads guilty to a specification of the type described in Ohio R.C. 2941.1423 that charges that the victim of the violation was a woman whom the offender knew was pregnant at the time of the violation, the court shall impose on the offender a mandatory jail term that is a definite term of at least 30 days.

(ORC 2929.24)

(c) Misdemeanor Community Control Sanctions.

- (1) (A) Except as provided in Section 533.99 of this Code or Ohio R.C. 2929.22 and 2929.23 or when a jail term is required by law, in sentencing an offender for a misdemeanor, other than a minor misdemeanor, the sentencing court may do either of the following:
- (i) 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.
  - (ii) 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.(i) 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:
- (i) 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;
  - (ii) 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;
  - (iii) 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.

(ORC 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 community-based correctional facility or a term in a halfway house or community-based correctional facility 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 or community-based correctional facility 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. If the offender is an eligible offender, as defined in Ohio R.C. 307.932, a term in a community alternative sentencing center or district community alternative sentencing center established and operated in accordance with that section, in the circumstances specified in that section, with one of the conditions of the sanction being that the offender successfully complete the portion of the sentence to be served in the center.~~

(2) ~~The~~ A sentence to a community residential sanction under (d)(1)(B) of this section shall be in accordance with Ohio R.C. 307.932. In all other cases, the court that sentences an offender to a community residential sanction under this division (d) may do either or both of the following:

(A) Permit the offender to serve the offender's sentence in intermittent confinement, overnight, on weekends or at any other time or times that will allow the offender to continue at the ~~offender'~~ offender's occupation or care for the ~~offender'~~ offender's family;

(B) Authorize the offender to be released so that the offender may seek or maintain employment, receive education or training, receive treatment, perform community service, or otherwise fulfill an obligation imposed by law

or by the court. A release pursuant to this division shall be only for the duration of time that is needed to fulfill the purpose of the release and for travel that reasonably is necessary to fulfill the purposes of release.

- (3) The court may order that a reasonable portion of the income earned by the offender upon a release pursuant to division (d)(2) of this section be applied to any financial sanction imposed under division (f) of this section.
- (4) No court shall sentence any person to a prison term for a misdemeanor or to a jail term for a minor misdemeanor.
- (5) If a court sentences a person who has been convicted of or pleaded guilty to a misdemeanor to a community residential sanction as described in division (d)(1) of this section, at the time of reception and at other times the person in charge of the operation of the halfway house, community alternative residential facility, sentencing center, district community alternative sentencing center, or other place at which the offender will serve the residential sanction determines to be appropriate, the person in charge of the operation of the halfway house, community alternative residential facility, sentencing center, district community alternative sentencing center, or other place may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the halfway house, community alternative residential facility, sentencing center, district community alternative sentencing center, or other place at which the offender will serve the residential sanction may cause a convicted offender in the halfway house, community alternative residential facility, sentencing center, district community alternative sentencing center, or other place who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.
- (6) The Municipality may enter into a contract with a halfway house for use of the halfway house to house misdemeanor offenders under a sanction imposed under division (d)(1)A. of this section.

(ORC 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 section 537.14 of this Code or a violation of section 537.03 of this Code involving a person who was a family or household member at the time of the violation, if the offender committed the offense in the vicinity of one or more children who are not victims of the offense, and if the offender or the victim of the offense is a parent, guardian, custodian, or person in loco parentis of one or more of those children. This division does not limit the court in requiring that the offender obtain counseling for any offense or in any circumstance not specified in this division.
- (2) If the court imposes a term of community service pursuant to (e)(1)(c) of this section, the offender may request that the court modify the sentence to authorize the offender to make a reasonable contribution, as determined by the court, to the

general fund of the county, municipality, or other local entity that provides funding to the court. The court may grant the request if the offender demonstrates a change in circumstances from the date the court imposes the sentence or that the modification would otherwise be in the interests of justice. If the court grants the request, the offender shall make a reasonable contribution to the court, and the clerk of the court shall deposit that contribution into the general fund of the county, municipality, or other local entity that provides funding to the court. If more than one entity provides funding to the court, the clerk shall deposit a percentage of the reasonable contribution equal to the percentage of funding the entity provides to the court in that entity's general fund.

~~(2)~~ (3) In addition to the sanctions authorized under division (e)(1) of this section, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, upon an offender who is not required to serve a mandatory jail term may impose any other sanction that is intended to discourage the offender or other persons from committing a similar offense if the sanction is reasonably related to the overriding purposes and principles of misdemeanor sentencing.

~~(3)~~ (4) The court imposing a sentence for a minor misdemeanor may impose a term of community service in lieu of all or part of a fine. The term of community service imposed for a minor misdemeanor shall not exceed 30 hours. After imposing a term of community service, the court may modify the sentence to authorize a reasonable contribution, as determined by the court, to the appropriate general fund as provided in (e)(2) of this section.

(ORC 2929.27)

(f) Financial Sanctions.

(1) In addition to imposing court costs pursuant to Ohio R.C. 2947.23, the court imposing a sentence upon an offender for a misdemeanor, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this division (f). If the court in its discretion imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(A) Restitution.

(i) 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.

- (ii) If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. 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 imposes restitution for the cost of accounting or auditing done to determine the extent of economic loss, the court may order restitution for any amount of the victim's costs of accounting or auditing provided that the amount of restitution is reasonable and does not exceed the value of property or services stolen or damaged as a result 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.
  - (iii) All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under Ohio R.C. 3937.18.
  - (iv) If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than five per cent of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.
  - (v) 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.(i) and (ii) of this section payable to the appropriate entity as required by law:
- (i) A fine in the following amount:
    - (1) For a misdemeanor of the first degree, not more than one thousand dollars (\$1,000.00);

- (2) For a misdemeanor of the second degree, not more than seven hundred fifty dollars (\$750.00);
- (3) For a misdemeanor of the third degree, not more than five hundred dollars (\$500.00);
- (4) For a misdemeanor of the fourth degree, not more than two hundred fifty dollars (\$250.00);
- (5) For a minor misdemeanor, not more than one hundred fifty dollars (\$150.00).

(ii) A State fine or cost as defined in Ohio R.C. 2949.111.

(C) Reimbursement.

(i) Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:

- (1) All or part of the costs of implementing any community control sanction, including a supervision fee under Ohio R.C. 2951.021;
- (2) 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;
- (3) All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under Ohio R.C. 4510.13.

(ii) The amount of reimbursement under division (f)(1)C.(i) of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that division. If the court does not order reimbursement under that division, confinement costs may be assessed pursuant to a repayment policy adopted under Ohio R.C. 2929.37. In addition, the offender may be required to pay the fees specified in Ohio R.C. 2929.38 in accordance with that section.

(2) (A) If the court determines a hearing is necessary, the court may hold a hearing to determine whether the offender is able to pay the financial sanction imposed pursuant to this division (f) or court costs or is likely in the future to be able to pay the sanction or costs.

(B) If the court determines that the offender is indigent and unable to pay the financial sanction or court costs, the court shall consider imposing and may impose a term of community service under division (e)(1) of this section in lieu of imposing a financial sanction or court costs. If the court does not determine that the offender is indigent, the court may impose a term of community service under division (e)(1) of this section in lieu of or in addition to imposing a financial sanction under this division (f) and in addition to imposing court costs. The court may order community service for a minor misdemeanor pursuant to division (e)(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.

(D) In addition to any other fine that is or may be imposed under this section, the court imposing sentence upon an offender for misdemeanor domestic violence or menacing by stalking may impose a fine of not less than seventy nor more than five hundred dollars, which shall be transmitted to the treasurer of state to be credited to the address confidentiality program fund created by Ohio R.C. 111.48.

(4) (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. (i)a. of this section upon an offender is a judgment in favor of the entity administering the community control sanction. A financial sanction of reimbursement imposed pursuant to division (f)(1)C. (i)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. 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.(i) of this section or through an order as described in division (f)(4)B.(ii) 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:

(i) Obtain from the clerk of the court in which the judgment was entered a certificate of judgment that shall be in the same manner and form as a certificate of judgment issued in a civil action;

(ii) Obtain execution of the judgment or order through any available procedure, including any of the procedures identified in Ohio R.C. ~~2929.18(D)(1)(a) to (e)~~ 2929.18(E)(1) and (2) or a substantially equivalent municipal ordinance.

- (ii) (iii) Obtain an order for the assignment of wages of the judgment debtor under Ohio R.C. 1321.33 or a substantially equivalent municipal ordinance.
- (5) 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 Ohio R.C. 307.86 to 307.92.
- (B) Permit payment of all or any portion of the sanction in installments, by financial transaction device if the court is a County Court or a Municipal Court operated by a county, by credit or debit card or by another electronic transfer if the court is a municipal court not operated by a county, or by any other reasonable method, in any time, and on any terms that the court considers just, except that the maximum time permitted for payment shall not exceed five years. If the court is a County Court or a Municipal Court operated by a county, the acceptance of payments by any financial transaction device shall be governed by the policy adopted by the Board of County Commissioners of the county pursuant to Ohio R.C. 301.28. If the court is a Municipal Court not operated by a county, the Clerk may pay any fee associated with processing an electronic transfer out of public money or may charge the fee to the offender.
- (C) To defray administrative costs, charge a reasonable fee to an offender who elects a payment plan rather than a lump sum payment of any financial sanction.
- (7) No financial sanction imposed under this division (f) shall preclude a victim from bringing a civil action against the offender.

(ORC 2929.28)

- (g) (1) Organizational Penalties. Regardless of the other penalties provided in this section, an organization convicted of an offense pursuant to Section 501.11 shall be fined by the court as follows:
- (A) For a misdemeanor of the first degree, not more than five thousand dollars (\$5,000.00);

- (B) For a misdemeanor of the second degree, not more than four thousand dollars (\$4,000.00);
  - (C) For a misdemeanor of the third degree, not more than three thousand dollars (\$3,000.00);
  - (D) For a misdemeanor of the fourth degree, not more than two thousand dollars (\$2,000.00);
  - (E) For a minor misdemeanor, not more than one thousand dollars (\$1,000.00);
  - (F) For a misdemeanor not specifically classified, not more than two thousand dollars (\$2,000.00);
  - (G) For a minor misdemeanor not specifically classified, not more than one thousand dollars (\$1,000.00).
- (2) 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 such penalty shall be imposed in lieu of the penalty provided in this section.
  - (3) 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.
  - (4) This division (b) does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to Section 501.11, either in addition to or in lieu of a fine imposed pursuant to division (b).

(ORC 2929.31)

- (h) Suspension of Driver's License. Except as otherwise provided in Ohio 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.

(ORC 4510.05)

**Statutory reference:**

Definite Misdemeanor jail terms for misdemeanors, see Ohio R.C. 2929.24

Community Misdemeanor community control sanctions, see Ohio R.C. 2929.25

Nonresidential sanctions where jail term not mandatory, see Ohio R.C. 2929.27

Financial sanctions, see Ohio R.C. 2929.28

**CHAPTER 509. DISORDERLY CONDUCT AND PEACE DISTURBANCE**

**509.03. Disorderly Conduct; Intoxication**

(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, ~~which by its very utterance or usage inflicts injury or tends to incite an immediate breach of the peace;~~
- (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 the offender 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 the offender 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 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.

(3) If an offender previously has been convicted of or pleaded guilty to three or more violations of subsection (b) of this section, a violation of subsection (b) of this section is a misdemeanor of the fourth degree.

(f) As used in this section:

(1) "Committed in the vicinity of a school" has the same meaning as in Ohio R.C. 2925.01.

(2) "Emergency facility" has the same meaning as in Ohio R.C. 2909.04.

(3) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.

(4) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.

(ORC 2917.11)

**509.07. 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 such offense did not occur.
  - (4) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to impede the operation of a critical infrastructure facility.
- (b) This section does not apply to any person conducting an authorized fire or emergency drill.
- (c) Whoever violates this section is guilty of making false alarms, a misdemeanor of the first degree. 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 ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000.00) or more, making false alarms is a felony to be prosecuted under appropriate State law. If a violation of this section pertains to a purported, threatened, or actual use of a weapon of mass destruction, making false alarms is a felony to be prosecuted under appropriate State law.
- (d) (1) It is not a defense to a charge under this section that pertains to a purported or threatened use of a weapon of mass destruction that the offender did not possess or have the ability to use a weapon of mass destruction or that what was represented to be a weapon of mass destruction was not a weapon of mass destruction.
- (2) Any act that is a violation of this section and any other section of the Ohio Revised Code or these Codified Ordinances may be prosecuted under this section, the other section, or both sections.
- (e) As used in this section:
- (1) "Critical infrastructure facility" has the same meaning as in Ohio R.C. 2911.21.
  - (2) "~~economic~~ Economic harm" and "weapon of mass destruction" have the same ~~meaning~~ meanings as in Ohio R.C. 2917.31.

(ORC 2917.32)

## **CHAPTER 513. DRUG ABUSE CONTROL**

### **513.01. Definitions**

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

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

"Adulterate." To cause a drug to be adulterated as described in ORC 3715.63.

"Benzodiazepine." A controlled substance that has United States Food and Drug Administration approved labeling indicating that it is a benzodiazepine, benzodiazepine derivative, triazolobenzodiazepine, or triazobenzodiazepine derivative, including the following drugs and their varying salt forms or chemical congeners: alprazolam, chlordiazepoxide hydrochloride, clobazam, clonazepam, clorazepate, diazepam, estazolam, flurazepam hydrochloride, lorazepam, midazolam, oxazepam, quazepam, temazepam, and triazolam.

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

- (a) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II, or Schedule III, with the exception of any controlled substance ~~analogs~~ analog, marijuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in division (b), ~~or (e), or (f)~~ of this definition, whichever of the following is applicable:
- (1) An amount equal to or exceeding ten (10) grams or twenty-five (25) unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule I opiate or opium derivative;
  - (2) An amount equal to or exceeding ten (10) grams of a compound, mixture, preparation, or substance that is or contains any amount of raw or gum opium;
  - (3) An amount equal to or exceeding thirty (30) grams or ten (10) unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a Schedule I stimulant or depressant;
  - (4) An amount equal to or exceeding twenty (20) grams or five (5) times the maximum daily dose in the usual dose range specified in a standard pharmaceutical

reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II opiate or opium derivative;

- (5) An amount equal to or exceeding five (5) grams or ten (10) unit doses of a compound, mixture, preparation, or substance that is or contains any amount of phencyclidine;
- (6) An amount equal to or exceeding one hundred twenty (120) grams or thirty (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, 52 Stat. 1040 (1938) (21 U.S.C. 301 et seq., as amended) and the Federal drug abuse control laws, as defined in ~~this section~~ Ohio R.C. 3719.01, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;
- (7) An amount equal to or exceeding three (3) grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the Federal drug abuse control laws;
- (b) An amount equal to or exceeding one hundred twenty (120) grams or thirty (30) times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;
- (c) An amount equal to or exceeding twenty (20) grams or five (5) times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III opiate or opium derivative;
- (d) An amount equal to or exceeding two hundred fifty (250) milliliters or two hundred fifty (250) grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule V substance.
- (e) An amount equal to or exceeding two hundred (200) solid dosage units, sixteen (16) grams, or sixteen (16) milliliters of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III anabolic steroid.
- (f) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in schedule III, schedule IV, or schedule V, if the defendant is charged with a violation of Ohio R.C. 2925.11 and the sentencing provisions set forth in divisions (C)(10)(b) and (C)(11) of that section will not apply regarding the defendant

and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in subsection (a), (b), (c), (d), or (e) of this section for the other schedule III, IV, or V controlled substance that is combined with the fentanyl-related compound.

"Certified Grievance Committee." a duly constituted and organized committee of the Ohio State Bar Association or of one or more local bar associations of the State that complies with the criteria set forth in Rule V, Section 6 of the Rules for the Government of the Bar of Ohio.

"Cocaine." any of the following:

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

"Committed in the Vicinity of a Juvenile." An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within one hundred (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 one hundred (100) feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.

"Committed in the Vicinity of a School." An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within one thousand (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 one thousand (1,000) feet of the boundaries of any school premises.

"Controlled Substance." A drug, compound, mixture, preparation, or substance included in Schedule I, II, III, IV, or V of, respectively, as established by rule adopted under ORC 3719.41- by the State Board of Pharmacy, as amended pursuant to ORC 3719.43 or 3719.44, or as established by emergency rule adopted under ORC 3719.45.

"Controlled Substance Analog."

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

"Counterfeit Controlled Substance." Any of the following:

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

- (b) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed, or distributed by a person other than the person that manufactured, processed, packed, or distributed it.;
- (c) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance.;
- (d) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size, and color, or its markings, labeling, packaging, distribution, or the price for which it is sold or offered for sale.

"Cultivate." Includes planting, watering, fertilizing or tilling.

"Dangerous Drug." Any of the following:

- (a) Any drug to which either of the following applies:
  - (1) Under the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug 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 the drug may be dispensed only upon a prescription.
  - (2) Under ORC Chapter 3715 or 3719, the drug may be dispensed only upon a prescription.
- (b) Any drug that contains a Schedule V controlled substance and that is exempt from ORC Chapter 3719 or to which that chapter does not apply.
- (c) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.
- (d) Any drug that is a biological product, as defined in Ohio R.C. 3715.01.

"Deception." Has the same meaning as in ORC 2913.01.

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

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

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

"Drug." Any of the following:

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

"Drug" does not include "hemp" or a "hemp product" as those terms are defined in Ohio R.C. 928.01.

"Drug Abuse Offense." Any of the following:

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

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

"Drug of Abuse." Any controlled substance as defined in Ohio R.C. 3719.01, any harmful intoxicant as defined in Ohio R.C. 2925.01, and any dangerous drug, as defined in this ~~section~~ Ohio R.C. 4729.01.

"Emergency Facility." A hospital emergency department or any other facility that provides emergency care.

"Federal Drug Abuse Control Laws. The "Comprehensive Drug Abuse Prevention and Control Act of 1970," 84 Stat. 1242, 21 U.S.C. 801 et seq., as amended.

"Felony Drug Abuse Offense." Any drug abuse offense that would constitute a felony under the laws of this State, any other State, or the United States.

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

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

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

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

"Hashish" does not include a hemp byproduct in the possession of a licensed hemp processor under Ohio R.C. Chapter 928, provided that the hemp byproduct is being

produced, stored, and disposed of in accordance with rules adopted under Ohio R.C. 928.03.

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

"Juvenile." A person under eighteen (18) years of age.

~~"Laboratory." A laboratory approved by the State Board of Pharmacy as proper to be entrusted with the custody of controlled substances and the use of controlled substances for scientific and clinical purposes and for purposes of instruction. licensed under Ohio R.C. Chapter 4729 as a terminal distributor of dangerous drugs and entrusted to have custody of any of the following drugs and to use the drugs for scientific and clinical purposes and for purposes of instruction: dangerous drugs that are not controlled substances, as defined in Ohio R.C. 3719.01; dangerous drugs that are controlled substances, as defined in that section; and controlled substances in schedule I, as defined in that section.~~

"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.

"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:

- (a) A dentist licensed under ORC Chapter 4715;
- (b) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a ~~certificate to prescribe issued under ORC 4723.48.~~ current, valid license issued under ORC Chapter 4723 to practice nursing as an advanced practice registered nurse;
- (c) A certified registered nurse anesthetist who holds a current, valid license issued under ORC Chapter 4723 to practice nursing as an advanced practice registered nurse, but only to the extent of the nurse's authority under ORC Chapter 4723.43 and 4723.434;
- ~~(d)~~ (d) An optometrist licensed under ORC Chapter 4725 to practice optometry under a therapeutic pharmaceutical agents certificate;
- ~~(e)~~ (e) A physician authorized under ORC Chapter 4731 to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;

~~(e)~~ (f) A physician assistant who holds a license to practice as a physician assistant issued under ORC Chapter 4730, holds a valid prescriber number issued by the Ohio Medical Board, and has been granted physician-delegated prescriptive authority;

~~(f)~~ (g) A veterinarian licensed under ORC Chapter 4741.

"L.S.D." Lysergic acid diethylamide.

"Major Drug Offender." Has the same meaning as in ORC 2929.01.

"Mandatory Prison Term." Has the same meaning as in ORC 2929.01.

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

"Manufacturer." A person who manufactures a controlled substance, as "manufacture" is defined ~~by this section.~~ in ORC 3715.01, and includes a "manufacturer of dangerous drugs" as defined in ORC 4729.01.

"Marihuana." All parts of a plant of the genus cannabis, whether growing or not; the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. "Marihuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, or 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."~~ "hemp" or a "hemp product" as those terms are defined in ORC 928.01.

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

"Minor Drug Possession Offense." Either of the following:

(a) A violation of ORC 2925.11 as it existed prior to July 1, 1996, or a substantially equivalent municipal ordinance;

(b) A violation of ORC 2925.11 as it exists on and after July 1, 1996, or a substantially equivalent municipal ordinance, that is a misdemeanor or a felony of the fifth degree.

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

"Opioid Analgesic." A controlled substance that has analgesic pharmacologic activity at the opioid receptors of the central nervous system, including the following drugs and their varying salt forms or chemical congeners: buprenorphine, butorphanol, codeine (including acetaminophen and other combination products), dihydrocodeine, fentanyl, hydrocodone (including acetaminophen combination products), hydromorphone, meperidine, methadone, morphine sulfate, oxycodone (including acetaminophen, aspirin, and other combination products), oxymorphone, tapentadol, and tramadol.

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

"Pharmacist." A person licensed under ORC Chapter 4729 to engage in the practice of pharmacy.

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

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

"Prescription." Means all of the following:

- (a) 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;
- (b) For purposes of ORC 2925.61, ~~4723.488, 4729.44, 4730.431, 4723.484, 4730.434,~~ and 4731.94, a written, electronic, or oral order for naloxone issued to and in the name of a family member, friend, or other individual in a position to assist an individual who there is reason to believe is at risk of experiencing an opioid-related overdose.
- (c) For purposes of ORC 4729.44, a written, electronic, or oral order for naloxone issued to and in the name of either of the following:
  - (1) An individual who there is reason to believe is at risk of experiencing an opioid-related overdose;

(2) A family member, friend, or other individual in a position to assist an individual who there is reason to believe is at risk of experiencing an opioid-related overdose.

~~(e)~~ (d) For purposes of ORC 4723.4810, 4729.282, 4730.432, and 4731.93, a written, electronic, or oral order for a drug to treat chlamydia, gonorrhea, or trichomoniasis issued to and in the name of a patient who is not the intended user of the drug but is the sexual partner of the intended user;

~~(d)~~ (e) For purposes of ORC 3313.7110, 3313.7111, 3314.143, 3326.28, 3328.29, 4723.483, 4729.88, ~~4730.432~~, 4730.433, 4731.96, and 5101.76, a written, electronic, or oral order for an epinephrine autoinjector issued to and in the name of a school, school district, or camp;

~~(e)~~ (f) For purposes of ORC Chapter 3728 and ORC 4723.483, 4729.88, ~~4730.432~~, 4730.433, and 4731.96, a written, electronic, or oral order for an epinephrine autoinjector issued to and in the name of a qualified entity, as defined in ORC 3728.01;

(g) For purposes of ORC 3313.7115, 3313.7116, 3314.147, 3326.60, 3328.38, 4723.4811, 4730.437, 4731.92, and 5101.78, a written, electronic, or oral order for injectable or nasally administered glucagon in the name of a school, school district, or camp.

"Presumption for a Prison Term" or "Presumption that a Prison Term Shall be Imposed." A presumption as described in ORC 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 ORC 2929.11.

"Professional License." Any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate, or temporary registration that is described in ORC 2925.01(W)(1) to ~~(36)~~ (37) and that qualifies a person as a professionally licensed person.

"Professionally Licensed Person." Any of the following:

~~(a) A person who has obtained a license as a manufacturer of controlled substances or a wholesaler of controlled substances under ORC Chapter 3719;~~

~~(b)~~ (a) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under ORC Chapter 4701 and who holds an Ohio permit issued under that chapter;

~~(e)~~ (b) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under ORC Chapter 4703;

- ~~(d)~~ (c) A person who is registered as a landscape architect under ORC Chapter 4703 or who holds a permit as a landscape architect issued under that chapter;
- ~~(e)~~ (d) A person licensed under ORC Chapter 4707;
- ~~(f)~~ (e) A person who has been issued a certificate of registration as a registered barber under ORC Chapter 4709;
- ~~(g)~~ (f) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of ORC Chapter 4710;
- ~~(h)~~ (g) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, advanced cosmetologist's license, advanced hair designer's license, advanced manicurist's license, advanced esthetician's license, advanced natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under ORC Chapter 4713;
- ~~(i)~~ (h) 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 ORC Chapter 4715;
- ~~(j)~~ (i) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license, or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under ORC Chapter 4717;
- ~~(k)~~ (j) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under ORC Chapter 4723;
- ~~(l)~~ (k) A person who has been licensed to practice optometry or to engage in optical dispensing under ORC Chapter 4725;
- ~~(m)~~ (l) A person licensed to act as a pawnbroker under ORC Chapter 4727;
- ~~(n)~~ (m) A person licensed to act as a precious metals dealer under ORC Chapter 4728;
- ~~(o)~~ (n) A person licensed under ORC Chapter 4729 as a pharmacist, a or pharmacy intern, a wholesale distributor of dangerous drugs, or a terminal distributor of dangerous drugs under ORC Chapter 4729; or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;

- (o) A person licensed under ORC Chapter 4729 as a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs;
- (p) A person who is authorized to practice as a physician assistant under ORC Chapter 4730;
- (q) A person who has been issued a ~~certificate license~~ license to practice medicine and surgery, osteopathic medicine and surgery, ~~a limited branch of medicine,~~ or ~~pediatry~~ podiatric medicine and surgery under ORC Chapter 4731 or has been issued a certificate to practice a limited branch of medicine under that chapter;
- (r) A person licensed as a psychologist or school psychologist under ORC Chapter 4732;
- (s) A person registered to practice the profession of engineering or surveying under ORC Chapter 4733;
- (t) A person who has been issued a license to practice chiropractic under ORC Chapter 4734;
- (u) A person licensed to act as a real estate broker or real estate salesperson under ORC Chapter 4735;
- (v) A person registered as a registered ~~sanitarian~~ environmental health specialist under ORC Chapter 4736;
- (w) A person licensed to operate or maintain a junkyard under ORC Chapter 4737;
- (x) A person who has been issued a motor vehicle salvage dealer's license under ORC Chapter 4738;
- (y) A person who has been licensed to act as a steam engineer under ORC Chapter 4739;
- (z) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under ORC Chapter 4741;
- (aa) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under ORC Chapter 4747;
- (ab) 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 ORC Chapter 4749;

- (ac) A person licensed ~~and registered~~ to practice as a nursing home administrator under ORC Chapter 4751;
- (ad) A person licensed to practice as a speech-language pathologist or audiologist under ORC Chapter 4753;
- (ae) A person issued a license as an occupational therapist or physical therapist under ORC Chapter 4755;
- (af) A person who is licensed as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under ORC Chapter 4757;
- (ag) A person issued a license to practice dietetics under ORC Chapter 4759;
- (ah) A person who has been issued a license or limited permit to practice respiratory therapy under ORC Chapter 4761;
- (ai) A person who has been issued a real estate appraiser certificate under ORC Chapter 4763;
- (aj) A person who has been issued a home inspector license under ORC Chapter 4764;
- ~~(aj)~~ (ak) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules.

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

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

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

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

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

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

"School Premises." Either of the following:

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

"Standard Pharmaceutical Reference Manual." The current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.

"Theft Offense." Has the same meaning as in ORC 2913.01.

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

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

(ORC 2925.01, 2925.11, 3719.01, 3719.011, 3719.013, 3719.061, 4729.01, 4729.52)

**513.02. Trafficking In Controlled Substances**

- (a) No person shall knowingly do any of the following:
- (1) Sell or offer to sell a controlled substance or a controlled substance analog;
  - (2) Prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance or a controlled substance analog, when the offender knows or has reasonable cause to believe that the controlled substance or a controlled substance analog is intended for sale or resale by the offender or another person.
- (b) This section does not apply to any of the following:
- (1) Manufacturers, licensed health ~~professional~~ professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741.
  - (2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;
  - (3) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 ~~USC~~ U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that Act.
- (c) Whoever violates subsection (a) of this section is guilty of the following:
- (1) Except as otherwise provided in division (c)(2) of this section, trafficking in controlled substances is a felony to be prosecuted under appropriate state law.
  - (2) Except as otherwise provided in this division, if the offense involves a gift of 20 grams or less of marihuana, trafficking in marihuana is a minor misdemeanor upon a first offense and a misdemeanor of the third degree upon a subsequent offense. If the offense involves a gift of twenty (20) grams or less of marihuana and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.
- (d) In addition to any prison term authorized or required by subsection (c) hereof, Ohio R.C. 2925.13 and 2925.14, and Ohio R.C. 2929.13 and 2929.14, and in addition to any other sanction imposed for the offense under this section or Ohio R.C. 2929.11 through ~~2929.184~~ 2929.18, the court that sentences ~~a person~~ an offender who is convicted of or pleads guilty to a violation of subsection (a) hereof may suspend the driver's or commercial driver's license or permit of the offender in accordance with ORC 2925.03(G). However, if the offender pleaded guilty to or was convicted of a

violation of ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit in accordance with ORC 2925.03(G). If the offender is a professionally licensed person, the court immediately shall comply with ORC 2925.38.

(e) (1) Notwithstanding any contrary provision of Ohio R.C. 3719.21 and except as provided in Ohio R.C. 2925.03(H), the Clerk of the Court shall pay any mandatory fine imposed pursuant to this section and any fine other than a mandatory fine that is imposed for a violation of this section pursuant to Ohio R.C. 2929.18(A) or (B)(5) to the county, township, municipal corporation, park district, as created pursuant to Ohio R.C. 511.18 or 1545.04, or state law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender. However, the Clerk shall not pay a mandatory fine so imposed to a law enforcement agency unless the agency has adopted a written internal control policy under subsection (e)(2) hereof 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 subsection (e)(2) hereof.

(2) Prior to receiving any fine moneys under subsection (e)(1) hereof or Ohio R.C. 2925.42(B), a law enforcement agency shall adopt a written internal control policy that addresses the agency's use and ~~disposition~~ 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 ~~on-going~~ ongoing investigation. All financial records of the receipts of those fine moneys, the general ~~type~~ types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure by an agency are ~~pub-lic~~ public records open for inspection under Ohio R.C. 149.43. Additionally, a written internal control policy adopted under this division is such a public record, and the agency that adopted it shall comply with it.

(3) As used in subsections (e) hereof:

(A) "Law enforcement agencies" includes, but is not limited to, the State Board of Pharmacy and the office of a prosecutor.

(B) "Prosecutor" has the same meaning as in Ohio R.C. 2935.01.

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

(ORC 2925.03)

**Statutory reference:**

For violations of 513.02(a) classified as felonies, see Ohio R.C. 2925.03.

**513.03. Drug Possession Offenses: Controlled Substance Possession Or Use**

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

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

(A) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct ~~is~~ was in accordance with ORC Chapters 3719, 4715, 4723, 4729, 4730, 4731 and 4741.

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

(C) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that Act.

(D) Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs- if the prescription was issued for a legitimate medical purpose and not altered, forged, or obtained through deception or commission of a theft offense.

As used in division (b)(1)(D) of this section, "deception" and "theft offense" have the same meanings as in ORC 2913.01.

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

(i) "Community addiction services provider." Has the same meaning as in ORC 5119.01.

(ii) "Community control sanction." Has the same meanings as in ORC 2929.01

(iii) "Drug treatment program." Has the same meanings as in ORC 2929.01.

(iv) "Health care facility." Has the same meaning as in ORC 2919.16.

- (v) "Minor drug possession offense." A violation of this section or ORC 2925.11 that is a misdemeanor or a felony of the fifth degree.
  - (vi) "Peace officer." Has the same meaning as in ORC 2935.01.
  - (vii) "Post-release control sanction." Has the same meaning as in ORC 2967.28.
  - (viii) "Public agency." Has the same meaning as in ORC 2930.01.
  - (ix) "Qualified individual." A person who is not on community control or post-release control and is a person acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose as described in division ~~(b)(2)B.~~ (b)(2)B. of this section.
  - (x) "Seek or obtain medical assistance." Includes, but is not limited to making a 9-1-1 call, contacting in person or by telephone call an on-duty peace officer, or transporting or presenting a person to a health care facility.
- (B) Subject to division (b)(2)F. of this section, a qualified individual shall not be arrested, charged, prosecuted, convicted, or penalized pursuant to this chapter for a minor drug possession offense if all of the following apply:
- (i) The evidence of the obtaining, possession, or use of the controlled substance or controlled substance analog that would be the basis of the offense was obtained as a result of the qualified individual seeking the medical assistance or experiencing an overdose and needing medical assistance.
  - (ii) Subject to division (b)(2)G. of this section, within thirty (30) days after seeking or obtaining the medical assistance, the qualified individual seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.
  - (iii) Subject to division (b)(2)G. of this section, the qualified individual who obtains a screening and receives a referral for treatment under division (b)(2)B.2. of this section, upon the request of any prosecuting attorney, submits documentation to the prosecuting attorney that verifies that the qualified individual satisfied the requirements of that division. The documentation shall be limited to the date and time of the screening obtained and referral received.

- (C) If a person is found to be in violation of any community control sanction and if the violation is a result of either of the following, the court shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in ORC 2929.13, 2929.15, or 2929.25, or any substantially equivalent municipal ordinance, whichever is applicable, after which the court has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in any of those applicable sections:
- (i) Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;
  - (ii) Experiencing a drug overdose and seeking medical assistance for that overdose or being the subject of another person seeking or obtaining medical assistance for that overdose as described in division (b)(2)B. of this section.
- (D) If a person is found to be in violation of any post-release control sanction and if the violation is a result of either of the following, the court or the parole board shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in ORC 2929.141 or 2967.28, whichever is applicable, after which the court or the parole board has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in either of those applicable sections:
- (i) Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;
  - (ii) Experiencing a drug overdose and seeking medical assistance for that emergency or being the subject of another person seeking or obtaining medical assistance for that overdose as described in division (b)(2)B. of this section.
- (E) Nothing in division (b)(2)B. of this section shall be construed to do any of the following:
- (i) Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of division (b)(2)B. of this section or with regards to any crime other than a minor drug possession offense committed by a person who qualifies for protection pursuant to division (b) (2)B. of this section for a minor drug possession offense;
  - (ii) Limit any seizure of evidence or contraband otherwise permitted by law;

- (iii) Limit or abridge the authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in that division;
  - (iv) Limit, modify, or remove any immunity from liability available pursuant to law in effect prior to September 13, 2016, to any public agency or to an employee of any public agency.
- (F) Division (b)(2)B. of this section does not apply to any person who twice previously has been granted an immunity under division ~~(b) (2)B.~~ (b)(2)B. of this section. No person shall be granted an immunity under division (b)(2)B. of this section more than two (2) times.
- (G) Nothing in this section shall compel any qualified individual to disclose protected health information in a way that conflicts with the requirements of the "Health Insurance Portability and Accountability Act of 1996," 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. §§ 1320d et seq., as amended, and regulations promulgated by the United States Department of Health and Human Services to implement the act or the requirements of 42 C.F.R. Part 2.
- (c) Whoever violates subsection (a) hereof is guilty of one of the following:
- (1) Except as otherwise provided in divisions (c)(2), (c)(3), (c)(4), and (c)(5), if the drug involved in the violation is a compound, mixture, preparation, or substance included in schedule I or II of ~~Ohio R.C. 3719.41~~, or is, with the exception of marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, hashish, a and any controlled substance analog, ~~or a compound, mixture or preparation containing such drugs,~~ possession of drugs is a felony and shall be prosecuted under appropriate state law.
  - (2) If the drug involved in the violation is a compound, mixture, preparation, or substance included in schedule III, IV, or V of ~~Ohio R.C. 3719.41~~, whoever violates subsection (a) hereof 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 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 subsection (a) hereof 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 and shall be prosecuted under state law.
- (4) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates subsection (a) hereof 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 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 subsection (c) hereof and Ohio R.C. 2925.11(C), 2929.13, 2929.14, 2929.22, 2929.24, and 2929.25, or any substantially equivalent municipal ordinance, and in addition to any other sanction that is imposed for the offense under this section or Ohio R.C. 2925.11, 2929.11 through 2929.18, or Ohio R.C. 2929.21 to 2929.28, or any substantially equivalent municipal ordinance, the court that sentences an offender who is convicted of or pleads guilty to a violation of subsection (a) of this section may suspend the offender's driver's or commercial driver's license or permit for not more than five (5) years. However, if the offender pleaded guilty to or was convicted of a violation of

ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five (5) years. If applicable, the court also shall do the following:

- (1) Notwithstanding any contrary provision of Ohio R.C. 3719.21, the Clerk of Court shall pay a mandatory fine or other fine imposed for a violation of this section pursuant to Ohio R.C. 2929.18(A) in accordance with and subject to the requirements of Ohio R.C. 2925.03(F). The agency that receives the fine shall use the fine as specified in Ohio R.C. 2925.03(F).
  - (2) If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.
- (f) (1) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.
- (2) Upon the filing of a motion under division (f) of this section, the sentencing court, in its discretion, may terminate the suspension.

(ORC 2925.11)

**Statutory reference:**

~~Authority to place offender on probation or within a detention facility or in an alternative residential diversion program in lieu of fine or imprisonment, see Ohio R.C. 2925.11(F)~~

~~Exemptions for pregnant women, see Ohio R.C. 2925.11(G)~~

Felony provisions, see generally Ohio R.C. 2925.11

**513.05. Permitting Drug Abuse**

- (a) No person<sub>7</sub> who is the owner, operator, or person in charge of a locomotive, watercraft, aircraft, or other vehicle<sub>1</sub> as defined in Ohio R.C. 4501.01(A), shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.
- (b) No person<sub>7</sub> who is the owner, lessee, or occupant, or who has custody, control, or supervision<sub>1</sub> of premises<sub>7</sub> or real estate, including vacant land, shall knowingly permit the premises<sub>7</sub> 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 subsection (c)(2) hereof, 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 Ohio R.C. 2925.02, ~~or 2925.03, or 2925.04;~~ or a violation of ORC 2925.041 and the offender had actual knowledge, at the time the offender permitted the vehicle, premises, or real estate to be used as described in ORC 2925.13(A) or (B), that the person who assembled or possessed the chemicals in question in violation of ORC 2925.041 had assembled or possessed them with the intent to manufacture a controlled substance in schedule I or II in violation of ORC 2925.04.
- (d) (1) In addition to any prison term authorized or required by division (c) of this section and ORC 2925.13(C), 2929.13 and 2929.14 and in addition to any other sanction imposed for the offense under this section or ORC 2925.13 or 2929.11 to 2929.18, the court that sentences a person who is convicted of or pleads guilty to a violation of division (a) of this section may suspend for not more than five (5) years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five (5) years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with ORC 2925.38.
- (2) (A) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.
- (B) Upon the filing of a motion under division (d)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.
- (e) Notwithstanding any contrary provision of Ohio R.C. 3719.21, the Clerk of Court shall pay a fine imposed for a violation of this section pursuant to Ohio R.C. 2929.18(A) in accordance with and subject to the requirements of 513.02 and Ohio R.C. 2925.03(F). The agency that receives the fine shall use the fine as specified in Ohio R.C. 2925.03(F).

- (f) Any premises or real estate that is permitted to be used in violation of subsection (b) hereof constitutes a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767.

(ORC 2925.13)

**Statutory reference:**

~~Disbursement of fine monies and bail forfeitures, see Ohio R.C. 2925.13(D)(3) and (4)~~  
~~Felony provisions, see generally Ohio R.C. 2925.13~~

**513.07. Possessing Or Using 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 has previously been convicted of a drug abuse offense, abusing harmful intoxicants is a felony of the fifth degree.
- (c) (1) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five (5) years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five (5) years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with ORC 2925.38.
  - (2) (A) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to ~~the~~ September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.
  - (B) Upon the filing of a motion under division (c)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

(ORC 2925.31)

**513.08. Illegally Dispensing Drug Samples**

- (a) No person shall knowingly furnish another a sample drug.
- (b) Subsection (a) hereof does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4723, 4725, 4729, 4730, 4731, and 4741.
- (c) (1) Whoever violates this section is guilty of illegal dispensing of drug samples.
- (2) If the drug involved in the offense is a compound, mixture, preparation, or substance included in schedule I or II, ~~of Ohio R.C. 3719.44~~ with the exception of marihuana, illegal dispensing of drug samples is a felony and shall be prosecuted under appropriate state law.
- (3) If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in schedule III, IV or V ~~of Ohio R.C. 3719.44~~, 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) (1) In addition to any prison term authorized or required by division (c) of this section and ~~ORC 2929.13, and 2929.14 and 2925.36(C) or (E)~~ and in addition to any other sanction imposed for the offense under this section or ORC 2929.11 to 2929.18 ~~or 2925.36~~, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (a) of this section may suspend for not more than five (5) years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five (5) years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with ORC 2925.38.
- (2) (A) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's

license or permit was suspended under this section shall not file such a motion.

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

(e) Notwithstanding any contrary provision of Ohio R.C. 3719.21, the Clerk of Court shall pay a fine imposed for a violation of this section pursuant to Ohio R.C. 2929.18(A) in accordance with and subject to the requirements of 513.02 and Ohio R.C. 2925.03(F). The agency that receives the fine shall use the fine as specified in Ohio R.C. 2925.03(F).

(ORC 2925.36)

**Statutory reference:**

~~Disbursement of fine monies and bail forfeitures, see Ohio R.C. 2925.36(D)(3) and (4)  
Felony offenses, see Ohio R.C. 2925.36(C)(3)~~

**513.10. Hypodermic Possession, Display And Dispensing Disposal**

(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 or 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 his or her 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 subsection (a) hereof shall negligently fail to take reasonable precautions to prevent any hypodermic in his the person's possession from theft or acquisition by any unauthorized person or negligently discard or dispose of a hypodermic without first having rendered it completely unusable for its original purpose.

(ORC 3719.172)

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

(ORC 3719.99(E))

**513.11. Trafficking In Harmful Intoxicants; improperly dispensing or distributing nitrous oxide**

- ~~(a) No person shall knowingly dispense or distribute any harmful intoxicant, except gasoline to any person under eighteen years of age, if the person who dispenses or distributes it knows or has reason to believe that the harmful intoxicant will be used in violation of Section 513.07, unless a written order from the parent or guardian is provided to the dispenser or distributor. Six months after the State Board of Pharmacy has designated the noxious additive that is to be included in any product containing toluene, 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, no person shall dispense or distribute a product that is required to include a noxious additive unless such product includes the noxious additive in the amounts and proportions prescribed by the Board.~~

Divisions (a)(1) and (2) of this section do not apply to the dispensing or distributing of nitrous oxide.

- (1) No person shall knowingly dispense or distribute a harmful intoxicant to a person age eighteen or older if the person who dispenses or distributes it knows or has reason to believe that the harmful intoxicant will be used in violation of ORC 2925.31.

- (2) No person shall knowingly dispense or distribute a harmful intoxicant to a person under age eighteen if the person who dispenses or distributes it knows or has reason to believe that the harmful intoxicant will be used in violation of ORC 2925.31. Division (a)(2) of this section does not prohibit either of the following:

- (A) Dispensing or distributing a harmful intoxicant to a person under age eighteen if a written order from the juvenile's parent or guardian is provided to the dispenser or distributor;

- (B) Dispensing or distributing gasoline or diesel fuel to a person under age eighteen if the dispenser or distributor does not know or have reason to believe the product will be used in violation of ORC 2925.31. Division (a)(2)(A) of this section does not require a person to obtain a written order from the parent or guardian of a person under age eighteen in order to distribute or dispense gasoline or diesel fuel to the person.
- (b) (1) No person shall knowingly dispense or distribute nitrous oxide to a person age twenty-one or older if the person who dispenses or distributes it knows or has reason to believe the nitrous oxide will be used in violation of ORC 2925.31.
- (2) Except for lawful medical, dental, or clinical purposes, no person shall knowingly dispense or distribute nitrous oxide to a person under age twenty-one.
- (3) No person, at the time a cartridge of nitrous oxide is sold to another person, shall sell a device that allows the purchaser to inhale nitrous oxide from cartridges or to hold nitrous oxide released from cartridges for purposes of inhalation. The sale of any such device constitutes a rebuttable presumption that the person knew or had reason to believe that the purchaser intended to abuse the nitrous oxide.
- (4) No person who dispenses or distributes nitrous oxide in cartridges shall fail to comply with either of the following:
- (A) The record-keeping requirements established under division (e) of this section;
- (B) The labeling and transaction identification requirements established under division (f) of this section.
- ~~(b) Any product that is required by subsection (a) hereof to include a noxious additive shall have such contents clearly stated on the label.~~
- ~~(c) The prohibitions of this section shall not apply after a prescribed noxious additive has been added to the harmful intoxicant or upon determination by the Board that addition of a noxious additive is not required.~~
- ~~(d) Whoever violates this section is guilty of trafficking in harmful intoxicants, a misdemeanor of the fourth degree. If the offender has previously been convicted of a drug abuse offense, trafficking in harmful intoxicants is a misdemeanor of the third degree.~~
- (e) (c) This section does not apply to products used in making, fabricating, assembling, transporting, or constructing a product or structure by manual labor or machinery for sale or lease to another person, or to the mining, refining, or processing of natural deposits.

- (d) (1) Whoever violates division (a)(1) or (2) or division (b)(1), (2), or (3) of this section is guilty of trafficking in harmful intoxicants, a felony of the fifth degree to be prosecuted under appropriate state law.
- (2) Whoever violates division (b)(4)(A) or (B) of this section is guilty of improperly dispensing or distributing nitrous oxide, a misdemeanor of the fourth degree.
- (e) Beginning July 1, 2001, a person who dispenses or distributes nitrous oxide shall record each transaction involving the dispensing or distributing 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 of this state or the United States that are authorized to investigate violations of ORC Chapter 2925, 3719, or 4729 or the 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;
- (3) That it is a violation of state law to distribute or dispense cartridges of nitrous oxide to any person under age twenty-one, punishable as a felony of the fifth degree.
- (f) (1) Each cartridge of nitrous oxide dispensed or distributed in this state shall bear the following printed warning:
- "Nitrous oxide cartridges are to be used only for purposes of preparing food. Nitrous oxide cartridges may not be sold to persons under age twenty-one. 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.

(ORC 2925.32)

### **513.12. Drug Paraphernalia**

- (a) As used in this section, "drug paraphernalia" means any equipment, product, or material of any kind that issued 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, marijuana;
- (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, marijuana, 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; carburation tube or device; smoking or carburetion mask; roach clip or similar

object used to hold burning ~~in~~ 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 Ohio R.C. Chapter 2925;
- (3) The proximity of the equipment, product, or material to any controlled substance;
- (4) The existence of any residue of a controlled substance on the equipment, product, or material;
- (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product, or material, to deliver it to any person whom ~~he~~ the owner or person in control of the equipment, product, or material knows intends to use the equipment, product, or material ~~object~~ to facilitate a violation of any provision of Ohio R.C. Chapter 2925. A finding that the owner, or anyone in control, of the equipment, product, or material, is not guilty of a violation of any other provision of Ohio R.C. Chapter 2925, does not prevent a finding that the equipment, product, or material was intended or designed by the offender for use as drug paraphernalia.
- (6) Any oral or written instruction provided with the equipment, product, or material concerning its use;
- (7) Any descriptive material accompanying the equipment, product, or material and explaining or depicting its use;
- (8) National or local advertising concerning the use of the equipment, product, or material;
- (9) The manner and circumstances in which the equipment, product, or material is displayed for sale;
- (10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product, or material to the total sales of the business enterprise;

- (11) The existence and scope of legitimate uses of the equipment, product, or material in the community;
- (12) Expert testimony concerning the use of the equipment, product, or material.
- (c) (1) Subject to division (d)(2) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.
- (2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if ~~he~~ the person 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 with this municipality, if ~~he~~ the person knows that the purpose of the advertisement is to promote the illegal sale in this municipality of the equipment, product, or material that the offender intended or designed for use as drug paraphernalia.
- (d) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, ~~owner~~ owners of pharmacies, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Ohio R.C. 3719.72.
- (2) Division (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marihuana.
- (e) Notwithstanding Ohio R.C. Chapter 2981, any drug paraphernalia that was used, possessed, sold, or manufactured in a violation of this section shall be seized, after a conviction for that violation, shall be forfeited, and upon forfeiture shall be disposed of pursuant to Ohio R.C. 2981.12(B).
- (f) (1) Whoever violates subsection (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 subsection (f)(3) of this section, whoever violates subsection (c)(2) of this section is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.
- (3) Whoever violates subsection (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 subsection (c)(3) of this section is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.

(g) (1) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five (5) years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five (5) years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with ORC 2925.38.

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

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

(ORC 2925.14)

(h) Illegal use or possession of marihuana drug paraphernalia.

(1) As used in this division (h), "drug paraphernalia" has the same meaning as in division (a) of this section.

(2) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, all factors identified in division (b) of this section.

(3) No person shall knowingly use, or possess with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marihuana.

(4) This division (h) does not apply to any person identified in division (d)(1) of this section, and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by ORC 3719.172.

- (5) Division (e) of this section applies with respect to any drug paraphernalia that was used or possessed in violation of this section.
- (6) Whoever violates division (h)(3) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a minor misdemeanor.
- (7) (A) In addition to any other sanction imposed upon an offender for a violation of division (h) of this section, the court may suspend for not more than five (5) years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five (5) years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of division (h) of this section, the court immediately shall comply with ORC 2925.38.
  - (B) (i) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under division (h) of this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under division (h) of this section shall not file such a motion.
  - (ii) Upon the filing of a motion under division (h)(7)B. of this section, the sentencing court, in its discretion, may terminate the suspension.

(ORC 2925.141)

**513.16. Medical marijuana cultivators, processors and retail dispensaries prohibited.**

- (a) Medical marijuana cultivators, processors and retail dispensaries, including but not limited to those licensed under Ohio R.C. Chapter 3796, are hereby prohibited within the corporate territory of the City.
- (b) No provision set forth in the Codified Ordinances of the City of Franklin shall be interpreted as permitting (conditionally or as of right) any medical marijuana cultivation, processing or retail dispensary activities or uses within the City limits.
- (c) This Ordinance shall not be interpreted as prohibiting or limiting research related to marijuana conducted at a state university, academic medical center, or private

research and development organization as part of a research protocol approved by an institutional review board or equivalent entity.

**Statutory reference:**

Municipal authority as to cultivators, processors, and retail dispensaries of medical marijuana, see Ohio R.C. 3796.29

**CHAPTER 517. GAMBLING**

**517.01. Definitions**

As used in this chapter:

~~"Amateur Athletic Organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are training for amateur athletic competition that is sanctioned by a national governing body as defined in the Amateur Sports Act of 1978, 90 Stat. 3045, 36 U.S.C. 373.~~

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

"Bingo" means either of the following:

- (a) A game with all of the following characteristics:
  - (1) The participants use bingo cards or sheets, including paper formats and electronic representation or image formats, that are divided into 25 spaces arranged in 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;
  - (2) The participants cover the spaces on the bingo cards or sheets that correspond to combinations of letters and numbers that are announced by a bingo game operator;
  - (3) A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically, from a receptacle that contains 75 objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the 75 possible combinations of a letter and a number that can appear on the bingo cards or sheets;
  - (4) The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers, as described in division (a)(3) of this definition, that a

predetermined and pre-announced pattern of spaces has been covered on a bingo card or sheet being used by the participant.

- (b) Instant bingo, ~~punch boards~~, electronic instant bingo, and raffles.

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

"Bingo Session" means a period that includes both of the following:

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

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

"Bookmaking" means the business of receiving or paying off bets.

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

"Charitable Instant Bingo Organization" means an organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3) and is a charitable organization as defined in this section. A "charitable instant bingo organization" does not include a charitable organization that is exempt from federal

income taxation under IRC 501(a) and described in IRC 501(c)(3) and that is created by a veteran's organization, a fraternal organization, or a sporting organization in regards to bingo conducted or assisted by a veteran's organization, a fraternal organization, or a sporting organization pursuant to Ohio R.C. 2915.13, or any substantially equivalent municipal ordinance.

"Charitable Organization." 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), 501(c)(4), 501(c)(8), 501(c)(10) or 501(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).~~ "charitable organization" means either of the following:

- (a) An organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;
- (b) A volunteer rescue service organization, volunteer firefighter's organization, veteran's organization, fraternal organization, or sporting organization that is exempt from federal income taxation under subsection 501(c)(4), (c)(7), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code.

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 Ohio R.C. 2915.08 or the conducting of any game of chance as provided in Ohio 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 Ohio R.C. 2915.08 or the conducting of any game of chance as provided in Ohio R.C. 2915.02(D), or a substantially equivalent municipal ordinance.~~

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

- (a) Any organization that is described in IRC 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under IRC 501(a) and described in IRC 501(c)(3);

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

"Community Action Agency" has the same meaning as in Ohio R.C. 122.66.

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

~~"Deal of Instant Bingo Tickets"~~ means a single game of instant bingo tickets, or a single game of electronic instant bingo tickets, all with the same serial number.

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

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

~~"Educational Organization" means 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.~~

~~"Electronic Bingo Aid."~~

"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.

"Electronic Bingo Aid" does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.

"Electronic instant bingo" means:

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

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

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

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

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

(B) Horse racing;

(C) Gambling games offered in this state on slot machines or video lottery terminals. As used in this division, "video lottery terminal" has the same meaning as in section 3770.21 of the Revised Code.

(2) Any device operated by dropping one or more coins or tokens into a slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or more rotating reels marked into horizontal segments by varying symbols, where the predetermined prize amount depends on how and how many of the symbols line up when the rotating reels come to a rest;

(3) Any device that includes a coin or token slot, tray, or hopper and the ability to dispense coins, cash, tokens, or anything of value other than a credit ticket voucher.

"Electronic instant bingo system" means both of the following:

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

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

(2) It is located on the premises of the principal place of business of a veteran's or fraternal organization that holds a type II or type III bingo license to conduct electronic instant bingo at that location issued under section 2915.08 of the Revised Code.

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

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

(a) The purchase or lease of bingo supplies;

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

- (c) Bank fees and service charges for a bingo session or game account described in Ohio R.C. 2915.10;
- (d) Audits and accounting services;
- (e) Safes;
- (f) Cash registers;
- (g) Hiring security personnel;
- (h) Advertising bingo;
- (i) Renting premises in which to conduct a bingo session;
- (j) Tables and chairs;
- (k) Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;
- (l) Payment of real property taxes and assessments that are levied on a premises on which bingo is conducted;
- ~~(m)~~ (m) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the Attorney General under Ohio R.C. ~~2915.08(B)~~ 2915.08(F)(1).

~~(1).~~

"Fraternal Organization" means any society, order, State headquarters, or association within this State, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge, or chapter of a national or State organization, that exists exclusively for the common business or sodality of its members, ~~and that has been in continuous existence in this State for a period of five years.~~

"Gambling device" means any of the following:

- (a) A book, totalizer, or other equipment for recording bets;
- (b) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance or evidencing a bet;
- (c) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;

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

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

"Gambling Offense" means any of the following:

- (a) A violation of Ohio R.C. ~~2915.02, 2915.03, 2915.04, 2915.05, 2915.06, 2915.07, 2915.08, 2915.081, 2915.082, 2915.09, 2915.091, 2915.092, 2915.10, or 2915.11~~ Chapter 2915;
- (b) A violation of an existing or former municipal ordinance or law of this or any other State or of the United States substantially equivalent to any ~~section listed in division (1) of this definition~~ provision of Ohio R.C. Chapter 2915 or a violation of Ohio R.C. 2915.06 as it existed prior to July 1, 1996;
- (c) An offense under an existing or former municipal ordinance or law of this or any other State or of the United States, of which gambling is an element;
- (d) A conspiracy or attempt to commit, or complicity in committing, any offense under division (a), (b), or (c) of this definition.

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

- (a) The name of the game;
- (b) The manufacturer's name or distinctive logo;
- (c) The form number;
- (d) The ticket count;
- (e) The prize structure, including the number of winning ~~instant bingo~~ tickers by denomination and the respective winning symbol or number combinations for the winning ~~instant bingo~~ tickets;
- (f) The cost per play;
- (g) The serial number of the game.

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

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

"Gross Annual Revenues" means the annual gross receipts derived from the conduct of bingo described in definition "Bingo" and subsection (a) plus the annual net profit derived from the conduct of bingo described in subsection (b).

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

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

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

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

~~"Historic Railroad Educational Organization" means 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 Ohio 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.~~

"Instant Bingo" means a form of bingo that ~~uses~~ shall use folded or banded tickets or paper cards with perforated break-open tabs, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners, ~~and may~~

also include games in which some winners are determined by the random selection of one or more bingo numbers by the use of a seal card or bingo blower. "Instant bingo" includes ~~seal cards~~ a punch board game. In all "instant bingo" the prize amount and structure shall be predetermined. "Instant bingo" does not include electronic instant bingo or any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations.

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

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

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

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

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

- (a) Cash, gift cards, or any equivalent thereof;
- (b) Plays on games of chance, State lottery tickets, ~~bingo~~, or ~~instant~~ bingo;
- (c) Firearms, tobacco, or alcoholic beverages; or

- (d) A redeemable voucher that is redeemable for any of the items listed in division (a), (b), or (c) of this definition.

"Net Profit" means gross profit minus expenses.

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

~~"Nonprofit Medical Organization" means either of the following:~~

- ~~(a) 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;~~
- ~~(b) 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.~~

"Participant" means any person who plays bingo.

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

"Pool Not Conducted for Profit" means a scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.

"Punch Board" means a form of instant bingo that uses a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle ~~when used in conjunction with instant bingo~~. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.

"Raffle" means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one or more winners of the raffle are

determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle. "Raffle" does not include the drawing of a ticket stub or other detachable section of a ticket purchased to attend a professional sporting event if both of the following apply:

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

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

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

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

"Scheme of Chance" means a slot machine unless authorized under Ohio R.C. Chapter 3772, lottery unless authorized under Ohio R.C. Chapter 3770, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit.

"Scheme of chance" includes the use of an electronic device to reveal the results of a game entry if valuable consideration is paid, directly or indirectly, for a chance to win a prize. Valuable consideration is deemed to be paid for a chance to win a prize in the following instances:

- (a) Less than fifty per cent of the goods or services sold by a scheme of chance operator in exchange for game entries are used or redeemed by participants at any one location;
- (b) Less than fifty per cent of participants who purchase goods or services at any one location do not accept, use, or redeem the goods or services sold or purportedly sold;
- (c) More than fifty per cent of prizes at any one location are revealed to participants through an electronic device simulating a game of chance or a "casino game" as defined in Ohio R.C. 3772.01;
- (d) The good or service sold by a scheme of chance operator in exchange for a game entry cannot be used or redeemed in the manner advertised;

- (e) A participant pays more than fair market value for goods or services offered by a scheme of chance operator in order to receive one or more game entries;
- (f) A participant may use the electronic device to purchase additional game entries;
- (g) A participant may purchase additional game entries by using points or credits won as prizes while using the electronic device;
- (h) A scheme of chance operator pays out in prize money more than twenty percent of the gross revenue received at one location; or
- (i) A participant makes a purchase or exchange in order to obtain any good or service that may be used to facilitate play on the electronic device.

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

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

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

~~"Senior Citizen's Organization" means 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).~~

~~"Service Organization" means either of the following:~~

- ~~(a) 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 crippled, born with birth defects, or have any other mental or physical defects 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;~~

~~(b) Any organization that is described in IRC 509(a)(1), 509(a)(2), or 509(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 crippled, born with birth defects, or have any other mental or physical defects.~~

"Skill-Based Amusement Machine" ~~Means~~ means:"

(a) A mechanical, video, digital, or electronic device that rewards the player or players, if at all, only with merchandise prizes or with redeemable vouchers redeemable only for merchandise prizes, provided that with respect to rewards for playing the game all of the following apply:

- (1) The wholesale value of a merchandise prize awarded as a result of the single play of a machine does not exceed ten dollars (\$10.00);
- (2) Redeemable vouchers awarded for any single play of a machine are not redeemable for a merchandise prize with a wholesale value of more than ten dollars (\$10.00);
- (3) Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than ten dollars (\$10.00) times the fewest number of single plays necessary to accrue the redeemable vouchers required to obtain that prize; and
- (4) Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.

A card for the purchase of gasoline is a redeemable voucher for purposes of division (a) of this section even if the skill-based amusement machine for the play of which the card is awarded is located at a place where gasoline may not be legally distributed to the public or the card is not redeemable at the location of, or at the time of playing, the skill-based amusement machine.

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

- (1) The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game;
- (2) Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the player's score;

- (3) The outcome of the game, or the value of the redeemable voucher or merchandise prize awarded-for winning the game, can be controlled by a source other than any player playing the game;
  - (4) The success of any player is or may be determined by a chance event that cannot be altered by player actions;
  - (5) The ability of any player to succeed at the game is determined by game features not visible or known to the player;
  - (6) The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.
- (c) All of the following apply to any machine that is operated as described in division (a) of this definition:
- (1) As used in this 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.
  - (2) Advance play for a single game, play, contest, competition, or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single non-contest, competition, or tournament play.
  - (3) To the extent that the machine is used in a contest, competition, or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of redeemable vouchers or merchandise prizes that are stated prior to the start of the contest, competition, or tournament.
- (d) For purposes of division (a) of this definition, the mere presence of a device, such as a pin-setting, ball-releasing, or scoring mechanism, that does not contribute to or affect the outcome of the play of the game does not make the device a skill- based amusement machine.

"Slot Machine"~~(a)~~ ~~Means~~ means either of the following:

- ~~(1)~~ (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;

~~(2)~~ (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.

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

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

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

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

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

- (a) (1) The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
- (2) The device utilizes software such that the simulated game influences or determines the winning of or value of the prize.
- (3) The device selects prizes from a predetermined finite pool of entries.
- (4) The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.
- (5) The device predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.
- (6) The device utilizes software to create a game result.

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

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

(b) As used in this division, section 517.02 and in Ohio R.C. 2915.02:

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

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

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

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

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

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

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

"Youth Athletic Organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are ~~18~~ 21 years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

"Youth Athletic Park Organization" means any organization, not organized for profit, that satisfies both of the following:

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

(ORC 2915.01)

**517.03. 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~~ such premises for gambling in violation of Ohio R.C. 2915.02 or a substantially equivalent municipal ordinance.
  - (2) Recklessly permit ~~the~~ such premises to be used or occupied for gambling in violation of Ohio 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 Ohio R.C. ~~Chapter 3767~~ 3767.01 to 3767.99.

(ORC 2915.03)

**517.06. Methods Of Conducting A Bingo Game; Prohibitions**

- (a) No charitable organization that conducts bingo shall fail to do any of the following:
- (1) Own all of the equipment used to conduct bingo or lease that equipment from a charitable organization that is licensed to conduct bingo, or from the landlord of a premises where bingo is conducted, for a rental rate that is not more than is customary and reasonable for that equipment;
  - (2) Except as otherwise provided in division (a)(3) of this section, use all of the gross receipts from bingo for paying prizes, for reimbursement of expenses for or for renting premises in which to conduct a bingo session, for reimbursement of expenses for or for purchasing or leasing bingo supplies used in conducting bingo, for reimbursement of expenses for or for hiring security personnel, for reimbursement of expenses for or for advertising bingo, or for reimbursement of other expenses or for other expenses listed in the definition for "expenses" in Ohio R.C. 2915.01, provided that the amount of the receipts so spent is not more than is customary and reasonable for a similar purchase, lease, hiring, advertising, or expense. If the building in which bingo is conducted is owned by the charitable organization conducting bingo and the bingo conducted includes a form of bingo described in division (1) of the definition of "bingo" in Ohio R.C. 2915.01, the charitable organization may deduct from the total amount of the gross receipts from each session a sum equal to the lesser of six hundred dollars (\$600.00) 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,~~ described in Ohio R.C. 2915.01(O)(1) for a charitable purpose listed in its license application and described in the definition for "charitable purpose" in Ohio R.C. 2915.01, or distribute all of the net profit ~~derived from~~ from the proceeds of the sale of instant bingo or electronic instant bingo as stated in its license application and in accordance with Ohio R.C. 2915.101, as applicable.
- (b) No charitable organization that conducts a bingo game described in division (1) of the definition of "bingo" in Ohio R.C. 2915.01 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 six hundred ~~fifty~~ dollars ~~(\$650.00)~~ (\$600.00) 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 four hundred fifty dollars (\$450.00) per bingo session, or on premises that are owned by a person other than a charitable organization,

that are leased from that person by another charitable organization, and that are subleased from that other charitable organization by the charitable organization for a rental rate not in excess of four hundred fifty dollars (\$450.00) per bingo session. No charitable organization is required to pay property taxes or assessments on premises that the charitable organization leases from another person to conduct bingo sessions. If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo sessions, the lessor of the premises shall provide ~~only~~ the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo supplies, or any other type of service. A charitable organization shall not lease or sublease premises that it owns or leases to more than three (3) other charitable organizations per calendar week for conducting bingo sessions on the premises. A person that is not a charitable organization shall not lease premises that it owns, leases, or otherwise is empowered to lease to more than three charitable organizations per calendar week for conducting bingo sessions on the premises. In no case shall more than nine bingo sessions be conducted on any premises in any calendar week;

- (2) Display its license conspicuously at the premises where the bingo session is conducted;
  - (3) Conduct the bingo session in accordance with division (1) of the definition of "bingo" in Ohio R.C. 2915.01.
- (c) No charitable organization that conducts a bingo game described in division (1) of the definition of "bingo" in Ohio 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 three bingo sessions in any seven-day period. A volunteer firefighter's

organization or a volunteer rescue service organization that conducts not more than five bingo sessions in a calendar year may conduct more than three bingo sessions in a seven-day period after notifying the Attorney General when it will conduct the sessions;

- (5) Pay out more than six thousand dollars (\$6,000) in prizes during any bingo session that is conducted by the charitable organization;
- (6) Conduct a bingo session at any time during the eight-hour period between 2:00 a.m. and 10:00 a.m., at any time during, or within ten hours of, a bingo game conducted for amusement only pursuant to Ohio R.C. 2915.12 or any substantially equivalent municipal ordinance, at any premises not specified on its license, or on any day of the week or during any time period not specified on its license. This division does not prohibit the sale of instant bingo tickets beginning at 9:00 a.m. for a bingo session that begins at 10:00 a.m. If circumstances make it impractical for the charitable organization to conduct a bingo session at the premises, or on the day of the week or at the time specified on its license, or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license, the charitable organization may apply in writing to the Attorney General for an amended license pursuant to Ohio R.C. ~~2915.08(F)~~ 2915.08(J). A charitable organization may apply twice in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license. If the amended license is granted, the organization may conduct bingo sessions at the premises, on the day of the week, and at the time specified on its amended license;
- (7) Permit any person whom the charitable organization knows, or should have known, is under the age of 18 to work as a bingo game operator;
- (8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;
- (9) Permit the lessor of the premises on which the bingo session is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo supplies, or any other type of service;
- (10) Purchase or lease bingo supplies from any person except a distributor issued a license under Ohio R.C. 2915.081;
- (11)(A) Use or permit the use of electronic bingo aids except under the following circumstances:
  - (i) For any single participant, not more than 90 bingo faces can be played using an electronic bingo aid or aids.

- (ii) The charitable organization shall provide a participant using an electronic bingo aid with corresponding paper bingo cards or sheets.
- (iii) 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.
- (iv) 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.
- (v) 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.
- (vi) An electronic bingo aid cannot be used to provide for the input of numbers and letters announced by a bingo caller other than the bingo caller who physically calls the numbers and letters at the location at which the bingo session is conducted and at which the electronic bingo aid is used.

(B) The Attorney General may adopt rules in accordance with Ohio R.C. 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 "bingo" in Ohio R.C. 2915.01.

(d) (1) Except as otherwise provided in this division, 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. ~~This division does not prohibit an employee of a fraternal organization or veteran's organization from selling instant bingo tickets or cards to the organization's members, as long as no portion of the employee's compensation is paid from any receipts of bingo.~~

(2) Except as otherwise provided in division (d)(3) of this section, no charitable organization shall provide to a bingo game operator any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting instant bingo, electronic instant

bingo, or both other than at a bingo session at the site of instant bingo, electronic instant bingo, or both other than at a bingo session.

(3) Nothing in 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) Whoever violates division (a)(2) of this section is guilty of illegally conducting a bingo game, a felony to be prosecuted under appropriate State law. Except as otherwise provided in this division, whoever violates division (a)(1), (a)(3), (b)(1), (b)(2), (b)(3), (c)(1) to (c)(11), or (d) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of division (a)(1), (a)(3), (b)(1), (b)(2), (b)(3), (c)(1) to (c)(11), or (d) of this section, a violation of division (a)(1), (a)(3), (b)(1), (b)(2), (b)(3), (c)(1) to (c)(11), or (d) of this section is a misdemeanor of the first degree. Whoever violates division (c)(12) of this section is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (c)(12) of this section, a violation of division (c)(12) of this section is a felony to be prosecuted under appropriate State law.

(ORC 2915.09)

### **517.07. Bingo Records**

- (a) No charitable organization that conducts bingo or a game of chance pursuant to Ohio R.C. 2915.02(D), or any substantially equivalent municipal ordinance, shall fail to maintain the following records for at least three years from the date on which the bingo or game of chance is conducted:

- (1) An itemized list of the gross receipts of each bingo session, each game of instant bingo by serial number, each electronic instant bingo game by serial number, each raffle, each punch board game, and each game of chance, and an itemized list of the gross profits of each game of instant bingo by serial number and each electronic instant bingo game by serial number;
  - (2) An itemized list of all expenses, other than prizes, that are incurred in conducting bingo ~~or instant bingo~~, the name of each person to whom the expenses are paid, and a receipt for all of the expenses;
  - (3) A list of all prizes awarded during each bingo session, each raffle, each punch board game, and each game of chance conducted by the charitable organization, the total prizes awarded from each game of instant bingo by serial number and each electronic instant bingo game by serial number, and the name, address, and social security number of all persons who are winners of prizes of six hundred dollars (\$600.00) or more in value;
  - (4) An itemized list of the recipients of the net profit of the bingo or game of chance, including the name and address of each recipient to whom the money is distributed, and if the organization uses the net profit of bingo, or the money or assets received from a game of chance, for any charitable or other purpose set forth in Ohio R.C. 2915.01(V), Ohio R.C. 2915.02(D), or Ohio R.C. 2915.101, a list of each purpose and an itemized list of each expenditure for each purpose;
  - (5) The number of persons who participate in any bingo session or game of chance that is conducted by the charitable organization;
  - (6) A list of receipts from the sale of food and beverages by the charitable organization or one of its auxiliary units or societies, if the receipts were excluded from "gross receipts" under Ohio R.C. 2915.01(T);
  - (7) An itemized list of all expenses incurred at each bingo session, each raffle, each punch board game, or each game of instant bingo or electronic instant bingo conducted by the charitable organization in the sale of food and beverages by the charitable organization or by an auxiliary unit or society of the charitable organization, the name of each person to whom the expenses are paid, and a receipt for all of the expenses.
- (b) A charitable organization shall keep the records that it is required to maintain pursuant to division (a) of this section at its principal place of business in this State or at its headquarters in this State and shall notify the Attorney General of the location at which those records are kept.
- (c) The gross profit from each bingo session or game described in division (1) or (2) of the definition of "bingo" in Ohio R.C. 2915.01 shall be deposited into a checking account devoted exclusively to the bingo session or game. Payments for allowable expenses incurred in conducting the bingo session or game and payments to

recipients of some or all of the net profit of the bingo session or game shall be made only by checks or electronic fund transfers drawn on the bingo session or game account.

- (d) Each charitable organization shall conduct and record an inventory of all of its bingo supplies as of the first day of November of each year.
- (e) The Attorney General may adopt rules in accordance with Ohio R.C. Chapter 119 that establish standards of accounting, record keeping, and reporting to ensure that gross receipts from bingo or games of chance are properly accounted for.
- (f) A distributor shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing to another person bingo supplies for use in this State. The record shall include all of the following for each instance:
  - (1) The name of the manufacturer from which the distributor purchased the bingo supplies and the date of the purchase;
  - (2) The name and address of the charitable organization or other distributor to which the bingo supplies were sold or otherwise provided;
  - (3) A description that clearly identifies the bingo supplies;
  - (4) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each charitable organization.
- (g) A manufacturer shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies for use in this State. The record shall include all of the following for each instance:
  - (1) The name and address of the distributor to whom the bingo supplies were sold or otherwise provided;
  - (2) A description that clearly identifies the bingo supplies, including serial numbers;
  - (3) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each distributor.
- (h) (1) The Attorney General or any law enforcement agency may do all of the following:
  - (A) Investigate any charitable organization, distributor, or manufacturer or any officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer;

- (B) Examine the accounts and records of the charitable organization, distributor, or manufacturer or of any officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer;
- (C) Conduct inspections, audits, and observations of bingo or games of chance;
- (D) Conduct inspections of the premises where bingo or games of chance are conducted or where bingo supplies are manufactured or distributed;
- (E) Take any other necessary and reasonable action to determine if a violation of any provision of this chapter or Ohio R.C. Chapter 2915 has occurred and to determine whether Ohio R.C. 2915.11, or any substantially equivalent municipal ordinance, has been complied with.

(2) If any law enforcement agency has reasonable grounds to believe that a charitable organization, distributor, or manufacturer or an officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer has violated any provision of this chapter or Ohio R.C. Chapter 2915, the law enforcement agency may proceed by action in the proper court to enforce this chapter or Ohio R.C. Chapter 2915, provided that the law enforcement agency shall give written notice to the Attorney General when commencing an action as described in this division.

- (i) No person shall destroy, alter, conceal, withhold, or deny access to any accounts or records of a charitable organization, distributor, or manufacturer that have been requested for examination, or obstruct, impede, or interfere with any inspection, audit, or observation of bingo or a game of chance, ~~or of~~ premises where bingo or a game of chance is conducted, or of premises where bingo supplies are manufactured or distributed, or refuse to comply with any reasonable request of, or obstruct, impede, or interfere with any other reasonable action undertaken by, the Attorney General or a law enforcement agency pursuant to division (h) of this section.
- (j) Whoever violates division (a) or (i) of this section is guilty of a misdemeanor of the first degree.

(ORC 2915.10)

**517.09. Bingo Exceptions**

(a) ~~Sections 517.06 through 517.09 and 517.11 through 517.14~~ Sections 2915.07 to 2915.15 of the Ohio Revised Code 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~~ nonmonetary, 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 one hundred dollars (\$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:
    - (i) A bingo session during which a charitable bingo game is conducted pursuant to Ohio R.C. 2915.07 through 2915.11 or any substantially equivalent municipal ordinance.
    - (ii) A scheme or game of chance, or bingo described in Ohio R.C. 2915.01(O)(2).
  - (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 ~~twenty-five~~ twenty-five cents (\$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 one hundred dollars (\$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 one hundred dollars (\$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:

(i) A bingo session during which a charitable bingo game is conducted pursuant to Ohio R.C. 2915.07 through 2915.11 or any substantially equivalent municipal ordinance;

(ii) A scheme of chance or a game of chance, or bingo described in Ohio R.C. 2915.01(O)(2).

(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.

(ORC 2915.12)

**517.11. 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 Ohio 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 applies:

(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 Ohio R.C. 2915.01, is in good standing in the State pursuant to Ohio R.C. 2915.08, and is in compliance with Ohio 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), 501(c)(8), (c)(10), or (c)(19) or is a veteran's organization described in IRC 501(c)(4), and conducts instant bingo under Ohio 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 Ohio 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 Ohio 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, except as provided in ORC 2915.093(D);
- (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 ~~who are performing work or labor~~ 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 in place of a cash prize won by a participant in an instant bingo game. In no case shall an instant bingo ticket or card be sold or provided 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.

- (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 Ohio R.C. 2915.081 as reflected on an invoice issued by the distributor that contains all of the information required by Ohio 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) Possess bingo supplies that were not obtained in accordance with Ohio R.C. Chapter 2915.
- (b) A charitable organization may purchase, lease, or use instant bingo ticket dispensers to sell instant bingo tickets or cards.
- (c) Pursuant to Ohio R.C. 2915.091(C), the Attorney General may adopt rules in accordance with Ohio R.C. Chapter 119 that govern the conduct of instant bingo by charitable organizations. Before those rules are adopted, the attorney general shall reference the recommended standards for opacity, randomization, minimum information, winner protection, color, and cutting for instant bingo tickets or cards, seal cards, and punch boards established by the North American gaming regulators association.
- (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.

(ORC 2915.091)

#### **517.12. 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~~ a person or entity that is exempt from federal income taxation under IRC 501(a) and is described in IRC 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) may conduct a raffle to raise money for the ~~organization or school~~ person or entity 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 person or entity~~ 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 person or entity~~ shall distribute at least 50% of the net profit from the raffle to a charitable purpose described in Ohio R.C. 2915.01(V) or to a department or agency of the federal government, the State, or any political subdivision.

~~(b) A chamber of commerce may conduct not more than one raffle per year to raise money for the chamber of commerce.~~

~~(e)~~ (b) 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)~~ (c) Whoever violates division (c) of this section is guilty of illegal conduct of a raffle. Except as otherwise provided in this division, illegal conduct of a raffle is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (c) of this section, illegal conduct of a raffle is a felony to be prosecuted under appropriate State law.

(ORC 2915.092)

### **517.13. Instant Bingo Other Than At Bingo Sessions**

(a) As used in this section, "retail income from all commercial activity" means the income that a person receives from the provision of goods, services, or activities that are provided at the location where instant bingo other than at a bingo session is conducted, including the sale of instant bingo tickets. A religious organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3), at not more than one location at which it conducts its charitable programs, may include donations from its members and guests as retail income.

(b) (1) If a charitable instant bingo organization conducts instant bingo other than at a bingo session under a type III license issued under ORC 2915.08, the charitable instant bingo organization shall enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted to allow the owner or lessor to assist in the conduct of instant bingo other than at a bingo session, identify each location where the instant bingo other than at a bingo session is being conducted, and identify the owner or lessor of each location.

(2) A charitable instant bingo organization that conducts instant bingo other than at a bingo session under a type III license issued under ORC 2915.08 is not required to enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted, provided that the owner or lessor is not assisting in the conduct of the instant bingo other than at a bingo session and provided that the conduct of the instant bingo other than at a bingo session at that location is not more than five days per calendar year and not more than ten hours per day.

(c) Except as provided in division (f) of this section, 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.

(d) (1) The owner or lessor of a location that enters into a contract pursuant to division ~~(c)~~ (b) of this section shall pay the full gross profit to the charitable instant bingo organization, in return for the deal of instant bingo tickets.

The owner or lessor may retain the money that the owner or lessor receives for selling the instant bingo tickets, provided, however, that after the deal has been sold, the owner or lessor shall pay to the charitable instant bingo organization the value of any unredeemed instant bingo prizes remaining in the deal of instant bingo tickets.

(2) The charitable instant bingo organization shall pay six percent (6%) of the total gross receipts of any deal of instant bingo tickets for the purpose of reimbursing the owner or lessor for expenses described in this division.

(3) As used in this division, "expenses" means those items provided for in ORC 2915.01(GG)(4), (GG)(5), (GG)(6), (GG)(7), (GG)(8), (GG)(12), and (GG)(13) and that percentage of the owner's or lessor's rent for the location where instant bingo is conducted. Expenses, in the aggregate, shall not exceed six percent (6%) of the total gross receipts of any deal of instant bingo tickets.

(4) As used in this division, "full gross profit" means the amount by which the total receipts of all instant bingo tickets, if the deal has been sold in full, exceeds the amount that would be paid out if all prizes were redeemed.

(e) A charitable instant bingo organization shall provide the Attorney General with all of the following information:

(1) That the charitable instant bingo organization has terminated a contract entered into pursuant to division (b) of this section with an owner or lessor of a location;

(2) That the charitable instant bingo organization has entered into a written contract pursuant to division (b) of this section with a new owner or lessor of a location;

(3) That the charitable instant bingo organization is aware of conduct by the owner or lessor of a location at which instant bingo is conducted that is in violation of Ohio R.C. Chapter 2915.

(f) Division (c) of this section does not apply to a volunteer firefighter's organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(C)(3), that conducts instant bingo other than at a bingo session on the premises where the organization conducts firefighter training, that has conducted instant bingo continuously for at least five years prior to July 1, 2003, and that, during each of those

five years, had gross receipts of at least one million five hundred thousand dollars (\$1,500,000).

(ORC 2915.093)

(g) (1) A Subject to the requirements of ORC 2915.14 and 2915.15 concerning electronic instant bingo, a veteran's organization, a fraternal organization, or a sporting organization authorized to conduct a bingo session pursuant to Ohio R.C. Chapter 2915 may conduct instant bingo, electronic instant bingo, or both other than at a bingo session under a type III license issued under ORC 2915.08 if all of the following apply:

(A) The veteran's organization, fraternal organization, or sporting organization limits the sale of instant bingo to 12 hours during any day, provided that the sale does not begin earlier than 10:00 a.m. and ends not later than 2:00 a.m.

(B) The veteran's organization, fraternal organization, or sporting organization limits the sale of instant bingo to its own premises and to its own members and invited guests.

(C) The veteran's organization, fraternal organization, or sporting organization is raising money for an organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3), and that is in good standing in this State and executes a written contract with that organization as required in division (g)(2) of this section.

(2) If a veteran's organization, fraternal organization, or sporting organization authorized to conduct instant bingo or electronic instant bingo pursuant to division (g)(1) of this section is raising money for another organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under IRC 501 (a) and described in IRC 501(c), and that is in good standing in this State, the veteran's organization, fraternal organization, or sporting organization shall execute a written contract with the organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under IRC 501(a) and described in IRC ~~501(e)~~ 501(c)(3), and that is in good standing in this State in order to conduct instant bingo or electronic instant bingo. That contract shall include a statement of the percentage of the net proceeds that the veteran's, fraternal, or sporting organization will be distributing to the ~~charitable~~ organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under IRC 501(a) and described in IRC ~~501(e)~~ 501(c)(3), 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 or electronic instant bingo pursuant to division (g)(1) of this section has been issued a liquor permit under Ohio R.C. Chapter 4303, that permit may be subject to suspension, revocation, or cancellation if the veteran's organization, fraternal organization, or sporting organization violates a provision of this chapter or Ohio R.C. Chapter 2915.
- (B) No veteran's organization, fraternal organization, or sporting organization that enters into a written contract pursuant to division (g)(2) of this section shall violate any provision of this chapter or Ohio R.C. Chapter 2915, or permit, aid, or abet any other person in violating any provision of this chapter or Ohio R.C. Chapter 2915.
- (4) A veteran's organization, fraternal organization, or sporting organization shall give all required proceeds earned from the conduct of instant bingo or electronic instant bingo to the organization with which the veteran's organization, fraternal organization, or sporting organization has entered into a written contract.
- (5) Whoever violates division (g) of this section is guilty of illegal instant bingo or electronic instant bingo conduct. Except as otherwise provided in this division, illegal instant bingo or electronic instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (g) of this section, illegal instant bingo or electronic instant bingo conduct is a felony to be prosecuted under appropriate State law.

(ORC 2915.13)

## **CHAPTER 525. LAW ENFORCEMENT AND PUBLIC OFFICE**

### **525.01. Definitions**

As used in this chapter:

"Campaign Committee," "Contribution," "Political Action Committee," "Legislative Campaign Fund," ~~and~~ "Political Party," and "Political Contributing Entity" have the same meanings as in Ohio R.C. 3517.01.

"Detention" means 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 Ohio 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 Ohio R.C. 311.29(E) or Ohio R.C. 5149.03(B). For a person confined in a county jail who participates in a county jail industry program pursuant to Ohio R.C. 5147.30, "detention" includes time spent at an assigned work site and going to and from the work site.

"Detention Facility" means 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 unruly child in this state or another state or under the laws of the United States.

"Official Proceeding" means 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.

"Party Official" means any person who holds an elective or appointive post in a political party in the United States or this State, by virtue of which the person directs, conducts, or participates in directing or conducting party affairs at any level of responsibility.

"Provider Agreement" has the same meaning as in ORC 5164.01.

"Public Official" means any elected or appointed officer, or employee, or agent of the State or any political subdivision, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges, and law enforcement officers. The term does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.

"Public Servant."

(a) 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~~ the person is elected or appointed to the office for which ~~he or she~~ the person is a candidate. A person is a candidate for purposes of this division if ~~he or she~~ the person has been nominated according to law for election or

appointment to public office, or if ~~he or she~~ the person has filed a petition or petitions as required by law to have ~~he or she~~ the person's name placed on the ballot in a primary, general, or special election, or if ~~he or she~~ the person campaigns as a write-in candidate in any primary, general, or special election.

- (b) The term does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.

"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.

(ORC 2921.01)

**525.02. 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 the public official's official function.
  - (4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention, and contingency benefits and services; disability financial assistance; retirement benefits or health care coverage from a state retirement system; economic development assistance, as defined in section 9.66 of the Revised Code; 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, 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 that person's 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 section 2923.11 of the Revised Code, and in conjunction with the furnishing to the seller of the firearm of a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.
  - (13) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the secretary of state, a county recorder, or the clerk of a court of record.
  - (14) The statement is made in an application filed with a county sheriff pursuant to section 2923.125 of the Revised Code 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 section 2923.1213 of the Revised Code.
  - (15) The statement is required under section 5743.71 of the Revised Code 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 section 2923.11 of the Revised Code, 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 section 2923.125 of the Revised Code, shall knowingly present to a sheriff a fictitious or altered document that purports to be certification of the person's competence in handling a handgun as described in division (B)(3) of section 2923.125 of the Revised Code.

- (d) It is no defense to a charge under division (a)(6) of this section that the oath or affirmation was administered or taken in an irregular manner.
- (e) If contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false but only that one or the other was false.
- (f) (1) Whoever violates division (a)(1), (2), (3), (4), (5), (6), (7), (8), (10), (11), (13), or (15) of this section is guilty of falsification, a misdemeanor of the first degree.
- (2) Whoever violates division (a)(9) of this section is guilty of falsification in a theft offense. Except as otherwise provided in this division, falsification in a theft offense is a misdemeanor of the first degree. If the value of the property or services stolen is five hundred dollars or more and is less than five thousand dollars, falsification in a theft offense is a felony of the fifth degree. If the value of the property or services stolen is five thousand dollars or more and is less than one hundred thousand dollars, falsification in a theft offense is a felony of the fourth degree. If the value of the property or services stolen is one hundred thousand dollars or more, falsification in a theft offense is a felony of the third degree.
- (3) Whoever violates division (a)(12) or (b) of this section is guilty of falsification to purchase a firearm, a felony of the fifth degree.
- (4) Whoever violates division (a)(14) or (c) of this section is guilty of falsification to obtain a concealed handgun license, a felony of the fourth degree.
- (5) Whoever violates division (a) of this section in removal proceedings under section 319.26, 321.37, 507.13, or 733.78 of the Revised Code is guilty of falsification regarding a removal proceeding, a felony of the third degree.
- (g) A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this division. A civil action under this division is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section.

(ORC 2921.13)

**Statutory reference:**

Falsification, see Ohio R.C. 2921.13

**525.05. Failure To Report A Crime, Or Knowledge Of A Death, Or Burn Injury; Failure To Note Knowledge Or Belief Of Domestic Violence**

- (a) (1) Except as provided in division (a)(2) of this section, no person, knowing that a felony has been or is being committed, shall knowingly fail to report the information to law enforcement authorities.
- (2) No person, knowing that a violation of Ohio R.C. 2913.04(B) or section 545.04(b) of this Code has been or is being committed or that the person has received information derived from such a violation, shall knowingly fail to report the violation to law enforcement authorities.
- (b) Except for conditions that are within the scope of subsection (e) hereof, 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 persons that the person knows or has reasonable cause to believe resulted from an offense of violence.
- (c) No person who discovers the body or acquires the first knowledge of the death of a person shall fail to report the death immediately to a physician or advanced practice registered nurse whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, ambulance service, an emergency squad, or the County Coroner in the county in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained. For purposes of this division, "advanced practice registered nurse" does not include a certified registered nurse anesthetist.
- (d) No person shall fail to provide upon request of the person to whom a report required by subsection (c) hereof 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 the person's knowledge that may have a bearing on the investigation of the death.
- (e) (1) As used in this subsection, "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 superheated air;
  - (C) Any burn injury or wound that may result in death;
  - (D) Any physical harm to persons caused by or as the result of the use of fireworks, novelties and trick noisemakers, and wire sparklers, as each is defined by Ohio R.C. 3743.01.
- (2) No physician, nurse, physician assistant, or limited practitioner who, outside a hospital, sanitarium, or other medical facility, attends or treats a person who has

sustained a burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is ~~such~~ a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

- (3) No manager, superintendent, or other person in charge of a hospital, sanitarium, or other medical facility in which a person is attended or treated for any burn injury inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is ~~such~~ a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.
- (4) No person who is required to report any burn injury under subsection (e)(2) or (3) hereof 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~~ comply with the uniform standard developed by the State Fire Marshal pursuant to Ohio R.C. 3737.22(A)(15).
- (5) Anyone participating in the making of reports under subsection (e) hereof or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding Ohio R.C. 4731.22, the physician-patient relationship or advanced practice registered nurse-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted pursuant to subsection (e) hereof.
- (f) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, ~~registered or licensed practical~~ nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, ~~or licensed~~ professional counselor, independent marriage and family therapist, or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence as defined in Ohio R.C. 3113.31 shall note that knowledge or belief and the basis for it in the patient's or client's records.
- (2) Notwithstanding Ohio R.C. 4731.22, the ~~doctor-patient~~ physician-patient privilege or advanced practice registered nurse-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted ~~pursuant to~~ under subsection (f)(1) of this section, and the information may be admitted as evidence in accordance with the Rules of Evidence.
- (g) Subsection (a) or (d) hereof 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~~ physician and patient; advanced practice registered nurse and patient; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.
  - (2) The information would tend to incriminate a member of the actor's immediate family.
  - (3) Disclosure of the information would amount to revealing a news source privileged under Ohio R.C. 2739.04 or 2739.12.
  - (4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as such a member of the clergy by a person seeking the aid or counsel of that member of the clergy.
  - (5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's 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 Ohio R.C. 3793.06~~ community addiction services provider whose alcohol and drug addiction services are certified pursuant to Ohio R.C. 5119.36.
  - (6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of Ohio R.C. 2907.02 or 2907.05 or to victims of felonious sexual penetration in violation of former Ohio R.C. 2907.12. As used in this section, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide such services.
- (h) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.
- (i) Whoever violates division (a) or (b) of this section is guilty of failure to report a crime. Violation of division (a)(1) of this section is a misdemeanor of the fourth degree. Violation of division (a)(2) or (b) of this section is a misdemeanor of the second degree.

- (j) Whoever violates subsection (c) or (d) hereof is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.
  
- (k) (1) Whoever negligently violates subsection (e) hereof is guilty of a minor misdemeanor.
  
- (2) Whoever knowingly violates subsection (e) hereof is guilty of a misdemeanor of the second degree.
  
- (l) As used in this section, "nurse" includes an advanced practice registered nurse, registered nurse, and licensed practical nurse.

(ORC 2921.22)

**Statutory reference:**

~~Failure to report a crime or knowledge of a death or burn injury, see Ohio R.C. 2921.22~~

**525.10. 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 which is not let by competitive bidding when required by law, and which involves more than one hundred fifty dollars (\$150.00).

- (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) Subsection (a)(4) of this section does not prohibit participation by a public employee in any housing program funded by public monies if the public employee otherwise qualifies for the program and does not use the authority or influence of the public

official's ~~employee's~~ office or employment to secure benefits from the program and if the monies are to be used on the primary residence of the public employee. Such 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 (2) of this section is a felony to be prosecuted under appropriate State law. Violation of division (a)(3), (4), or (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 Ohio R.C. 309.06 and 2921.421, or for a chief legal officer of a municipal corporation or an official designated as prosecutor in a municipal corporation to appoint assistants and employees in accordance with Ohio R.C. 733.621 and 2921.421, or for a township law director appointed under Ohio R.C. ~~504.14~~ 504.15 to appoint assistants and employees in accordance with Ohio R.C. 504.151 and 2921.421.
- (g) This section does not apply to a public contract in which a township trustee in a township with a population of 5,000 or less in its unincorporated area, a member of the township trustee's family, or one of the township trustee's business associates has an interest, if all of the following apply:
  - (1) The subject of the public contract is necessary supplies or services for the township and the amount of the contract is less than five thousand dollars (\$5,000) per year;
  - (2) The supplies or services are being furnished to the township as part of a continuing course of dealing established before the township trustee held that office with the township;
  - (3) The treatment accorded the township is either preferential to or the same as that accorded other customers or clients in similar transactions;
  - (4) The entire transaction is conducted with full knowledge by the township of the interest of the township trustee, member of the township trustee's family, or the township trustee's business associate.
- (h) 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.

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

"Chief Legal Officer" has the same meaning as in Ohio R.C. 733.621.

"Public Contract" means any of the following:

- (1) 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;
- (2) A contract for the design, construction, alteration, repair, or maintenance of any public property.

(ORC 2921.42)

**525.11. Soliciting Or Receiving Improper Compensation**

- (a) No public servant shall knowingly ~~de~~ solicit or accept, and no person shall knowingly promise or give to a public servant, either of the following:

- (1) ~~Solicit or receive any compensation or fee other than as allowed by law, to perform his official duties~~ Any compensation, other than as allowed by Ohio R.C. 102.03(G), (H), and (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) ~~Solicit or receive greater fees or costs than are allowed by law to perform his official duties~~ 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, ~~or~~ 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~~ a person from making voluntary contributions to a political party, campaign committee, legislative campaign fund, ~~or~~ political action committee, or political contributing entity or prohibit a political party, campaign committee, legislative campaign fund, ~~or~~ political action committee, or political contributing entity from accepting voluntary contributions.

(ORC 2921.43)

**525.13. Interfering With Civil Rights**

(a) No public servant, under color of ~~his~~ the public servant's office, employment, or authority, shall knowingly deprive, or 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.

(ORC 2921.45)

**525.16. 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.

(ORC 128.01(A))

(b) No person shall knowingly use the telephone number of a 9-1-1 system established under ORC Chapter 128 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 ORC Chapter 128, 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~~ wireline 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~~ wireline service provider to a public utility or municipal utility in handling customer calls in times of public emergency or service outages. The charge, terms, and conditions for the disclosure or use of such information for the purpose of such access to a database shall be subject to the jurisdiction of the Steering Committee;
  - (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 Steering Committee. 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 Steering Committee.

(ORC 128.32(E) - (G))

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

(ORC 128.99(A), (B))

## **CHAPTER 529. LIQUOR CONTROL AND DRUG ABUSE**

### **529.01. Definitions**

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

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

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

"Beer."

- (a) Includes all beverages brewed or fermented wholly or in part from malt products and containing one-half of one percent (0.5%) or more of alcohol by volume.
- (b) Beer, regardless of the percent of alcohol by volume, is not intoxicating liquor for purposes of this Chapter.

(ORC 4301.244)

"Bottle Club." Any establishment or premises that is operated on a regular basis in the following manner:

- (a) No alcoholic beverages are sold on the premises;
- (b) All members, guests or members of the public must provide their own alcoholic beverages for consumption on the premises; and
- (c) Fees or other charges are imposed on all members, guests or members of the public for admission to the premises; or for set ups (i.e., liquid mixers, cups, ice or other items associated with the consumption of alcoholic beverages) or for any other reason. For the purposes of this Chapter, the term "bottle club" shall include, but not be limited to, all such premises designated in Section 529.06.

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

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

"Community Facility." Means either of the following:

- (a) 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 ORC 351.02;
  
- (b) An area designated as a community entertainment district pursuant to ORC 4301.80.

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

"Hotel." "Hotel" has the same meaning as in ORC 3731.01, subject to the exceptions mentioned in ORC 3731.03.

"Intoxicating Liquor and Liquor." Includes all liquids and compounds, other than beer, containing one-half of one percent (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. "Intoxicating liquor" and "liquor" include cider and alcohol, and all solids and confections which contain one-half of one percent (0.5%) or more of alcohol by volume.

"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 one-half of one percent (0.5%) of alcohol by volume. "Low Alcohol Beverage" does not include a soft drink such as root beer, birch beer, or ginger beer.

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

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

"Mixed Beverages." Includes bottled and prepared cordials, cocktails, highballs, and solids and confections that are obtained 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 one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume. "Mixed beverages" includes the contents of a pod.

"Nightclub." A place operated for profit, where food is served for consumption on the premises and one (1) 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.

"Permit." A permit issued under ORC Chapter 4303 by the Ohio Division of Liquor Control.

"Person." As used in this Chapter, the term "person" includes firms and corporations.

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

- (a) The capsule contains intoxicating liquor of more than twenty-one per cent (21%) of alcohol by volume.
- (b) The capsule also contains a concentrated flavoring mixture.
- (c) The contents of the capsule are not readily accessible or intended for consumption unless certain manufacturer's processing instructions are followed.
- (d) The instructions include releasing the contents of the capsule through a machine specifically designed to process the contents.
- (e) After being properly processed according to the manufacturer's instructions, the final product produced from the capsule contains not less than one-half of one per cent (0.5%) of alcohol by volume and not more than twenty-one per cent (21%) of alcohol by volume.

"Restaurant." A place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold, and served at noon and evening, as the principal business of the place. "Restaurant" does not include pharmacies (as defined in ORC 4729.01, that is under the management or control of a licensed pharmacist), confectionery stores, lunch stands, nightclubs, and filling stations.

"Sale or Sell." Except as used in ORC 4301.01 to 4301.20, 4301.22 to 4301.52, 4301.56, 4301.70, 4301.72, and 4303.01 to 4303.36, includes ~~includes 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 Section 529.04(b) or ORC 4301.21. "Sale" and "Sell" do not include the mere solicitation of orders for beer or intoxicating liquor from the holders of permits issued by the Ohio 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 ORC 4303.25.

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

"Sealed Container." Any container having a capacity of not more than one hundred twenty-eight fluid ounces (128 fl. oz.), the opening of which is closed to prevent the entrance of air.

"Spirituous Liquor." Includes all intoxicating liquors containing more than twenty-one percent (21%) of alcohol by volume. "Spirituous liquor" does not include the contents of a pod.

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

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

"Wine." Includes all liquids fit to use for beverage purposes containing not less than ~~one-half~~ one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume, ~~which that~~ is made from the fermented juices of grapes, fruits, or other agricultural products; ~~except as provided in ORC 4301.01(B)(3), the term does not include cider.~~ "Wine" includes cider, except as used in ORC 4301.13, 4301.421, 4301.422, 4301.432, and 4301.44, and, for purposes of determining the rate of the tax that applies, 4301.43(B), "wine" does not include cider.

(ORC 4301.01)

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Liquor control definitions, see ORC 4301.01~~

~~Beer not intoxicating liquor, see ORC 4301.244~~

**529.02. Activities Prohibited Without A Permit**

(a) As used in this section:

(1) "Charitable organization" is an organization described under section 501(c)(3) of the Internal Revenue Code and exempt from federal income taxation under section 501(a) of the Internal Revenue Code.

(2) "Fundraiser" means a raffle, silent auction, or event where a door prize is awarded.

(3) "Political organization" means a political organization defined under section 527 of the Internal Revenue Code.

(4) "Raffle" means a raffle conducted in accordance with ORC Chapter 2915.

(5) "Silent auction" means a method of submitting bids in writing by one or more persons and, after a review of all the bids received, personal property is awarded to the highest and most responsive bidder.

~~(a)~~ (b) Manufacturing. No person, personally or by the person's clerk, agent, or employee, who is not the holder of an A permit issued by the Ohio Division of Liquor Control, in force at that time and authorizing the manufacture of beer or intoxicating liquor, or who is not an agent or employee of the Division authorized to manufacture such beer or intoxicating liquor, shall manufacture any beer or intoxicating liquor for sale, or shall manufacture spirituous liquor.

~~(b)~~ (c) Sales. No person, personally or by the person's clerk, agent, or employee, who is not the holder of an A, B, C, D, E, F, G, I, or S permit issued by the Ohio Division of Liquor Control, in force at the time, and authorizing the sale of beer, intoxicating liquor, or alcohol, or who is not an agent or employee of the Division or the Ohio Tax Commissioner authorized to sell such beer, intoxicating liquor, or alcohol, shall sell, keep, or possess beer, intoxicating liquor, or alcohol for sale to any persons other than those authorized by ORC Chapters 4301 and 4303 to purchase any beer or intoxicating liquor, or sell any alcohol at retail. ~~This division does not apply to or affect the sale or possession of any low-alcohol beverage.~~

~~(c)~~ (d) Not Purchased from State. No person, personally or by the person's clerk, agent, or employee, who is the holder of a permit issued by the Ohio Division of Liquor Control, shall sell, keep, or possess for sale any intoxicating liquor not purchased from the Division or from the holder of a permit issued by the Division authorizing the sale of such intoxicating liquor unless the same has been purchased with the special consent of the Division. The Division shall revoke the permit of any person convicted of a violation of division (c) of this section.

(e) Division (b) of this section does not apply to either of the following:

(1) The sale or possession for sale of any low-alcohol beverage:

(2) Beer and intoxicating liquor that is given away if all of the following apply:

(a) The beer or intoxicating liquor is given away by a charitable or political organization to a participant in a fundraiser.

(b) Any beer, wine, or mixed beverages given away via the fundraiser is purchased from a person issued a permit under ORC Chapter 4303.

(c) Any spirituous liquor given away via the fundraiser is purchased from an agency store located in this state.

(d) Regarding any spirituous liquor donated to the charitable or political organization for purposes of the fundraiser, the donor is not an agency store located in this state and submits to the charitable or political organization receipts showing that the donor purchased the spirituous liquor from an agency store located in this state.

(e) The charitable or political organization submits purchase receipts for the spirituous liquor given away via a fundraiser to the division of liquor control as proof that the spirituous liquor was purchased from an agency store located in this state. The charitable or political organization shall submit the receipts in accordance with procedures that the division shall establish.

(ORC 4301.58)

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

(ORC 4301.99)

(Ord. 2017-05. Passed 5-15-17.)

**Editor's note:**

See also ORC 4303.25

**Statutory reference:**

~~Permits required, see ORC 4301.58~~

~~Penalty, see ORC 4301.99~~

**529.03. Restrictions On Sales Of Beer And Liquor**

Sales of beer and intoxicating liquor under all classes of permits and from state liquor stores are subject to the following restrictions, in addition to those imposed by the rules or orders of the Ohio Division of Liquor Control:

(a) Underage Persons.

(1) Except as otherwise provided in this Chapter or in ORC Chapter 4301, no beer or intoxicating liquor shall be sold to any person under twenty-one (21) years of age.

(2) No low-alcohol beverage shall be sold to any person under eighteen (18) years of age. No permit issued by the division shall be suspended, revoked, or canceled because of a violation of division (a)(2) of this section.

~~(3) No intoxicating liquor shall be handled by any person under twenty-one (21) years of age, except that a person eighteen (18) years of age or older employed by a~~

~~permit holder may handle or sell beer or intoxicating liquor in sealed containers in connection with wholesale or retail sales, and any person nineteen (19) years of age or older employed by a permit holder may handle intoxicating liquor in open containers when acting in the capacity of a server in a hotel, restaurant, club, or night club, as defined in Section 529.01, or in the premises of a D-7 permit holder. This section does not authorize persons under twenty-one (21) years of age to sell intoxicating liquor across a bar. Any person employed by a permit holder may handle beer or intoxicating liquor in sealed containers in connection with manufacturing, storage, warehousing, placement, stocking, bagging, loading or unloading, and may handle beer or intoxicating liquor in open containers in connection with cleaning tables or handling empty bottles or glasses. Except as provided in division (a)(4) of this section, all of the following apply to the handling, serving, and selling of beer and intoxicating liquor by a person employed by a permit holder:~~

- (a) No person under nineteen (19) years of age shall sell beer across a bar.
- (b) No person under twenty-one (21) years of age shall sell wine, mixed beverages, or spirituous liquor across a bar.
- (c) No person under eighteen (18) years of age shall otherwise handle, serve, or sell beer or intoxicating liquor.
- (4) Any person employed by a permit holder may handle beer or intoxicating liquor in sealed containers in connection with manufacturing, storage, warehousing, placement, stocking, bagging, loading, or unloading, and may handle beer or intoxicating liquor in open containers in connection with cleaning tables or handling empty bottles or glasses.
- (b) Sales to Intoxicated Persons. No permit holder and no agent or employee of a permit holder shall sell or furnish beer or intoxicating liquor to an intoxicated person.
- (c) Sales on Sunday. No sales of intoxicating liquor shall be made after 2:30 a.m. on Sunday, except under either of the following circumstances:
  - (1) Intoxicating liquor may be sold on Sunday under authority of a permit that authorizes Sunday sale.
  - (2) Spirituous liquor may be sold on Sunday by any person awarded an agency contract under ORC 4301.17 if the sale of spirituous liquor is authorized in the applicable precinct as the result of an election on question (B)(1) or (B)(2) of ORC 4301.351 and if the agency contract authorizes the sale of spirituous liquor on Sunday.
- (d) Give-Aways. No holder of a permit shall give away any beer or intoxicating liquor of any kind at any time in connection with the permit holder's business. However, with the exception of an A-1-A permit holder that also has been issued an A-2 or A-2f

permit, an A-1-A, A-1c<sub>2</sub> or D permit holder may provide to a paying customer not more than a total of four (4) tasting samples of beer, wine<sub>1</sub> or spirituous liquor, as authorized by the applicable permit, in any twenty-four (24) hour period. The permit holder shall provide the tasting samples free of charge, at the permit holder's expense, only to a person who is twenty-one (21) years of age or older. The person shall consume the tasting samples on the premises of the permit holder. A distributor is not responsible for the costs of providing tasting samples authorized under division (d) of this section.

As used in division (d) of this section:

(1) "Tasting sample" means one of the following, as applicable:

(a) An amount not to exceed two ounces (2 oz.) of beer;

(b) An amount not to exceed two ounces (2 oz.) of wine;

(c) An amount not to exceed a quarter ounce (0.25 oz.) of spirituous liquor.

(2) "D permit holder" means a person that has been issued a D-1, D-2, D-2x, D-3, D-3a, D-3x, D-4, D-5, D-5a, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-6, or D-7 permit.

(e) Advertising. Except as otherwise provided in this division, no retail permit holder shall display or permit the display on the outside of any licensed retail premises, or on any lot of ground on which the licensed premises are situated, or on the exterior of any building of which the licensed premises are a part, any sign, illustration<sub>1</sub> or advertisement bearing the name, brand name, trade name, trademark, designation<sub>1</sub> or other emblem of or indicating the manufacturer, producer, distributor, place of manufacture, production, or distribution of any beer or intoxicating liquor. Signs, illustrations<sub>2</sub> or advertisements bearing the name, brand name, trade name, trademark designation<sub>1</sub> or other emblem of or indicating the manufacturer, producer, distributor, place of manufacture, production<sub>1</sub> or distribution of beer or intoxicating liquor may be displayed and permitted to be displayed on the interior or in the show windows of any licensed premises, if the particular brand or type of product so advertised is actually available for sale on the premises at the time of that display. The Ohio Liquor Control Commission shall determine by rule the size and character of those signs, illustrations, or advertisements.

(f) Dispensing. No retail permit holder shall possess on the licensed premises any barrel or other container from which beer is drawn, unless there is attached to the spigot or other dispensing apparatus the name of the manufacturer of the product contained in the barrel or other container; provided that, if the beer is served at a bar, the manufacturer's name or brand shall appear in full view of the purchaser. The Ohio Liquor Control Commission shall regulate the size and character of the devices provided for in this section.

(g) ~~Gift Certificates. Except as otherwise provided in this division, no sale of any gift certificate shall be permitted whereby beer or intoxicating liquor of any kind is to be exchanged for the certificate, unless the gift certificate can be exchanged only for food, and beer or intoxicating liquor, for on-premises consumption and the value of the beer or intoxicating liquor does not exceed more than thirty percent (30%) of the total value of the gift certificate.~~ The sale of gift certificates for the purchase of beer, wine, or mixed beverages shall be permitted for the purchase of beer, wine, or mixed beverages for on- or off-premises consumption. Limitations on the use of a gift certificate for the purchase of beer, wine, or mixed beverages for on- or off-premises consumption may be expressed by clearly stamping or typing on the face of the certificate that the certificate may not be used for the purchase of beer, wine, or mixed beverages.

(ORC 4301.22)

(h) Penalties.

- (1) Whoever violates division (a)(1) of this section is guilty of a misdemeanor of the third degree, and shall be fined not less than five hundred and not more than one thousand dollars (\$500 - \$1,000) and, in addition to the fine, may be imprisoned for a definite term of not more than six (6) months).
- (2) Whoever violates divisions (a)(2) or (c) of this section is guilty of a misdemeanor of the fourth degree.
- (3) Whoever violates divisions (a)(3) or (b) of this section is guilty of a misdemeanor of the third degree.
- (4) Whoever violates divisions (e), (d), (f) or (g) of this section is guilty of a minor misdemeanor.

(ORC 4301.99)

(i) ~~Definitions. As used in this division:~~

"Tasting Sample" means one of the following, as applicable:

- ~~(1) An amount not to exceed two ounces (2 oz.) of beer;~~
- ~~(2) An amount not to exceed two ounces (2 oz.) of wine;~~
- ~~(3) An amount not to exceed a quarter ounce (0.25 oz.) of spirituous liquor.~~

"D Permit Holder" means a person that has been issued a ~~D-1, D-2, D-2X, D-3, D-3a, D-3x, D-4, D-5a, D-5c, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-6 or D-7 permit.~~

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Rules for sales of beer and intoxicating liquor under all classes of permits and from state liquor stores, see ORC 4301.22~~

~~Penalty, see ORC 4301.99~~

**529.04. Restrictions Applicable To Sale Of Beer Or Intoxicating Liquor For Consumption On Premises**

The sale of beer or intoxicating liquor for consumption on the premises is subject to the following restrictions, in addition to those imposed by the rules and orders of the Ohio Division of Liquor Control:

- (a) Seated Patrons. Except as otherwise provided in ORC Chapter 4301, beer or intoxicating liquor may be served to a person not seated at a table unless there is reason to believe that the beer or intoxicating liquor so served will be consumed by a person under twenty-one (21) years of age.
  
- (b) Hotels. Beer or intoxicating liquor may be served by a hotel in the room of a bona fide guest, and may be sold by a hotel holding a D-5a permit, or a hotel holding a D-3 or D-5 permit that otherwise meets all of the requirements for holding a D-5a permit, by means of a controlled access alcohol and beverage cabinet that shall be located only in the hotel room of ~~the~~ a registered guest. A hotel may sell beer or intoxicating liquor as authorized by its permit to a registered guest by means of a controlled access alcohol and beverage cabinet, in accordance with the following requirements:
  - (1) Only a person twenty-one (21) years of age or older who is a guest registered to stay in a guestroom shall be provided a key, magnetic card, or other similar device necessary to obtain access to the contents of a controlled access alcohol and beverage cabinet in that guestroom.
  - (2) The hotel shall comply with Section 529.03 and ORC 4301.22 in connection with the handling, restocking, and replenishing of the beer and intoxicating liquor in the controlled access alcohol and beverage cabinet.
  - (3) The hotel shall replenish or restock beer and intoxicating liquor in any controlled access alcohol and beverage cabinet only during the hours during which the hotel may serve or sell beer and intoxicating liquor.
  - (4) The registered guest shall verify, in writing, that the guest has read and understands the language that shall be posted on the controlled access alcohol and beverage cabinet as required by division (b)(5) of this section.
  - (5) A hotel authorized to sell beer and intoxicating liquor pursuant to division (b) of this section shall post on the controlled access alcohol and beverage cabinet, in conspicuous language, the following notice; ~~required under ORC 4301.21(B)(5).~~

"The alcoholic beverages contained in this cabinet shall not be removed from the premises."

(6) The hotel shall maintain a record of each sale of beer or intoxicating liquor made by the hotel by means of a controlled access alcohol and beverage cabinet for any period in which the permit holder is authorized to hold the permit pursuant to ORC 4303.26 and 4303.27 and any additional period during which an applicant exercises its right to appeal a rejection by the Ohio Department of Commerce or Ohio Division of Liquor Control to renew a permit pursuant to ORC 4303.271. The records maintained by the hotel shall comply with both of the following:

(a) Include the name, address, age, and signature of each hotel guest who is provided access by the hotel to a controlled access alcohol and beverage cabinet pursuant to division (b)(1) of this section;

(b) Be made available during business hours to authorized agents of the Ohio Division of Liquor Control pursuant to ORC 4301.10(A)(6) or to enforcement agents of the Ohio Department of Public Safety pursuant to ORC 5502.13 to 5502.19.

~~(6)~~ (7) The hotel shall observe all other applicable rules adopted by the Ohio Division of Liquor Control and the Ohio Liquor Control Commission.

~~(c)~~ Purchase of Food. The seller shall not Neither the seller nor the Ohio Liquor Control Commission by its regulations shall require the purchase of food with the purchase of beer or intoxicating liquor; nor shall the seller of beer or intoxicating liquor give away food of any kind in connection with the sale of beer or intoxicating liquor, except as authorized by rule of the Ohio Liquor Control Commission.

~~(d)~~ Removal from Premises. Except as provided in ORC 4301.62(B)(8), the seller shall not permit the purchaser to remove beer or intoxicating liquor so sold from the premises.

~~(e)~~ A hotel authorized to sell beer and intoxicating liquor pursuant to division (b) of this section shall provide a registered guest with the opportunity to refuse to accept a key, magnetic card, or other similar device necessary to obtain access to the contents of a controlled access alcohol and beverage cabinet in that guest room. If a registered guest refuses to accept such key, magnetic card, or other similar device, the hotel shall not assess any charges on the registered guest for use of the controlled access alcohol and beverage cabinet in that guest room.

(ORC 4301.21)

~~(e)~~ (f) Penalties.

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

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

(ORC 4301.99)

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Rules for sale of beer or intoxicating liquor for consumption on the premises, see ORC 4301.21~~

~~Penalty, see ORC 4301.99~~

**529.05. Hours Of Sale Or Consumption Of Alcoholic Beverages**

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

(b) Hours of Sale or Consumption for Certain Classes of Permits. No beer, wine, mixed beverages, or spirituous liquor shall be sold or delivered by an A-1, A-1c, 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-5H, D-5K, D-8, F, F-1, F-2, F-3, F-4, F-5, F-6, F-8, F-9, G, or I permit holder:

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

(2) On Sunday between the hours of one (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) Hours of Sale or Consumption for Other Classes of Permits. 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- 5G, D-5I, D-5J, D-5I, D-5m, D-5n, D5o or D-7 permit holder:

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

(2) On Sunday between the hours of two-thirty (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) Retail Sales. 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) Sunday Hours. The hours on Sunday during which sales, delivery or consumption of alcoholic beverages may take place are established by State law, but in no event shall they begin prior to 5:30 a.m.

(f) F-2 Permits. No association, corporation, local unit of an association or corporation, or ~~D-permit~~ 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 such permit and on any officer, agent, or employee of such permit holder.

(ORC 4303.202(D)(2) F-2 Permit)

(g) F-8 Permits. 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.

(ORC 4303.208(C) F-8 Permits)

(h) Penalties.

(1) Whoever violates divisions (a), (b), (c), (d) or (e) of this section is guilty of a misdemeanor of the fourth degree.

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

(ORC 4303.99)

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~F-2 permit, see ORC 4303.202~~

~~F-8 permits to nonprofit organizations for public events, ORC 4303.208~~

~~Penalty, see ORC 4303.99~~

Hours of sale of alcoholic beverages, see (Ohio Administrative Code) (OAC) 4301:1-1-49

**529.07. Purchase Or Consumption By Person Under Twenty-One**

- (a) Minimum Age for Purchases. Except as otherwise provided in this Chapter or ORC Chapter 4301, no person under the age of twenty-one (21) years shall purchase beer or intoxicating liquor.

(ORC 4301.63)

- (b) Prohibition; Minors under Eighteen Years: Low Alcohol Beverages. As used in this division, "underage person" means a person under eighteen (18) years of age.

- (1) No underage person shall purchase any low-alcohol beverage.
- (2) No underage person shall order, pay for, share the cost of, or attempt to purchase any low-alcohol beverage.
- (3) 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.
- (4) No underage person shall knowingly show or give false information concerning the person's name, age, or other identification for the purpose of purchasing or otherwise obtaining any low-alcohol beverage in any place in this City.
- (5) 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 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.

No permit issued by the Ohio Division of Liquor Control shall be suspended, revoked, or canceled because of a violation of this division or division (6) of this section.

- (6) 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~~ low-alcohol beverage.

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.

(7) No underage person shall knowingly possess or consume any ~~low-alcohol~~ low-alcohol beverage in any public or private place, unless ~~he 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~~ the physician's practice or given for established religious purposes.

(8) 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.

(ORC 4301.631)

(c) Misrepresentation to Obtain Alcoholic Beverage for a Minor Prohibited. Except as otherwise provided in this Chapter or in ORC Chapter 4301, no person shall knowingly furnish any false information as to the name, age, or other identification of any person under twenty-one (21) years of age for the purpose of obtaining, or with the intent to obtain, beer or intoxicating liquor for a person under twenty-one (21) years of age, by purchase, or as a gift.

(ORC 4301.633)

(d) Misrepresentation by a Minor. Except as otherwise provided in this Chapter or in ORC Chapter 4301, no person under the age of twenty-one (21) years shall knowingly show or give false information concerning the person's name, age, or other identification for the purpose of purchasing or otherwise obtaining beer or intoxicating liquor in any place in this City where beer or intoxicating liquor is sold under a permit issued by the Ohio Division of Liquor Control or sold by the Division.

(ORC 4301.634)

(e) Compliance Checks.

(1) As used in this division:

(A) "Compliance check" means an attempt on behalf of a law enforcement agency or the Ohio Division of Liquor Control to purchase any beer, wine, mixed beverages, or intoxicating liquor in the enforcement of any section of this Chapter or any rule of the Ohio Liquor Control Commission in which the age of the purchaser is an element of the offense.

(B) "Confidential informant" means a person who is under twenty-one (21) years of age and who is engaged in conducting compliance checks.

(C) "Law enforcement agency" means the Franklin Police Division or an organization or unit made up of law enforcement officers authorized to enforce this Chapter or ORC Chapter 4301, and also includes the investigative unit of the Ohio Department of Public Safety described in ORC 5502.13.

- (2) Within a reasonable period of time after the conduct of a compliance check, the law enforcement agency that conducted the compliance check, or the Ohio Division of Liquor Control if the Division conducted the compliance check, shall send written notification of it to the permit holder that was its subject. If the confidential informant who participated in the compliance check was able to purchase beer, wine, mixed beverages, or intoxicating liquor, the citation issued for the violation constitutes that notification. If the confidential informant who participated in the compliance check was unable to purchase beer, wine, mixed beverages, or intoxicating liquor, the notification shall indicate the date and time of the compliance check, the law enforcement agency that conducted the compliance check, or, when applicable, that the Ohio Division of Liquor Control conducted the compliance check, and the permit holder or a general description of the employee of the permit holder who refused to make the sale.

(ORC 4301.635)

- (f) (1) Printed Warnings to be Posted on Licensed Premises. Except as otherwise provided in ORC 4301.691, every place in the City 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, the a printed card, required by ORC 4301.637, which shall be furnished by the Ohio 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 one thousand dollars, or imprisonment up to six 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 per cent of alcohol by volume in any public place, or furnish false information as to name, age, or other identification, you are subject to a fine of up to two hundred fifty dollars or to imprisonment up to thirty days, or both."

No person shall be subject to any criminal prosecution or any proceedings before the Ohio Division of Liquor Control or the Ohio Liquor Control Commission for failing to display this card. No permit issued by the Ohio Division of Liquor Control

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

- (2) Every place in the City for which a D permit has been issued under ORC Chapter 4303 shall be issued a printed card by the Ohio 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 ORC Chapter 4303, you may be guilty of a felony and may be subjected to a prison term of up to one year."

No person shall be subject to any criminal prosecution or any proceedings before the Ohio Division of Liquor Control or the Ohio Liquor Control Commission for failing to display this card. No permit issued by the Division shall be suspended, revoked, or canceled because of the failure of the permit holder to display this card.

(ORC 4301.637)

- (g) No Modification of Other Sections Intended. Nothing in this section shall be deemed to modify or affect Section 529.03(a) or Section 529.08 of this Chapter.

(ORC 4301.638)

- (h) Immunity of Permit Holder, Agent or Employee.

- (1) No permit holder, agent or employee of a permit holder, or any other person may be found guilty of a violation of any section of this Chapter, ORC Chapter 4301, or any rule of the Ohio Liquor Control Commission in which age is an element of the offense, if the Ohio Liquor Control Commission or any court of record finds all of the following:

- (A) That the person buying, at the time of so doing, exhibited to the permit holder, the agent or employee of the permit holder, or the other person a driver's or commercial driver's license, an identification card (as defined in ORC 4301.61), a military identification card issued by the United States Department of Defense, or a United States or foreign passport, that displays a picture of the individual for whom the license, card, or passport was issued and shows that the person buying was then at least twenty-one (21) years of age, if the person was buying beer (as defined in Section 529.01) or intoxicating liquor, or that the person was then at least eighteen (18) years of age, if the person was buying any low-alcohol beverage.

- (B) That the permit holder, the agent or employee of the permit holder, or the other person made a bona fide effort to ascertain the true age of the person buying by checking the identification presented, at the time of the purchase, to ascertain that the description on the identification compared with the appearance of the buyer and that the identification compared with the appearance of the buyer and that the identification presented ~~has~~ had not been altered in any way;
- (C) That the permit holder, the agent or employee of the permit holder, or the other person had reason to believe that the person buying was of legal age.
- (2) In any hearing before the Ohio Liquor Control Commission and in any action or proceeding before a court of record in which a defense is raised under division (h)(1) of this section, the registrar of motor vehicles or deputy registrar who issued an identification card under ORC 4507.50 to 4507.52 shall be permitted to submit certified copies of the records, in the registrar's or deputy registrar's possession, of that issuance in lieu of the testimony of the personnel of or contractors with the Ohio Bureau of Motor Vehicles at the hearing, action, or proceeding.
- (3) The defense provided by division (h)(1) of this section is in addition to the affirmative defense provided by Section 529.13 or ORC 4301.611.

(ORC 4301.639)

(i) Penalties.

- (1) Whoever violates divisions (a) or (b)(1) of this section shall be fined not less than twenty-five nor more than one hundred dollars (\$25.00 - \$100.00). The court imposing a fine for a violation of divisions (a) or (b)(1) may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed.

(ORC 4301.99(E))

- (2) Whoever violates divisions (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), (b)(7) or (b)(8) of this section is guilty of a misdemeanor of the fourth degree.

(ORC 4301.99(B))

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

(ORC 4301.99(C))

- (4) (A) Whoever violates division (d) of this section is guilty of a misdemeanor of the first degree. If, in committing a first violation of this section, the offender

presented to the permit holder or the permit holder's 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 two hundred fifty and not more than one thousand dollars (\$250 - \$1,000), and may be sentenced to a term of imprisonment of not more than six (6) months.

(B) On a second violation in which, for the second time, the offender presented to the permit holder or the permit holder's 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 five hundred nor more than one thousand dollars (\$500 - \$1,000), and may be sentenced to a term of imprisonment of not more than six (6) 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 operating privilege from the range specified in ORC 4510.02(A)(7).

(C) On a third or subsequent violation in which, for the third or subsequent time, the offender presented to the permit holder or the permit holder's 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 five hundred nor more than one thousand dollars (\$500 - \$1,000), and may be sentenced to a term of imprisonment of not more than six (6) months. Except as provided in this division, the court also may 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 ORC 4510.02(A)(6), and the court may order that the suspension or denial remain in effect until the offender attains the age of twenty-one (21) years. The court, in lieu of suspending the offender's temporary instruction permit, probationary driver's license, or driver's license, instead 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.

(ORC 4301.99(F))

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Purchase of beer or intoxicating liquor by persons under twenty-one prohibited, see ORC 4301.63~~

~~Purchase or consumption low-alcohol beverage by persons under eighteen prohibited, see ORC 4301.634~~

~~Furnishing false information to obtain beer or intoxicating liquor for person under twenty-one, see ORC 4301.633~~

~~Furnishing false information to obtain beer or intoxicating liquor by person under twenty-one, see ORC 4301.634~~

~~Compliance check, see ORC 4301.635~~

~~Warning cards as to underage persons and person carrying firearms, see ORC 4301.637~~

~~Modification on other sections not intended, see ORC 4301.638~~

~~False identification accepted in good faith, see ORC 4301.639~~

~~Penalty, see ORC 4301.99~~

**529.08. Sale To Underage Persons; Restrictions Relating To Public And Private Places And Accommodations**

- (a) Sales to Underage Persons. Except as otherwise provided in this Chapter or in ORC 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 Ohio 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 ORC 4301.22(A)(1).

- (b) Allowing Underage Persons to Remain. 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) Use of Accommodations. 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 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~~ professional authorized to prescribe drugs and has the drug of abuse in the original container in which it was dispensed to the person.

(d) Rights of Accommodation's Owner or Manager.

- (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 twenty-one (21) years of age or older for the purpose of violating this section.

- (e) Underage Persons. 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.

- (f) Liability of Parent, Spouse or Guardian. 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 Section 529.07 (a), (c) or (d), or ORC 4301.63, 4301.633, or 4301.634.

- (g) Duty of Operator. 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) Penalties.

- (1) Whoever violates division (a) of this section is guilty of a misdemeanor, shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00), and in addition to the fine, may be imprisoned for a definite term of not more than six (6) months.

(ORC 4301.99(I))

- (2) Whoever violates division (b), (c), (d), (e), or (f), of this section is guilty of a misdemeanor of the first degree.

(ORC 4301.99(C))

- (A) If an offender who violates division ~~(e)(4)~~ (e) of this section was under the age of eighteen (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 not less than six (6) months and not more than one (1) year. If the offender is fifteen (15) years and six (6) 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 (6) months. If the offender has not attained the age of fifteen (15) years and six (6), the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of sixteen (16) years.

(ORC 4301.99(C))

- (B) If a person is charged with violating division ~~(e)(4)~~ (e) of this section in a complaint filed under ORC 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 ORC 2151.356 through 2151.358. If the child fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.

- (C) If a person is charged in a criminal complaint with violating division ~~(e)(4)~~ (e) of this section, ORC 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 (h)(2)B. or C. 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 ORC 2953.52. If the person fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.

(ORC 4301.69(E)(2))

- (i) Definitions. As used in this section:

- (1) "Drug of Abuse" has the same meaning as in ORC 3719.011.
- (2) "Hotel" has the same meaning as in ORC 3731.01.
- (3) "Licensed Health Professional Authorized to Prescribe Drugs" and "Prescription" have the same meanings as in ORC 4729.01.
- (4) "Minor" means a person under the age of eighteen (18) years.
- (5) "Underage Person" means a person under the age of twenty-one (21) years.

(ORC 4301.69(H))

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Underage persons offenses concerning liquor control, see ORC 4301.69~~  
~~Penalty, see ORC 4301.99~~

**529.09. Open Container Prohibited; Exceptions**

(a) Definitions. As used in this section:

"Chauffeured Limousine" means a vehicle registered under ORC 4503.24.

"Street," "Highway," and "Motor Vehicle" have the same meanings as in ORC 4511.01.

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

- (1) Except as provided in division ~~(b)(1)E.~~ (c)(1)(E) of this section, in an agency store;
- (2) Except as provided in division ~~(b)~~ (c) or (i) of this section, on the premises of the holder of any permit issued by the Ohio Division of Liquor Control;
- (3) Except as provided in Section 529.13, in any other public place;
- (4) Except as provided in division ~~(e) or (d)~~ (d) or (e) of this section, while operating or being a passenger in or on a motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking;
- (5) Except as provided in division ~~(e) or (d)~~ (d) or (e) of this section, while being in or on a stationary motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

~~(b)~~ (c) Exceptions.

- (1) A person may have in the person's possession an opened container of any of the following:
  - (A) Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-2f, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7, or F-8 permit;
  - (B) Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit, wine served as a tasting sample by an A-2, S-1, or S-2 permit holder ~~or S permit holder~~ for consumption on the premises of a farmers market for which an F-10 permit has been issued, or wine served for consumption on the premises by a 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 ORC 4303.201;
  - (D) Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Ohio Liquor Control Commission;
  - (E) Spirituous liquor to be consumed for purposes of a tasting sample, as defined in ORC 4301.171.
- (2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this division, "music festival" means a series of outdoor live musical performances, extending for a period of at least three (3) consecutive days and located on an area of land of at least forty (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 ~~(b)~~ (c)(3)(A) of this section:
    - (i) "Orchestral performance" means a concert comprised of a group of not fewer than forty (40) musicians playing various musical instruments.

- (ii) "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than one hundred fifty (150) acres of land and that is open for performances from the first day of April to the last day of October of each year.
  
- (4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance, as defined in division ~~(b) (3)B-(i)~~ (c)(3)(B)(i) of this section, if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.
  
- (5) A person may have in the person's possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending either of the following:
  - (a) ~~an~~ An orchestral performance and the holder of the F-9 permit grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued.;
  
  - (b) An outdoor performing arts event or orchestral performance that is free of charge and the F-9 permit holder annually hosts not less than twenty-five (25) other events or performances that are free of charge on the permit premises.

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

- (6) (A) A person may have in the person's possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor ~~at an outdoor location within an outdoor refreshment area created under ORC 4301.82 if the opened container of beer or intoxicating liquor was purchased from a qualified permit holder to which~~ that was not purchased from the owner of the facility if both of the following apply:
  - ~~(i) The permit holder's premises is located within the outdoor refreshment area; and~~
  
  - ~~(ii) The permit is held by the permit holder has an outdoor refreshment area designation.~~
  
  - (i) The person is attending a racing event at the facility; and
  
  - (ii) The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility.

~~(B) Division (b)(6) of this section does not authorize a person to do either of the following:~~

- ~~(i) Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere; or~~
- ~~(ii) Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area, unless the motor vehicle is stationary and is not being operated in a lane of vehicular travel or unless the possession is otherwise authorized under division (c) or (d) of this section.~~

(B) As used in division (c)(6)(A) of this section:

- (i) "Racing event" means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.
- (ii) "Outdoor motorsports facility" means an outdoor racetrack to which all of the following apply:
  - (I) It is two and four-tenths (2.40) miles or more in length.
  - (II) It is located on two hundred (200) acres or more of land.
  - (III) The primary business of the owner of the facility is the hosting and promoting of racing events.
  - (IV) The holder of a D-1, D-2, or D-3 permit is located on the property of the facility.

(7) (A) A person may have in the person's possession an opened container of beer or intoxicating liquor at an outdoor location within an outdoor refreshment area created under ORC 4301.82 if the opened container of beer or intoxicating liquor was purchased from an A-1, A-1-A, A-1c, A-2, A-2f, D class, or F class permit holder to which both of the following apply:

- (i) The permit holder's premises is located within the outdoor refreshment area.
- (ii) The permit held by the permit holder has an outdoor refreshment area designation.

(B) Division (c)(7) of this section does not authorize a person to do either of the following:

(i) Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere;

(ii) Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area, unless the possession is otherwise authorized under division (d) or (e) of this section.

(C) As used in division (c)(7) of this section, "D class permit holder" does not include a D-6 or D-8 permit holder.

(8) (A) A person may have in the person's possession on the property of a market, within a defined F-8 permit premises, an opened container of beer or intoxicating liquor that was purchased from a D permit premises that is located immediately adjacent to the market if both of the following apply:

(i) The market grants permission for the possession and consumption of beer and intoxicating liquor within the defined F-8 permit premises;

(ii) The market is hosting an event pursuant to an F-8 permit and the market has notified the division of liquor control about the event in accordance with division (A)(3) of section 4303.208 of the Revised Code.

(B) As used in division (c)(8) of this section; "market" means a market, for which an F-8 permit is held, that has been in operation since 1860.

~~(c)~~ (d) Limousines: This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of ~~such a~~ 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; and
- (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.

~~(d)~~ (e) Opened Bottle of Wine. 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 ~~(d)(1)~~ (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.

~~(e)~~ (f) Quadricycles:

- (1) Except as otherwise provided in this Chapter, this section does not apply to a person who, pursuant to a prearranged contract, is a passenger riding on a commercial quadricycle when all of the following apply:

- (A) The person is not occupying a ~~set~~ seat in the front of the commercial quadricycle where the operator is steering or breaking;
- (B) The commercial quadricycle is being operated on a street, highway, or other public or private property open to the public for purposes of vehicular travel or parking;
- (C) The person has in their possession on the commercial quadricycle an ~~open~~ opened container of beer or wine; and
- (D) The person has in their possession on the commercial quadricycle not more than either thirty-six ounces (36 oz.) of beer or eighteen ounces (18 oz.) of wine.

- (2) As used in this section, "commercial quadricycle" means a vehicle that has fully-operative pedals for propulsion entirely by human power and that meets all of the following requirements:

- (A) It has four (4) wheels and is operated in a manner similar to a bicycle;
- (B) It has at least five (5) seats for passengers;
- (C) It is designed to be powered by the pedaling of the operator and the passengers;
- (D) It is used for commercial purposes; and
- (E) It is operated by the vehicle owner or an employee of the owner.

- (g) This section does not apply to a person that has in the person's possession an opened container of beer or intoxicating liquor on the premises of a market if the beer or intoxicating liquor has been purchased from a D liquor permit holder that is located in the market.

As used in division (g) of this section, "market" means an establishment that:

- (1) Leases space in the market to individual vendors, not less than fifty per cent (50%) of which are retail food establishments or food service operations licensed under ORC Chapter 3717.;
- (2) Has an indoor sales floor area of not less than twenty-two thousand (22,000) square feet;
- (3) Hosts a farmer's market on each Saturday from April through December.

(h) (1) As used in this section, "alcoholic beverage" has the same meaning as in ORC 4303.185.

(2) An alcoholic beverage in a closed container being transported under ORC 4303.185 to its final destination is not an opened container for the purposes of this section if the closed container is securely sealed in such a manner that it is visibly apparent if the closed container has been subsequently opened or tampered with after sealing.

(i) This section does not apply to a person who has in the person's possession an opened container of beer or intoxicating liquor in a public-use airport, as described in ORC 4303.181(D)(2)(a)(iii), when both of the following apply:

(1) Consumption of the opened container of beer or intoxicating liquor occurs in the area of the airport terminal that is restricted to persons taking flights to and from the airport; and

(2) The consumption is authorized under ORC 4303.181(D)(2)(a).

(j) This section does not apply to a person that has in the person's possession an opened container of homemade beer or wine that is served in accordance with ORC 4301.201(E).

(ORC 4301.62)

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

(ORC 4301.99)

(g) Definitions. ~~As used in this section:~~

~~"Chauffeured Limousine" means a vehicle registered under ORC 4503.24.~~

~~"Street," "Highway," and "Motor Vehicle" have the same meanings as in ORC 4511.04.~~

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Opened container of beer or intoxicating liquor prohibited at certain premises, see ORC 4301.62~~

~~Penalty, see ORC 4301.99~~

**529.10. Prohibition Against Consumption In Motor Vehicle**

- (a) ~~Prohibition:~~ No person shall consume any beer or intoxicating liquor in a motor vehicle. This section does not apply to persons described in Section 529.09(c) or ORC 4301.62(D).

(ORC 4301.64)

- (b) ~~Penalties:~~

- (1) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
- (2) If an offender who violates this section was under the age of eighteen (18) years at the time of the offense, the court, in addition to any other penalties it imposes upon the offender, may suspend the offender's temporary instruction permit, probationary driver's license, or driver's license for a period of not less than six (6) months and not more than one (1) year. In lieu of suspending the offender's temporary instruction permit, probationary driver's license, or driver's license, the court instead may require the offender to perform community service for a number of hours determined by the court. If the offender is fifteen (15) years and six (6) 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 (6) months. If the offender has not attained the age of fifteen (15) years and six (6) months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of sixteen (16) years.

(ORC 4301.99)

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Prohibition against consumption of beer or intoxicating liquor in motor vehicle, see ORC 4301.64~~

~~Penalty, see ORC 4301.99~~

**529.11. Alcohol Vaporizing Devices Prohibited**

(a) Definitions. 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.

~~(a)(b) Prohibitions.~~

- (1) No person shall sell or offer for sale an alcohol vaporizing device.
- (2) No person shall purchase or use an alcohol vaporizing device.

(ORC 4301.65)

~~(b)(c) Penalties.~~

- (1) Whoever violates division (a)(1) of this section is guilty of misdemeanor of the third degree. For a second or subsequent violation occurring within a period of five (5) consecutive years after the first violation, a person is guilty of a misdemeanor of the first degree.
- (2) Whoever violates division (a)(2) of this section is guilty of a minor misdemeanor.

(ORC 4301.99)

~~(c) Definitions.~~ 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.

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Sale, purchase, or use of alcohol vaporizing device prohibited, see ORC 4301.65~~

~~Penalty, see ORC 4301.99~~

**529.12. General Prohibitions**

(a) Obstructing Search of Premises Prohibited. No person shall hinder or obstruct any agent or employee of the Ohio Department of Liquor Control, any enforcement agent of the Ohio Department of Public Safety, or any officer of the Franklin Police Division or any other officer of law, from making inspection or search of any place, other than a bona fide private residence, where beer or intoxicating liquor is possessed, kept, sold, or given away.

(ORC 4301.66)

(b) Illegal Possession of Intoxicating Liquor or Beer Prohibited. No person shall have in that person's possession any spirituous liquor, in excess of one liter (1 L.), in one or more containers, which was not purchased at wholesale or retail from the Ohio

Division of Liquor Control or otherwise lawfully acquired pursuant to ORC Chapters 4301 and 4303, or any other intoxicating liquor or beer, in one or more containers, which was not lawfully acquired pursuant to ORC Chapters 4301 and 4303.

(ORC 4301.67)

- (c) Prohibition Against Sale or Possession of Diluted Liquor and Refilled Containers. No person shall sell, offer for sale, or possess intoxicating liquor in any original container which has been diluted, refilled, or partly refilled.

(ORC 4301.68)

- (d) Sale of Powdered or Crystalline Alcohol Prohibited.

(1) No person shall sell or offer for sale powdered or crystalline alcohol for human consumption.

(2) Division (d)(1) of this section does not apply to any of following:

(A) Any substances regulated by the Food and Drug Administration in the United States Department of Health and Human Services that is not either of the following:

(i) Beer or intoxicating liquor; or

(ii) A compound that could be converted into beer or intoxicating liquor.

(B) A medication that requires a prescription;

(C) An over-the-counter medication.

(3) As used in the section:

(A) "Powered or crystalline alcohol" means a product that is manufactured into a powdered or crystalline form that contains any amount of alcohol.

(B) "Prescription" has the same meaning as in ORC 4729.01.

(C) "Over-the-counter medication" means medication that may be legally sold and purchased without a prescription.

(ORC 4301.71)

- (e) Penalties.

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

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

(3) Whoever violates division (d) of this section is guilty of minor misdemeanor.

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Obstructing inspection or search of premises prohibited, see ORC 4301.66~~

~~Illegal possession of spirituous or intoxicating liquor or beer prohibited, see ORC 4301.67~~

~~Sale of liquor in diluted, refilled, or partly refilled containers prohibited, see ORC 4301.68~~

~~Sale of powdered or crystalline alcohol, see ORC 4301.71~~

~~Penalty, see ORC 4301.99~~

**529.14. Affirmative Defenses**

(a) Defense to Sale to Underage Person. A permit holder or an agent or employee of a permit holder may not be found guilty of a charge of a violation of this Chapter, ORC Chapter 4301, or any rule of the Ohio Liquor Control Commission in which the age of a purchaser of any beer, intoxicating liquor, or low-alcohol beverage is an element of the alleged violation, if the permit holder, agent, or employee raises and proves as an affirmative defense that all of the following occurred:

- (1) The card holder attempting to purchase any beer, intoxicating liquor, or low-alcohol beverage presented a driver's license or commercial driver's license or an identification card;
- (2) 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; and
- (3) The beer, intoxicating liquor, or low-alcohol beverage was sold to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.

(b) Trier of Fact.

(1) In determining whether a permit holder or an agent or employee of a permit holder has proven the affirmative defense provided by division (a) of this section, the Ohio Liquor Control Commission or the trier of fact in a court of record shall consider any written policy that the permit holder has adopted and implemented and that is intended to prevent violations of Sections 529.03(a)(1), 529.03(a) (2), 529.07(a) and 529.08, and ORC 4301.22(A)(1) or 4301.22(A)(2) and of ORC 4301.63 to 4301.636, 4301.69, and 4301.691.

(2) For the purposes of division (a)(3) of this section, the Commission or trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a permit holder or an agent or employee of a permit holder to exercise reasonable diligence to determine, and that the use of a transaction scan device does not excuse a permit holder or an agent or employee of a permit holder from exercising reasonable diligence to determine, the following:

(A) Whether a person to whom the permit holder or agent or employee of a permit holder sells any beer or intoxicating liquor is ~~twenty-one~~ twenty-one (21) years of age or older or sells any low-alcohol beverage is eighteen (18) years of age or older;

(B) Whether the description and picture appearing on the driver's license or commercial driver's license or identification card presented by a card holder is that of the card holder.

(c) Other Defenses. The affirmative defense provided by division (a) of this section is in addition to the defense provided by Section 529.07(h) and ORC 4301.639.

(d) In any hearing before the Ohio Liquor Control Commission and in any criminal action in which the affirmative defense provided by division (a) of this section is raised, the registrar of motor vehicles or a deputy registrar who issued an identification card under ORC 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 hearing or action.

(ORC 4301.611)

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Transaction scan as affirmative defense where age of purchaser is element of crime, see ORC 4301.614~~

**529.15. Exemptions**

This Chapter and ORC Chapter 4303 ~~does~~ not prevent any of the following:

(a) Storage. The storage of intoxicating liquor in bonded warehouses, established in accordance with the acts of Congress and under the regulation of the United States, located in this City, or the transportation of intoxicating liquor to or from bonded warehouses of the United States, wherever located;

(b) Transportation by Owner of Warehouse. A bona fide resident of the State of Ohio who is the owner of a warehouse receipt from obtaining or transporting to the resident's residence for the resident's own consumption and not for resale, spirituous liquor

stored in a government bonded warehouse in this City, this State, or in another state prior to December 1933, subject to such terms as are prescribed by the Ohio Division of Liquor Control;

- (c) Cider. The manufacture of cider from fruit for purpose of making vinegar, and nonintoxicating cider and fruit juices for use and sale;
- (d) Physicians. A licensed physician or dentist from administering or dispensing intoxicating liquor or alcohol to a patient in good faith in the actual course of the practice of the physician's or dentist's profession;
- (e) Sale to Physicians. The sale of alcohol to physicians, dentists, druggists, veterinary surgeons, manufacturers, hospitals, infirmaries, or medical or educational institutions using the alcohol for medicinal, mechanical, chemical, or scientific purposes;
- (f) Medicinal Preparations. The sale, gift, or keeping for sale by druggists and others of any of the medicinal preparations manufactured in accordance with the formulas prescribed by the United States Pharmacopoeia and National Formulary, patent or proprietary preparations, and other bona fide medicinal and technical preparations, which contain no more alcohol than is necessary to hold the medicinal agents in solution and to preserve the same, which are manufactured and sold as medicine and not as beverages, are unfit for use for beverage purposes, and the sale of which does not require the payment of a United States liquor dealer's tax;
- (g) Tinctures. The manufacture and sale of tinctures or of toilet, medicinal, and antiseptic preparations and solutions not intended for internal human use nor to be sold as beverages, and which are unfit for beverage purposes, if upon the outside of each bottle, box, or package of which there is printed in the English language, conspicuously and legibly, the quantity by volume of alcohol in the preparation or solution;
- (h) Flavoring Extracts. The manufacture and keeping for sale of the food products known as flavoring extracts when manufactured and sold for cooking, culinary, or flavoring purposes, and which are unfit for use for beverage purposes;
- (i) Wood and Ethyl Alcohol. The lawful sale of wood alcohol or of ethyl alcohol for external use when combined with other substances as to make it unfit for internal use;
- (j) Ethanol. The manufacture, sale, and transport of ethanol or ethyl alcohol for use as fuel. As used in this division, "ethanol" has the same meaning as in ~~ORC 5733.46~~ 122.075.
- (k) For Use in Manufacturing. The purchase and importation into this City or the purchase at wholesale from A or B permit holders in this City of beer and intoxicating liquor for use in manufacturing processes of nonbeverage food products under terms prescribed by the Ohio Division of Liquor Control, provided that the terms prescribed by the Division shall not increase the cost of the beer or intoxicating liquor to any

person, firm, or corporation purchasing and importing it into this state or purchasing it from an A or B permit holder for that use;

- (l) Out-of-State Purchases. Any resident of this City or State or any member of the armed forces of the United States, who has attained the age of twenty-one (21) years, from bringing into this City, for ~~person~~ personal use and not for resale, not more than one liter (1 L.) of spirituous liquor, four and one-half liters (4.5 L.) of wine, or two hundred eighty-eight ounces (288 oz.) of beer in any thirty (30) day period- , and the same is free of any tax consent fee when the resident or member of the armed forces physically possesses and accompanies the spirituous liquor, wine, or beer on returning from a foreign country, another state, or an insular possession of the United States;
- (m) Commemorative Bottles. Persons, at least twenty-one (21) years of age, who collect ceramic commemorative bottles containing spirituous liquor that have unbroken federal tax stamps on them from selling or trading the bottles to other collectors. The bottles shall originally have been purchased at retail from the Ohio Division of Liquor Control, legally imported under division (l) of this section, or legally imported pursuant to a supplier registration issued by the Division. The sales shall be for the purpose of exchanging a ceramic commemorative bottle between private collectors and shall not be for the purpose of selling the spirituous liquor for personal consumption. The sale or exchange authorized by this division shall not occur on the premises of any permit holder, be made in connection with the business of any permit holder, and shall not be made in connection with any mercantile business.
- (n) Sales at Private Residences. The sale of beer or intoxicating liquor without a liquor permit at a private residence, not more than five (5) times per calendar year at a residence address, at an event that has the following characteristics:
- (1) The event is for a charitable, benevolent, or political ~~purpose~~ purpose, but shall not include any event the proceeds of which are for the profit or gain of any individual;
  - (2) The event has in attendance not more than fifty (50) people;
  - (3) The event shall be for a period not to exceed twelve (12) hours;
  - (4) The sale of beer and intoxicating liquor at the event shall not take place between two-thirty (2:30) a.m. and five-thirty (5:30) a.m.;
  - (5) No person under twenty-one (21) years of age shall purchase or consume beer or intoxicating liquor at the event and no beer or intoxicating liquor shall be sold to any person under twenty-one (21) years of age at the event; and
  - (6) No person at the event shall sell or furnish beer or intoxicating liquor to an intoxicated person.

(o) Colleges and Universities. The possession or consumption of beer or intoxicating liquor by a person who is under twenty-one (21) years of age and who is a student at an accredited college or university, provided that both of the following apply:

- (1) The person is required to taste and expectorate the beer or intoxicating liquor for a culinary, food service, or hospitality course; and
- (2) The person is under the direct supervision of the instructor of the culinary, food service, or hospitality course.

(ORC 4301.20)

(Ord. 2017-05. Passed 5-15-17.)

**Statutory reference:**

~~Exemptions from liquor control law, see ORC 4301.20~~

**CHAPTER 531. MINORS**

**531.03. Juvenile Curfew**

(a) Definitions. For the purposes of this section, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the past tense or the future tense; words used in the singular include the plural and the plural the singular.

"Allow" means to permit or neglect to refrain or prevent. "Allow" requires actual or constructive knowledge on the part of the person, that is, the person must actually know the juvenile is violating this section, or the circumstances must be such that a reasonable prudent person should have known the juvenile was violating this section.

"City" shall mean the City of Franklin.

"Juvenile" shall mean any unmarried person under the age of eighteen (18).

"Owner" shall mean any person, firm or corporation operating or having charge of a public place.

"Parent" shall mean the parent, guardian, custodian, person having custody or control, or person, over the age of eighteen (18) years, who is in loco parentis to a juvenile.

"Public Place" shall mean any street, alley, sidewalk, right-of-way, park, parking lot, playground or other place to which the public has access and a right to resort for lawful purposes. "Public place" shall also include, but not be limited to, any store, shop, restaurant, tavern, bar, bowling alley, café, theater, pool room or arcade, shopping center and any other place devoted to amusement, entertainment or retail sales to the

general public, and shall include the property upon which such uses are located, including parking lots.

- (b) Juveniles Twelve Years of Age and Under. No juvenile between the ages of twelve (12) years or younger shall be in, about or upon the streets or other public places in the City during the period of sunset to sunrise, unless accompanied by a parent.
- (c) Juveniles Thirteen to Eighteen Years of Age. No juvenile between the ages of thirteen (13) and eighteen (18) years shall, either on foot or cruising about without a set destination in any vehicle, be in, about or upon on the streets or other public places in the City between the hours of 10:00 p.m. and 6:00 a.m. Sunday through Thursday and between the hours of 12:00 midnight and 6:00 a.m. on Friday and Saturday, unless accompanied by a parent or where the presence of such juvenile is connected with or required by some legitimate employment or occupation.
- (d) Responsibility of Parents. No parent of any juvenile shall allow such juvenile to violate subsections (b) or (c) hereof.
- (e) Responsibility of Business Owners or Operators. No owner, operator, or person in charge or control of any public place shall allow the presence of any juveniles in, about or upon such place in violation of subsections (b) or (c) hereof. Whenever an owner, operator or person in charge or control of any public place finds in, about or upon such place a juvenile who is violating subsection (b) or (c) hereof, such owner, operator or person shall immediately order the juvenile to leave. If the juvenile refuses to leave such place, the owner, operator or person in charge or control shall immediately notify the City Police Division of the violation.
- (f) Affirmative Defenses. The following shall be affirmative defenses to a charge of a violation of subsections (b), (c), (d) or (e) of this section:
  - (1) The juvenile is accompanied by an adult authorized in writing by a parent of the juvenile.
  - (2) The juvenile is exercising First Amendment rights protected by the United State Constitution, such as free exercise of religion, freedom of speech and the right of assembly; provided, however, that written notice signed by the juvenile and countersigned by a parent is in the possession of the juvenile specifying when, where, and in what manner such juvenile will be exercising such First Amendment rights.
  - (3) The juvenile is on the sidewalk of the place where such juvenile resides, or on the sidewalk of either next-door neighbor, who has not communicated an objection to the police officer or the City Police Division.
  - (4) The juvenile is returning home, by a direct route from, and within thirty (30) minutes of, the termination of a school activity, or any activity of a religious or other voluntary association, or activity authorized by permit issued by the City

Manager, as outlined below; provided, however, that justification indicating the place and time of termination of such event can be given to any investigating officer of the City Police Division.

- (5) The juvenile is otherwise lawfully engaged, with written parent consent dated the same date as the juvenile is discovered, in a motor vehicle with a lawfully authorized driver.
- (6) The juvenile is a duly authorized and licensed driver and is operating a motor vehicle within the City for the purpose of passing through, by direct route, from one (1) location to another either within or out of the City, including all juveniles that may also be within the vehicle.
- (7) In the case of reasonable necessity, such as an emergency, but only after such juvenile's parent has communicated to the City Police Division the facts establishing such reasonable necessity or when such emergency is clearly apparent to the investigating officer.
- (8) The juvenile is authorized by permit issued by the City Manager and/or Council in cases involving a number of juveniles, such as trick-or-treating. Such permit should be issued sufficiently in advance to permit publicity through news media and other agencies, such as schools. The permit shall define the activity, the scope of the use of the streets or public places permitted, and the period of time involved. The City Manager shall notify the City Police Division of the issuance of any such permit.

(g) Penalties.

- (1) Any juvenile violating subsection (b) or subsection (c) hereof may be taken into custody by the City Police Division and turned over to the Juvenile Court of Warren County, Ohio, to be dealt with in accordance to Juvenile Court law and procedures.
- (2) Any person who violates subsection (d) or subsection (e) hereof is guilty of an unclassified misdemeanor, and in addition to any other penalties allowed by law, the Court shall fine the person as follows:
  - (A) ~~On a first offense, not less than twenty five dollars (\$25.00);~~
  - (B) ~~On a second offense within one (1) year, not less than fifty dollars (\$50.00);~~
  - (C) ~~On a third offense within one (1) year, not less than one hundred dollars (\$100.00);~~
  - (D) ~~On a fourth offense within one (1) year, not less than two hundred dollars (\$200.00);~~

~~(E) On a fifth offense within one (1) year, not less than four hundred dollars (\$400.00);~~

~~(F) On a sixth offense within two (2) years, not less than six hundred dollars (\$600.00);~~

~~(G) On a seventh offense within two (2) years, not less than eight hundred dollars (\$800.00);~~

~~(H) On an eighth offense or higher within two (2) years, not less than one thousand dollars (\$1,000).~~

(Ord. 2011-19. Passed 10-17-11.)

## **CHAPTER 533. OBSCENITY AND SEX OFFENSES**

### **533.03. Unlawful Sexual Conduct With A Minor**

- (a) No person, who is eighteen 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 thirteen years of age or older but less than sixteen 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 subsection (b)(2) hereof, unlawful sexual conduct with a minor is a felony to be prosecuted under appropriate state law.
  - (2) Except as otherwise provided in subsection (b)(3) hereof, 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 Ohio R.C. 2907.02, 2907.03 or 2907.04, ~~or any substantially equivalent municipal ordinance,~~ or a violation of former Ohio 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.

(ORC 2907.04)

### **533.04. 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 persons' 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 thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen years of age and four or more years older than such 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 previously has been convicted of or pleaded guilty to a violation of this section or of Ohio R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, or former 2907.12, a violation of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, or former 2907.12, or of any combination of those sections, a violation of this section is a misdemeanor of the first degree and, notwithstanding the range of jail terms prescribed in Ohio R.C. 2929.24, the court may impose on the offender a definite jail term of not more than one year.

(ORC 2907.06)

**533.05. 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 in the person's physical proximity, who is a minor, and 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 Ohio R.C. 2907.09 ~~or a substantially equivalent 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 Ohio R.C. 2907.09 ~~or a substantially equivalent 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 Ohio R.C. 2907.09 ~~or a substantially equivalent 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 Ohio R.C. 2907.09 ~~or a substantially equivalent 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

Ohio R.C. 2907.09 ~~or a substantially equivalent 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 Ohio R.C. 2907.09 or a substantially equivalent 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 Ohio R.C. 2907.09 or a substantially equivalent 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 Ohio R.C. 2907.09 ~~a substantially equivalent municipal ordinance~~, a violation of division (b)(4) of this section, ~~Ohio R.C. 2907.09~~ is a felony to be prosecuted under appropriate State law.

(d) A mother is entitled to breast-feed her baby in any location of a place of public accommodation, as defined in Ohio R.C. 4112.01, wherein the mother otherwise is permitted. "Place of public accommodation" shall have the same meaning as in Ohio R.C. 4112.01.

**Statutory reference:**

Public indecency, see Ohio R.C. 2907.09

Breast-feeding in places of public accommodation, see Ohio R.C. 3781.55

Bail considerations for persons charged, see Ohio R.C. 2907.41

**533.09. Soliciting; Loitering To Engage In**

(a) (1) ~~No person shall solicit another who is eighteen (18) years of age or older to engage with the other person in sexual activity for hire. No person shall knowingly solicit another to engage in sexual activity for hire in exchange for the person receiving anything of value from the other person.~~

(2) ~~No person shall solicit another to engage with such other person in sexual activity for hire if the other person is sixteen (16) or seventeen (17) years of age and the offender knows that the other person is sixteen (16) or seventeen (17) years of age or is reckless in that regard.~~

(3) ~~No person shall solicit another to engage with such other person in sexual activity for hire if either of the following applies:~~

~~(A) The other person is less than sixteen (16) years of age, whether or not the offender knows the age of the other person.~~

~~(B) The other person is a person with a developmental disability and the offender knows or has reasonable cause to believe the other person is a person with a developmental disability.~~

(b) ~~(1) Whoever violates division (a) of this section is guilty of soliciting. A violation of division (a)(1) of this section is Soliciting is a misdemeanor of the third degree. A violation of division (a)(2) or (a)(3) of this section is a felony to be prosecuted under appropriate state law.~~

~~(2) If a person is convicted of or pleads guilty to a violation of subsection (a) of this section or an attempt to commit a violation of subsection (a) of this section and if the person, in committing or attempting to commit the violation, was in, was on, or used a motor vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impose upon the offender a class six (6) 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 ORC 4510.02(A)(6). In lieu of imposing upon the offender the class six (6) suspension, the court instead may require the offender to perform community service for a number of hours determined by the court.~~

(c) As used in division (a) of this section:

~~(1) "Person with a developmental disability." Has the same meaning as in ORC 2905.32.~~

~~(2) "Sexual activity for hire." Means an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person.~~

(ORC 2907.24(A), (C)(1), (D), ~~(E)~~)

(d) 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.

(e) As used in subsection (c) of this section:

(1) "Public place" means 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 subsection 1. of this definition.

(C) A place not described in subsection A. or B. of this definition that is open to the public.

(2) "Vehicle" has the same meaning as in ORC 4501.01.

(f) Whoever violates subsection (c) of this section is guilty of loitering to engage in solicitation, a misdemeanor of the third degree.

(ORC 2907.241)

**533.14. Massage Parlors**

(a) No establishment, regardless of whether it is a public or private facility, shall operate as a massage salon, bath parlor, or any similar type business, where any physical contact with the recipient of such services is provided by a person of the opposite sex.

(b) This section shall not apply to a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the State of Ohio, or to a licensed nurse acting under the direct prescription and direction of any such physician, surgeon, chiropractor or osteopath. Also, this section shall not apply to barbershops or beauty parlors in which massage is given to the scalp, the face, the neck or the shoulders.

(c) Any person who violates the provisions of this section shall, upon conviction thereof, be fined not more than one hundred dollars (\$100.00) and each day's operation shall constitute a separate offense.

(Ord. 1975-19. Passed 9-8-75.)

**Statutory reference:**

Municipal regulation of those engaged in the business of massaging, see Ohio R.C. 715.61

**533.15. Body Painting Studios**

- (a) No establishment, public or private, shall engage in any operation wherein there is contact with the human body, such as touch, painting and similar contacts.
- (b) This section shall not apply to bonafide and licensed physicians, beauty shops and healing clinics, also excepted are bonafide establishments engaged in permanent tattooing.
- (c) Any person who violates the provisions of this section shall, upon conviction thereof, be fined not more than one hundred dollars (\$100.00) and each day's operation shall constitute a separate offense.

(Ord. 1975-19. Passed 9-8-75.)

**Statutory reference:**

Local regulation as to tattooing, see Ohio R.C. 3730.11

**CHAPTER 537. OFFENSES AGAINST PERSONS**

**537.01. 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 Section 549.01.
- (b) Whoever violates this section is guilty of negligent homicide, a misdemeanor of the first degree.

(ORC 2903.05)

**537.02. Vehicular Homicide; Vehicular Manslaughter**

- (a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause the death of another or the unlawful termination of another's pregnancy in any of the following ways:
  - (1) (A) As the proximate result of committing a violation of Ohio R.C. 4511.19(A), a substantially equivalent municipal ordinance, or section 333.01 of this Code;
  - (B) As the proximate result of committing a violation of Ohio R.C. 1547.11(A) or of a substantially equivalent municipal ordinance;
  - (C) As the proximate result of committing a violation of Ohio R.C. 4561.15(A)(3) or of a substantially equivalent municipal ordinance.

(2) In one of the following ways:

(A) Recklessly;

(B) As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a reckless operation offense, provided that this division applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the reckless operation offense in the construction zone and does not apply as described in division (d) of this section.

(3) In one of the following ways:

(A) Negligently;

(B) As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense, provided that this division applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in division (d) of this section.

(4) As the proximate result of committing a violation of any provision of any section contained in Ohio R.C. Title 45 that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in Ohio R.C. Title 45 that is a minor misdemeanor.

(b) (1) Whoever violates division (a)(1) or (2) of this section is guilty of aggravated vehicular homicide, a felony to be prosecuted under appropriate State law.

(2) (A) Whoever violates division (a)(3) of this section is guilty of vehicular homicide. Except as otherwise provided in this division, vehicular homicide is a misdemeanor of the first degree. Vehicular homicide committed in violation of division (a)(3) of this section is a felony to be prosecuted under appropriate state law if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault

offense. The court shall impose a mandatory jail term on the offender when required by division (c) of this section.

(B) In addition to any other sanctions imposed pursuant to this division, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(4) or, if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense, a class three suspension ~~fe~~ of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(3), or, if the offender previously had been convicted of or pleaded guilty to a traffic-related murder, felonious assault, or attempted murder offense, 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 Ohio R.C. 4510.02(A)(2).

(3) (A) Whoever violates division (a)(4) of this section is guilty of vehicular manslaughter. Except as otherwise provided in this division, vehicular manslaughter is a misdemeanor of the second degree. Vehicular manslaughter is a misdemeanor of the first degree if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.

(B) In addition to any other sanctions imposed pursuant to this division, the court shall impose upon the offender a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(6) or, if the offender previously has been convicted of or pleaded guilty to a violation of this section, any traffic-related homicide, manslaughter, or assault offense, or a traffic-related murder, felonious assault, or attempted murder offense, a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(4).

(c) The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a felony violation of this section, as provided in Ohio R.C. 2903.06(E).

The court shall impose a mandatory jail term of at least 15 days on an offender who is convicted of or pleads guilty to a misdemeanor violation of division (a)(3)B. of this section and may impose upon the offender a longer jail term as authorized pursuant to Ohio R.C. 2929.24.

(d) Divisions (a)(2)B. and (a)(3)B. of this section do not apply in a particular construction zone unless signs of the type described in Ohio R.C. 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the Director of Transportation under Ohio R.C. 5501.27. The failure to erect signs of the type described in Ohio R.C. 2903.081 in a particular construction zone in accordance with those guidelines and design specifications does not limit or affect the application of division (a)(1), (a)(2)A., (a) (3)A., or (a)(4) of this section in that construction zone or the prosecution of any person who violates any of those divisions in that construction zone.

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

(A) "Construction zone" has the same meaning as in Ohio R.C. 5501.27.

(B) "Mandatory prison term" and "mandatory jail term" have the same meanings as in Ohio R.C. 2929.01.

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

(D) "Reckless operation offense" means a violation of Ohio R.C. 4511.20 or a municipal ordinance substantially equivalent to Ohio R.C. 4511.20.

(E) "Speeding offense" means a violation of Ohio R.C. 4511.21 or a municipal ordinance pertaining to speed.

(F) "Traffic-related homicide, manslaughter, or assault offense" means a violation of Ohio R.C. 2903.04 in circumstances in which division (D) of that section applies, a violation of Ohio R.C. 2903.06 or 2903.08, or a violation of Ohio R.C. 2903.06, 2903.07, or 2903.08 as they existed prior to March 23, 2000.

(G) "Traffic-related murder, felonious assault, or attempted murder offense" means a violation of Ohio R.C. 2903.01 or Ohio R.C. 2903.02 in circumstances in which the offender used a motor vehicle as the means to commit the violation, a violation of Ohio R.C. 2903.11(A)(2) in circumstances in which the deadly weapon used in the commission of the violation is a motor vehicle, or an attempt to commit aggravated murder or murder in violation of Ohio R.C. 2923.02 in circumstances in which the offender used a motor vehicle as the means to attempt to commit the aggravated murder or murder.

(2) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified

offense includes any violation of any substantially equivalent municipal ordinance, former law of this State, or current or former law of this or another state or the United States.

**Statutory reference:**

Vehicular homicide; vehicular manslaughter, see Ohio R.C. 2903.06

Aggravated vehicular assault, felony, see Ohio R.C. 2903.08

Trial court to suspend driver's license, see Ohio R.C. 4510.05, 4510.10

**537.061. Menacing By Stalking**

- (a) (1) 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 or a family or household member of the other person or cause mental distress to the other person or a family or household member of the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person's family or household member or mental distress to the other person or the other person's family or household member, the other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs.
- (2) No person, through the use of any form of written communication or any electronic method of remotely transferring information, including but not limited to any computer, computer network, computer program, ~~or~~ computer system, or telecommunication device shall post a message or use any intentionally written or verbal graphic gesture with purpose to do either of the following:
- (A) Violate division (A)(1) of this section;
- (B) Urge ~~urge~~ or incite another to commit a violation of division (a)(1) of this section.
- (3) No person, with a sexual motivation, shall violate division (a)(1) or (a)(2) of this section.
- (b) Whoever violates division (a) of this section is guilty of menacing by stalking.
- (1) Except as otherwise provided in division (a)(2) of this section, menacing by stalking is a misdemeanor of the first degree.
- (2) Menacing by stalking is a felony, to be prosecuted under appropriate State law, if any of the following applies:

- (A) The offender previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 2903.211 or a violation of Ohio R.C. 2911.211, ~~or a substantially equivalent municipal ordinance to either of these offenses.~~
- (B) In committing the offense under division (a)(1), (a)(2) or (a)(3) 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)(2) or (a)(3) of this section, a third person induced by the offender's posted message made a threat of physical harm to or against the victim.
- (C) In committing the offense under division (a)(1), (a)(2) or (a)(3) 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)(2) or (a)(3) 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.
- (D) The victim of the offense is a minor.
- (E) 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.
- (F) While committing the offense under division (a)(1) of this section or a violation of division (a)(3) of this section based on conduct in violation of division (a)(1) of this section, the offender had a deadly weapon on or about the offender's person or under the offender's control. Division (b)(2)F. of this section does not apply in determining the penalty for a violation of division (a)(2) of this section or a violation of division (a)(3) of this section based on conduct in violation of division (a)(2) of this section.
- (G) At the time of the commission of the offense, the offender was the subject of a protection order issued under Ohio R.C. 2903.213 or Ohio R.C. 2903.214, regardless of whether or not the person to be protected under the order is the victim of the offense or another person.
- (H) In committing the offense under division (a)(1), (a)(2) or (a)(3) 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)(2) of this section or an offense committed under division (a)(3) of this section based on a violation of division (a)(2) 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.
- (I) 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.

(J) 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.

(K) 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.

(c) Ohio R.C. 2919.271 applies in relation to a defendant charged with a violation of this section.

(d) As used in division (a) of this section:

(1) "Computer," "computer network," "computer program," "computer system," and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.

(2) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04

(3) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.

(4) "Family or household member" means any of the following:

(A) Any of the following who is residing or has resided with the person against whom the act prohibited in division (a)(1) of this section is committed:

(i) A spouse, a person living as a spouse, or a former spouse of the person;

(ii) A parent, a foster parent, or a child of the person, or another person related by consanguinity or affinity to the person;

(iii) A parent or a child of a spouse, person living as a spouse, or former spouse of the person, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the person.

(B) The natural parent of any child of whom the person against whom the act prohibited in division (a)(1) of this section is committed is the other natural parent or is the putative other natural parent.

- (4) ~~(5)~~ "Mental distress" means any of the following:
- (A) Any mental illness or condition that involves some temporary substantial incapacity;
  - (B) 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.
- (6) "Organization" includes an entity that is a governmental employer.
- ~~(5)~~ (7) "Pattern of conduct" means two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, or two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, directed at one or more persons employed by or belonging to the same corporation, association, or other organization. Actions or incidents that prevent, obstruct, or delay the performance by a public official, firefighter, rescuer, emergency medical services person, or emergency facility person of any authorized act within the public official's, firefighter's, rescuer's, emergency medical services person's, or emergency facility person's official capacity, or the posting of messages, use of intentionally written or verbal graphic gestures, or receipt of information or data through the use of any form of written communication or 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."
- (8) "Person living as a spouse" means a person who is living or has lived with the person against whom the act prohibited in division (A)(1) of this section is committed in a common law marital relationship, who otherwise is cohabiting with that person, or who otherwise has cohabited with the person within five years prior to the date of the alleged commission of the act in question.
- ~~(6)~~ (9) "Post a message" means transferring, sending, posting, publishing, disseminating, or otherwise communicating, or attempting to transfer, send, post, publish, disseminate, or otherwise communicate, any message or information, whether truthful or untruthful, about an individual, and whether done under one's own name, under the name of another, or while impersonating another.
- ~~(7)~~ (10) "Public official" has the same meaning as in Ohio R.C. 2921.01.
- ~~(8)~~ (11) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.

- ~~(9)~~ (12) "Third person" means, in relation to conduct as described in division (a) (1)B. of this section, an individual who is neither the offender nor the victim of the conduct.
- (e) 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 ~~(d)(4)B.~~ (d)(5)B. of this section.
- (4) As the proximate result of committing a violation of any provision of any section contained in Ohio R.C. Title 45 that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in Ohio R.C. Title 45 that is a minor misdemeanor.
- (f) (1) ~~Division (a) of this~~ 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.
- (2) Division (f)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is or will be sent in violation of ~~division (a)~~ of this section except as otherwise provided by law.
- (3) Division (f)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of ~~divisions (a) through (f)~~ of this section or who knowingly advertises the availability of material of that nature.

**Statutory reference:**

Menacing by stalking, see Ohio R.C. 2903.211

**537.07. 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 subsection when the parent, guardian, custodian, or person having custody or control of a child treats the physical or mental illness or disability of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

- (b) No person shall do any of the following to a child under 18 years of age or a mentally or physically disabled child under 21 years of age:
- (1) Abuse the child.
  - (2) Torture or cruelly abuse the child.
  - (3) Administer corporal punishment or other physical disciplinary measure, or physically restrain the child in a cruel manner or for a prolonged period, which punishment, discipline or restraint is excessive under the circumstances and creates a substantial risk of serious physical harm to the child.
  - (4) Repeatedly administer unwarranted disciplinary measures to a child when there is a substantial risk that such conduct, if continued, will seriously impair or retard the child's mental health or development.
  - (5) Entice, coerce, permit, encourage, compel, hire, employ, use, or allow the child to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter;
  - (6) Allow the child to be on the same parcel of real property and within 100 feet of, or, in the case of more than one housing unit on the same parcel of real property, in the same housing unit and within 100 feet of, any act in violation of Ohio R.C. 2925.04 or 2925.041 when the person knows that the act is occurring, whether or not any person is prosecuted for or convicted of the violation of Ohio R.C. 2925.04 or 2925.041 that is the basis of the violation of this division.
- (c) (1) No person shall operate a vehicle, as defined by Ohio R.C. 4511.01, within the Municipality and in violation of Ohio R.C. 4511.19(A), ~~or a substantially equivalent municipal ordinance~~, when one or more children under 18 years of age are in the vehicle. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of this division and a violation of Ohio R.C. 4511.19(A), ~~or a substantially equivalent municipal ordinance~~, that constitutes the basis of the charge of the violation of this division. For purposes of Ohio R.C. 4511.191 to 4511.197 and all related provisions of law, a person arrested for a violation of this division shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

(2) As used in division (c)(1) of this section:

(A) "Controlled substance" has the same meaning as in Ohio R.C. 3719.01.

(B) "Vehicle" has the same meanings as in Ohio R.C. 4511.01.

(d) (1) Subsection (b)(5) hereof does not apply to any material or performance that is produced, presented, or disseminated for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies for research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance.

(2) Mistake of age is not a defense to a charge under subsection (b)(5) hereof.

(3) In a prosecution under subsection (b)(5) hereof, the trier of fact may infer that an actor, model, or participant in the material or performance involved is a juvenile if the material or performance, through its title, text, visual representation, or otherwise, represents or depicts the actor, model, or participant as a juvenile.

(4) As used in this subsection and subsection (b)(5) hereof:

"Material," "performance," "obscene," and "sexual activity" have the same meanings as in Ohio R.C. 2907.01.

(5) "Nudity-oriented matter" means any material or performance that shows a minor in a state of nudity and that, taken as a whole by the average person applying contemporary community standards, appeals to the prurient interest.

(6) "Sexually oriented matter" means any material or performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality.

(e) Whoever violates this section is guilty of endangering children.

(1) If the offender violates subsection (a) or (b)(1) of this section, endangering children is one of the following:

(A) Except as otherwise provided in subsection (e)(1) B., C., or D. a misdemeanor of the first degree.

(B) If the offender previously has been convicted of an offense under this section or ~~a substantially equivalent state law or municipal ordinance~~, or of any offense involving neglect, abandonment, or contributing to the delinquency of, or physical abuse of a child, except as otherwise provided in subsection (e)(1) C. or D. of this section, endangering children is a felony to be prosecuted under appropriate state law.

- (C) If the violation is a violation of subsection (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 subsection (b)(1) of this section and results in serious physical harm to the child involved, a felony of the second degree to be prosecuted under appropriate state law.
- (2) If the offender violates subsection (b)(2), (3), (4), (5) or (6) of this section, endangering children is a felony to be prosecuted under appropriate State law.
- (3) If the offender violates subsection (c) of this section, the offender shall be punished as follows:
- (A) Except as provided in subsection (e)(3)B. or C., endangering children in violation of subsection (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 subsection (e)(3)C. of this section, endangering children in violation of subsection (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, Ohio R.C. 2903.06 or 2903.08, Ohio R.C. 2903.07 as it existed prior to March 23, 2000, or Ohio R.C. 2903.04, in a case in which the offender was subject to the sanctions described in subsection ~~(e)~~ (D) of that section, endangering children in violation of subsection (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 subsections (e)(3)A., B. or C. of this section or pursuant to any other provision of law, ~~the court may also impose upon the offender one or both of the following sanctions:~~ and in addition to any suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege under Ohio R.C. Chapter 4506, 4509, 4510, or 4511 or under any other provision of law, the court also may impose upon the offender a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(7).
    - ~~(i) It may require the offender, as part of his or her sentence and in the manner described in Ohio R.C. 2919.22(F), to perform not more than 200~~

~~hours of supervised community service work under the authority of any agency, political subsection, or charitable organization of the type described in Ohio R.C. 2951.02(F)(1), provided that the court shall not require the offender to perform supervised community service work under this subsection unless the offender agrees to perform the supervised community service work.~~

~~(ii) It may suspend the driver's license or commercial driver's license or permit or nonresident operating privilege of the offender for up to 90 days, in addition to any suspension or revocation of the offender's driver's license or commercial driver's license or permit or nonresident operating privilege under Ohio R.C. Chapter 4506, 4507, 4509 or 4511, or any other provision of law.~~

(E) In addition to any term of imprisonment, fine, or other sentence, penalty or sanction imposed upon the offender pursuant to subsection (e)(3)A., B., C. or D. of this section or pursuant to any other provision of law for the violation of subsection (c) of this section, if as a part of the same trial or proceeding the offender also is convicted of or pleads guilty to a separate charge charging the violation of Ohio R.C. 4511.19(A) that was the basis of the charge of the violation of subsection (c) of this section, the offender also shall be sentenced, in accordance with Ohio R.C. 4511.99 ~~and also shall be subject to all other sanctions that are required or authorized by any provision of law~~ for that violation of Ohio R.C. 4511.19(A).

~~(f) (1) (A) A court may require an offender to perform not more than two hundred (200) hours of supervised community service work under the authority of an agency, subdivision, or charitable organization. The requirement shall be part of the community control sanction or sentence of the offender, and the court shall impose the community service in accordance with and subject to divisions (f)(1)(a) and (b) of this section. The court may require an offender whom it requires to perform supervised community service work as part of the offender's community control sanction or sentence to pay the court a reasonable fee to cover the costs of the offender's participation in the work, including, but not limited to, the costs of procuring a policy or policies of liability insurance to cover the period during which the offender will perform the work. If the court requires the offender to perform supervised community service work as part of the offender's community control sanction or sentence, the court shall do so in accordance with the following limitations and criteria:~~

~~(i) The court shall require that the community service work be performed after completion of the term of imprisonment or jail term imposed upon the offender for the violation of division (c) of this section, if applicable.~~

~~(ii) The supervised community service work shall be subject to the limitations set forth in Ohio R.C. 2951.02(B)(1), (2), and (3).~~

- (iii) The community service work shall be supervised in the manner described in Ohio R.C. 2951.02(B)(4) by an official or person with the qualifications described in that division. The official or person periodically shall report in writing to the court concerning the conduct of the offender in performing the work.
- (iv) The court shall inform the offender in writing that if the offender does not adequately perform, as determined by the court, all of the required community service work, the court may order that the offender be committed to a jail or workhouse for a period of time that does not exceed the term of imprisonment that the court could have imposed upon the offender for the violation of division (c) of this section, reduced by the total amount of time that the offender actually was imprisoned under the sentence or term that was imposed upon the offender for that violation and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in Ohio R.C. 2949.08 and 2967.191, and that, if the court orders that the offender be so committed, the court is authorized, but not required, to grant the offender credit upon the period of the commitment for the community service work that the offender adequately performed.
- (B) If a court, pursuant to division (f)(1)(a) of this section, orders an offender to perform community service work as part of the offender's community control sanction or sentence and if the offender does not adequately perform all of the required community service work, as determined by the court, the court may order that the offender be committed to a jail or workhouse for a period of time that does not exceed the term of imprisonment that the court could have imposed upon the offender for the violation of division (c) of this section, reduced by the total amount of time that the offender actually was imprisoned under the sentence or term that was imposed upon the offender for that violation and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in Ohio R.C. 2949.08 and 2967.191. The court may order that a person committed pursuant to this division shall receive hour-for-hour credit upon the period of the commitment for the community service work that the offender adequately performed. No commitment pursuant to this division shall exceed the period of the term of imprisonment that the sentencing court could have imposed upon the offender for the violation of division (c) of this section, reduced by the total amount of time that the offender actually was imprisoned under that sentence or term and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in Ohio R.C. 2949.08 and 2967.191.

(2) Division (f)(1) of this section does not limit or affect the authority of the court to suspend the sentence imposed upon a misdemeanor offender and place the offender under a community control sanction pursuant to Ohio R.C. 2929.25, to require a misdemeanor or felony offender to perform supervised community service work in accordance with Ohio R.C. 2951.02(B), or to place a felony offender under a community control sanction.

(g) (1) If a court suspends an offender's driver's or commercial driver's license or permit or nonresident operating privilege under division (e)(3)(D) of this section, the period of the suspension shall be consecutive to, and commence after, the period of suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege that is imposed under Ohio R.C. Chapter 4506, 4509, 4510, or 4511 or under any other provision of law in relation to the violation of division (c) of this section that is the basis of the suspension under division (e)(3)(D) of this section or in relation to the violation of Ohio R.C. 4511.19(A) that is the basis for that violation of division (c) of this section.

(2) An offender is not entitled to request, and the court shall not grant to the offender, limited driving privileges if the offender's license, permit, or privilege has been suspended under division (e)(3)(D) of this section and the offender, within the preceding six years, has been convicted of or pleaded guilty to three or more violations of one or more of the following:

(A) Division (c) of this section;

(B) Any equivalent offense, as defined in Ohio R.C. 4511.181.

(f) (h) (1) If a person violates subsection (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 subsection (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 subsection (c) of this section but the person is not also convicted of and does not also plead guilty to a separate charge of violating Ohio R.C. 4511.19(A) that was the basis of the charge of the violation of subsection (c) of this section, both of the following apply:

(i) For purposes of the provisions of Ohio R.C. 4511.99 that set forth the penalties and sanctions for a violation of Ohio R.C. 4511.19(A), the conviction of or plea of guilty to the violation of subsection (c) of this section shall not constitute a violation of Ohio R.C. 4511.19(A).

(ii) For purposes of the provisions of law that refers to a conviction of or plea of guilty to a violation of Ohio R.C. 4511.19(A) and that is not described in subsection (f)(2)A.(i) of this section, the conviction of or plea of guilty

to the violation of subsection (c) of this section shall constitute a conviction or plea of guilty to a violation of Ohio R.C. 4511.19(A).

(B) If a person is convicted of or pleads guilty to a violation of subsection (c) of this section and the person also is convicted of or pleads guilty to a separate charge of violating Ohio R.C. 4511.19(A) that was the basis of the charge of the violation of subsection (c) of this section, the conviction of or plea of guilty to the violation of subsection (c) of this section shall not constitute, for the purposes of any provision of law that refers to a conviction of or a plea of guilty to a violation of Ohio R.C. 4511.19(A), a conviction of or a plea of guilty to a violation of Ohio R.C. 4511.19(A).

(i) Definitions. As used in this section:

(1) "Community control sanction" has the same meaning as in Ohio R.C. 2929.01;

(2) "Limited driving privileges" has the same meaning as in Ohio R.C. 4501.01;

~~(ORC 2919.22(A)–(C), (E), (H))~~ (ORC 2919.22)

**Statutory reference:**

Community service, requirements, see Ohio R.C. 2919.22(F)

License suspension, requirements, see Ohio R.C. 2919.22(G)

**537.14. Domestic Violence**

- (a) No person shall knowingly cause or attempt to cause physical harm to a family or household member.
- (b) No person shall recklessly cause serious physical harm to a family or household member.
- (c) 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.
- (d) (1) Whoever violates this section is guilty of domestic violence, and the court shall sentence the offender as provided in divisions (d)(2) to (d)(6) of this section.
  - (2) Except as otherwise provided in division (d)(3) to (d)(5) of this section, a violation of division (c) is a misdemeanor of the fourth degree and a violation of division (a) or (b) is a misdemeanor of the first degree.
  - (3) Except as otherwise provided in division (d)(4) 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~~ similar to domestic violence, a violation of Ohio 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~~ similar 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) or (b) is a felony to be prosecuted under appropriate state law, and a violation of division (c) is a misdemeanor of the second degree.

- (4) 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 (d)(3) 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) or (b) of this section is a felony to be prosecuted under appropriate state law, and a violation of division (c) of this section is a misdemeanor of the first degree.
- (5) Except as otherwise provided in division (d)(3) or (d)(4) of this section, if the offender knew that the victim of the violation was pregnant at the time of the violation, a violation of division (a) or (b) of this section is a felony to be prosecuted under appropriate state law, and a violation of division (c) of this section is a misdemeanor of the third degree.
- (e) 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.
- (f) As used in this section and Ohio R.C. 2919.251 and 2919.26:

(1) "Family or household member." ~~Any~~ means any of the following:

- (A) Any of the following who is residing or has resided with the offender:
  - (i) A spouse, a person living as a spouse ~~as defined below~~, or a former spouse of the offender;
  - (ii) A parent, a foster parent, or a child of the offender, or another person related by consanguinity or affinity to the offender;
  - (iii) 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.

- (B) The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.
- (2) "Person living as a spouse" means 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.
- (3) "Pregnant woman's unborn" has the same meaning as "such other person's unborn," as set forth in section 2903.09 of the Revised Code, as it relates to the pregnant woman. Division (C) of that section applies regarding the use of the term in this section, except that the second and third sentences of division (C)(1) of that section shall be construed for purposes of this section as if they included a reference to this section in the listing of Revised Code sections they contain.
- (4) "Termination of the pregnant woman's pregnancy" has the same meaning as "unlawful termination of another's pregnancy," as set forth in section 2903.09 of the Revised Code, as it relates to the pregnant woman. Division (C) of that section applies regarding the use of the term in this section, except that the second and third sentences of division (C)(1) of that section shall be construed for purposes of this section as if they included a reference to this section in the listing of Revised Code sections they contain.

**Statutory reference:**

Domestic violence, see Ohio R.C. 2919.25

**537.15. Violating A Protection Order**

Violating a Protection Order, Consent Agreement, Anti-stalking Protection Order or Order Issued by a Court of Another State.

- (a) No person shall recklessly violate the terms of any of the following:
- (1) A protection order issued or consent agreement approved pursuant to Ohio R.C. 2919.26 or Ohio R.C. 3113.31;
- (2) A protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or Ohio R.C. 2903.214;
- (3) A protection order issued by a court of another state.
- (b) (1) Whoever violates this section is guilty of violating a protection order.

- (2) Except as otherwise provided in division (b)(3) or (b)(4) of this section, violating a protection order is a misdemeanor of the first degree.
  - (3) Violating a protection order is a felony to be prosecuted under appropriate state law if the offender previously has been convicted of, or pleaded guilty to, or been adjudicated a delinquent child for any of the following:
    - (A) ~~a~~ A violation of a protection order issued pursuant to Ohio R.C. 2903.213 or Ohio R.C. 2903.214, or consent agreement approved pursuant to Ohio R.C. 2151.34, 2903.213, 2903.214, 2919.26, or 3113.31;
    - (B) ~~two~~ Two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.211, or any combination of those offenses, that involved the same person who is the subject of the protection order or consent agreement; or sections 537.05, 537.06 or 537.061 of this Code; ; a substantially equivalent 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.
    - (C) One or more violations of this section.
  - (4) 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.
  - (5) If the protection order violated by the offender was an order issued pursuant to Ohio R.C. 2903.214 that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires under this division that the offender be electronically monitored, unless the court determines that the offender is indigent, the court shall order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device. If the court determines that the offender is indigent, the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device shall be paid out of funds from the reparations fund created pursuant to Ohio R.C. 2743.191.
- (c) 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 and and 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).

- (d) As used in this section, "protection order issued by a court of another state" means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a pendente lite order in a proceeding for other relief, if the court issued it in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection. ~~The term~~ "Protection order issued by a court of another state" 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.

**Statutory reference:**

Violating a protection order, see Ohio R.C. 2919.27

**537.16. Illegal Distribution Of Cigarettes, Other Tobacco Products, Or Alternative Nicotine Products; Transaction Scans**

- (a) Illegal Distribution of Cigarettes, Other Tobacco Products, or Alternative Nicotine Products.

- (1) As used in this section:

(A) "Age verification." A service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes) that compares information available from a commercially available database, or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is ~~eighteen (18)~~ twenty-one (21) years of age or older.

(B) "Alternative nicotine product."

- (i) Subject to division 2. of this definition, an electronic ~~cigarette~~ smoking device, vapor product, or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving, or inhaling.

- (ii) The phrase does not include any of the following:

- (1) Any cigarette or other tobacco product;

- (2) Any product that is a "drug" as that term is defined in 21 U.S.C. § 321(g)(1);
- (3) Any product that is a "device" as that term is defined in 21 U.S.C. § 321(h);
- (4) Any product that is a "combination product" as described in 21 U.S.C. § 353(g).

~~(C)~~ "Child." Has the same meaning as in ORC 2151.011.

~~(D)~~ (C) "Cigarette." Includes clove cigarettes and hand-rolled cigarettes.

~~(E)~~ (D) "Distribute." Means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.

~~(F)~~ (E) "Electronic cigarette."

~~(i)~~ Subject to division 2. of this definition, any electronic product or device that produces a vapor that delivers nicotine or any other substance to the person inhaling from the device to simulate smoking and that is likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarillo, or electronic pipe.

~~(ii)~~ The phrase does not include any item, product, or device described in division 2. of the definition for "alternative nicotine product" in this section.

"Electronic smoking device" means any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device including an electronic cigarette, electronic cigar, electronic hookah, vaping pen, or electronic pipe. "Electronic smoking device" includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. "Electronic smoking device" does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).

~~(G)~~ (F) "Proof of age." Means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under ORC 4507.50 to 4507.52 that shows that a person is eighteen (18) years of age or older.

~~(H)~~ (G) "Tobacco product." Means any product that is made from tobacco, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, or snuff. or derived from tobacco or that contains any form of

nicotine, if it is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. "Tobacco product" also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. "Tobacco product" does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).

(I) "Vapor product" means a product, other than a cigarette or other tobacco product as defined in Chapter 5743. of the Revised Code, that contains or is made or derived from nicotine and that is intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. "Vapor product" includes any component, part, or additive that is intended for use in an electronic smoking device, a mechanical heating element, battery, or electronic circuit and is used to deliver the product. "Vapor product" does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g). "Vapor product" includes any product containing nicotine, regardless of concentration.

~~(J)~~ (J) "Vending machine." Has the same meaning as "coin machine" in ORC 2913.01.

(2) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, and no other person shall do any of the following:

(A) Give, sell, or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any ~~child~~ person under twenty-one (21) years of age;

(B) Give away, sell, or distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a sign stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under ~~eighteen (18)~~ twenty-one (21) years of age is prohibited by law;

(C) Knowingly furnish any false information regarding the name, age, or other identification of any ~~child~~ person under twenty-one (21) years of age with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that ~~child~~ person;

- (D) Manufacture, sell, or distribute in this state any pack or other container of cigarettes containing fewer than twenty (20) cigarettes or any package of roll-your-own tobacco containing less than ~~six-tenths~~ six-tenths of one ounce of tobacco;
  - (E) Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;
  - (F) Give, sell, or otherwise distribute alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes over the internet or through another remote method without age verification.
- (3) No person shall sell or offer to sell cigarettes, other tobacco products, or alternative nicotine products by or from a vending machine, except in the following locations:
- (A) An area within a factory, business, office, or other place not open to the general public;
  - (B) An area to which ~~children~~ persons under twenty-one (21) years of age are not generally permitted access;
  - (C) Any other place not identified in division (a)(3)A. or (a)(3)B. of this section, upon all of the following conditions:
    - (i) The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes, other tobacco product, and alternative nicotine product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.
    - (ii) The vending machine is inaccessible to the public when the place is closed.
    - (iii) A clearly visible notice is posted in the area where the vending machine is located that states the following in letters that are legibly printed and at least one-half inch high:  
  
"It is illegal for any person under the age of 21 to purchase tobacco or alternative nicotine products."

- (4) The following are affirmative defenses to a charge under division (a)(2)A. of this section:
- (A) The ~~child~~ person under twenty-one (21) years of age was accompanied by a parent, spouse who is ~~eighteen (18)~~ twenty-one years of age or older, or legal guardian of the ~~child~~ person under twenty-one (21) years of age.
  - (B) The person who gave, sold, or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a ~~child~~ person under twenty-one (21) years of age under division (a)(2)A. of this section is a parent, spouse who is ~~eighteen (18)~~ twenty-one (21) years of age or older, or legal guardian of the ~~child~~ person under twenty-one (21) years of age.
- (5) It is not a violation of division (a)(2)A. or (a)(2)B. of this section for a person to give or otherwise distribute to a ~~child~~ person under twenty-one (21) years of age cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes while the ~~child~~ person under twenty-one (21) years of age is participating in a research protocol if all of the following apply:
- (A) The parent, guardian, or legal custodian of the ~~child~~ person under twenty-one (21) years of age has consented in writing to the ~~child~~ person under twenty-one (21) years of age participating in the research protocol.
  - (B) An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol.
  - (C) The ~~child~~ person under twenty-one (21) years of age is participating in the research protocol at the facility or location specified in the research protocol.
- (6) (A) Whoever violates division (a)(2)A., (a)(2)B., (a)(2)D., (a)(2)E., or (a) (2)F. or (a)(3) of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of division (a)(2)A., (a)(2)B., (a) (2)D., (a)(2)E., or (a)(2)F. or (a)(3) of this section, Ohio R.C. 2927.02(B)(1), (2), (4), (5), or (6) or (C), or a substantially equivalent State law or municipal ordinance, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
- (B) Whoever violates division (a)(2)C. of this section is guilty of permitting ~~children~~ a person under twenty-one (21) years of age to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, permitting ~~children~~ a person under twenty-one (21) years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been

convicted of a violation of division (a)(2)C. of this section or a ~~substantially equivalent State law or municipal ordinance~~ Ohio R.C. 2927.02(B)(3), permitting ~~children~~ a person under twenty-one (21) years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

- (7) Any cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a ~~child~~ person under twenty-one (21) years of age in violation of this section and that are used, possessed, purchased, or received by a ~~child~~ person under twenty-one (21) years of age in violation of ORC 2151.87 are subject to seizure and forfeiture as contraband under ORC Chapter 2981.

(ORC 2927.02)

(b) Transaction Scan.

- (1) As used in this division and division (c) of this section:

- (A) "Card holder" means any person who presents a driver's or commercial driver's license or an identification card to a seller, or an agent or employee of a seller, to purchase or receive cigarettes, other tobacco products, or alternative nicotine products from a seller, agent, or employee.
- (B) "Identification card" means an identification card issued under Ohio R.C. 4507.50 to 4507.52.
- (C) "Seller" means a seller of cigarettes, other tobacco products, or alternative nicotine products and includes any person whose gift of or other distribution of cigarettes or other tobacco products, or alternative nicotine products is subject to the prohibitions of division (a) of this section.
- (D) "Transaction scan" means the process by which a seller or an agent or employee of a seller checks, by means of a transaction scan device, the validity of a driver's or commercial driver's license or an identification card that is presented as a condition for purchasing or receiving cigarettes, other tobacco products, or alternative nicotine products.
- (E) "Transaction scan device" means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver's or commercial driver's license or an identification card.

- (2) (A) A seller or an agent or employee of a seller may perform a transaction scan by means of a transaction scan device to check the validity of a driver's or commercial driver's license or identification card presented by a card holder

as a condition for selling, giving away, or otherwise distributing to the card holder cigarettes, other tobacco products, or alternative nicotine products.

- (B) If the information deciphered by the transaction scan performed under division (b)(2)A. of this section fails to match the information printed on the driver's or commercial driver's license or identification card presented by the card holder, or if the transaction scan indicates that the information so printed is false or fraudulent, neither the seller nor any agent or employee of the seller shall sell, give away, or otherwise distribute any cigarettes, other tobacco products, or alternative nicotine products to the card holder.
  - (C) Division (b)(2)A. of this section does not preclude a seller or an agent or employee of a seller from using a transaction scan device to check the validity of a document other than a driver's or commercial driver's license or identification card, if the document includes a bar code or magnetic strip that may be scanned by the device, as a condition for selling, giving away, or otherwise distributing cigarettes, other tobacco products, or alternative nicotine products to the person presenting the document.
- (3) Rules adopted by the Registrar of Motor Vehicles under Ohio R.C. 4301.61(C) apply to the use of transaction scan devices for purposes of this division (b) and division (c) of this section.
- (4) (A) No seller or agent or employee of a seller shall electronically or mechanically record or maintain any information derived from a transaction scan, except for the following:
- (i) 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;
  - (ii) 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 ORC 2927.022 or another section of the Ohio Revised Code, or division (c) of this section ~~or another section of this code~~.

- (5) Nothing in this division (b) or division (c) of this section relieves a seller or an agent or employee of a seller of any responsibility to comply with any other applicable local, state, or federal laws or rules governing the sale, giving away, or other distribution of cigarettes, other tobacco products, or alternative nicotine products.
- (6) Whoever violates division (b)(2)B. or (b)(4) of this section is guilty of engaging in an illegal tobacco product or alternative nicotine product transaction scan, and the court may impose upon the offender a civil penalty of up to one thousand dollars (\$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.

(ORC 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, other tobacco products, or alternative nicotine products is an element of the alleged violation, if the seller, agent, or employee raises and proves as an affirmative defense that all of the following occurred:
  - (A) A card holder attempting to purchase or receive cigarettes, other tobacco products, or alternative nicotine products presented a driver's or commercial driver's license or an identification card.
  - (B) A transaction scan of the driver's or commercial driver's license or identification card that the card holder presented indicated that the license or card was valid.
  - (C) The cigarettes, other tobacco products, or alternative nicotine products were sold, given away, or otherwise distributed to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.
- (2) In determining whether a seller or an agent or employee of a seller has proven the affirmative defense provided by division (c)(1) of this section, the trier of fact in the action for the alleged violation of division (a) of this section shall consider any written policy that the seller has adopted and implemented and that is intended to prevent violations of division (a) of this section. For purposes of division (c)(1)C. of this section, the trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a seller or an agent or employee of a seller to exercise reasonable

diligence to determine, and that the use of a transaction scan device does not excuse a seller or an agent or employee of a seller from exercising reasonable diligence to determine, the following:

- (A) Whether a person to whom the seller or agent or employee of a seller sells, gives away, or otherwise distributes cigarettes, other tobacco products, or alternative nicotine products is 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 Ohio R.C. 4507.50 to 4507.52 shall be permitted to submit certified copies of the records of that issuance in lieu of the testimony of the personnel of or contractors with the Bureau of Motor Vehicles in the action.

(ORC 2927.022)

(d) Shipment of Tobacco Products.

- (1) As used in this division (d):
  - (A) "Authorized recipient of tobacco products" means a person who is:
    - (i) Licensed as a cigarette wholesale dealer under ORC 5743.15;
    - (ii) Licensed as a retail dealer as long as the person purchases cigarettes with the appropriate tax stamp affixed;
    - (iii) An export warehouse proprietor as defined in Section 5702 of the Internal Revenue Code;
    - (iv) An operator of a customs bonded warehouse under 19 U.S.C. § 1311 or 19 U.S.C. § 1555;
    - (v) An officer, employee, or agent of the federal government or of this state acting in the person's official capacity;
    - (vi) A department, agency, instrumentality, or political subdivision of the federal government or of this state;
    - (vii) A person having a consent for consumer shipment issued by the Tax Commissioner under ORC 5743.71.

- (B) "Motor carrier." Has the same meaning as in ORC 4923.01.
- (2) The purpose of this division (d) is to prevent the sale of cigarettes to minors and to ensure compliance with the Master Settlement Agreement, as defined in Ohio R.C. 1346.01.
- (3) (A) No person shall cause to be shipped any cigarettes to any person in this Municipality other than an authorized recipient of tobacco products.
- (B) No motor carrier or other person shall knowingly transport cigarettes to any person in this Municipality that the carrier or other person reasonably believes is not an authorized recipient of tobacco products. If cigarettes are transported to a home or residence, it shall be presumed that the motor carrier, or other person knew that the person to whom the cigarettes were delivered was not an authorized recipient of tobacco products.
- (4) No person engaged in the business of selling cigarettes who ships or causes to be shipped cigarettes to any person in this Municipality in any container or wrapping other than the original container or wrapping of the cigarettes shall fail to plainly and visibly mark the exterior of the container or wrapping in which the cigarettes are shipped with the words "cigarettes".
- (5) A court shall impose a fine of up to one thousand dollars (\$1,000.00) for each violation of division (d)(3)A., (d)(3)B. or (d)(4) of this section.

(ORC 2927.023)

**537.17. 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 fourteen 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 of such persons, but, at the time the actor undertakes the activity, the actor is not acting within the scope of the actor's lawful duties in that capacity.~~
- ~~(b) No person, with a sexual motivation, shall violate division (a) of this section.~~

~~(c) No person, for any unlawful purpose other than, or in addition to, that proscribed by division (a) of this section, shall engage in any activity described in division (a) of this section.~~

~~(d) It is an affirmative defense to a charge under subsection (a) hereof 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.~~

~~(e) Whoever violates division (a), (b) or (c) of this section is guilty of criminal child enticement, a misdemeanor of the first degree if the offender has not previously been convicted of a violation of this section, Ohio R.C. 2907.02, 2907.03, 2907.12, or 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 of the fifth degree.~~

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

~~(1) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.~~

~~(2) "Vehicle" has the same meaning as in Ohio R.C. 4501.01.~~

~~(3) "Vessel" has the same meaning as in Ohio R.C. 1546.01.~~

~~{ORC 2905.05}~~

### **537.18. Nonsupport Of Dependents**

(a) No person shall abandon, or fail to provide adequate support to:

(1) ~~His or her~~ The person's spouse, as required by law;

(2) ~~His or her legitimate or illegitimate~~ The person's child who is under age 18, or mentally or physically ~~disabled~~ handicapped child who is under age 21;

(3) ~~His or her~~ The person's aged or infirm parent or adoptive parent, who from lack of ability and means is unable to provide adequately for ~~his or her~~ the parent's own support.

(b) (1) No person shall abandon, or fail to provide support as established by court order to, another person whom, by court order or decree, the person:

(A) is ~~is~~ legally obligated to support; or

(B) Was legally obligated to support, and an amount for support;

(i) Was due and owing prior to the date the person's duty to pay current support terminated; and

(ii) Remains unpaid.

(2) The period of limitation under Ohio R.C. 2901.13 applicable to division (b)(1)(B) of this section shall begin to run on the date the person's duty to pay current support terminates.

- (c) No person shall aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming a dependent child, as defined in Ohio R.C. 2151.04, or a neglected child, as defined in Ohio R.C. 2151.03.
- (d) It is an affirmative defense to a charge of failure to provide adequate support under division (a) of this section or a charge of failure to provide support established by a court order under division (b) of this section that the accused was unable to provide adequate support or the established support, but did provide the support that was within ~~his or her~~ the accused's ability and means.
- (e) It is an affirmative defense to a charge under subsection (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 subsection (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 subsection, whoever violates subsection (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 subsection (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 subsection (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 subsection (a)(2) or (b) of this section is a felony to be prosecuted under appropriate state law.
- (2) If the offender previously has been convicted of or pleaded guilty to a felony violation of this section or ORC 2919.21 ~~a substantially equivalent state law or municipal ordinance~~, a violation of subsection (a)(2) or (b) of this section is a felony to be prosecuted under appropriate state law.
- (3) If the offender is guilty of nonsupport of dependents by reason of failing to provide support to ~~his or her~~ the offender's child as required by a child support order issued on or after April 15, 1985, pursuant to Ohio R.C. 2151.23, 2151.231, 2151.232, 2151.33, 3105.21, 3109.05, 3111.13, 3113.04, 3113.31, 3115.401, or former Ohio R.C. 3115.31, the court, in addition to any other sentence imposed, shall assess all court costs arising out of the charge against the person and

require the person to pay any reasonable attorney's fees of any adverse party other than the state, as determined by the court, that arose in relation to the charge.

- ~~(3)~~ (4) Whoever violates subsection (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 subsection (c) of this section is a separate offense.

(ORC 2919.21)

### **537.20. Hazing**

- (a) As used in this section, "Hazing" means doing any act, or coercing another, including the victim, to do any act, of initiation into any student or other organization, ~~which act causes or creates a substantial risk of causing mental or physical harm to any person.~~ or any act to continue or reinstate membership in or affiliation with any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person, including coercing another to consume alcohol or a drug of abuse, as defined in Ohio R.C. 3719.011.

"Organization" includes a national or international organization with which a fraternity or sorority is affiliated.

- (b) (1) No person shall recklessly participate in the hazing of another.
- (2) No administrator, employee, faculty member, teacher, consultant, alumnus, or volunteer of any organization, including any primary, secondary, or post-secondary school or any other educational institution, public or private, shall recklessly permit the hazing of any person associated with the organization.
- (c) (1) No person shall recklessly participate in the hazing of another when the hazing includes coerced consumption of alcohol or drugs of abuse resulting in serious physical harm to the other person.
- (2) No administrator, employee, or faculty member, teacher, consultant, alumnus, or volunteer of any organization, including of any primary, or secondary, or post-secondary school, or of any other educational institution, public or private, shall recklessly permit the hazing of any person associated with the organization when the hazing includes coerced consumption of alcohol or drugs of abuse resulting in serious physical harm to that person.

(ORC 2903.31)

- (d) Any person who is subjected to the hazing, as defined in subsection (a) hereof, may commence a civil action for injury or damages, including mental and physical pain and suffering, that result from the hazing. The action may be brought against any participants in the hazing, any organization whose local or national directors, trustees

or officers authorized, requested, commanded or tolerated the hazing, and any local or national director, trustee or officer of the organization who authorized, requested, commanded or tolerated the hazing. If the hazing involves students in a primary, secondary or post-secondary school, university, college, or any other educational institution, an action may also be brought against any administrator, employee or faculty member of the school, university, college, or other educational institution who knew or reasonably should have known of the hazing and who did not make reasonable attempts to prevent it and against the school, university, college or other educational institution. If an administrator, employee, or faculty member is found liable in a civil action for hazing, then notwithstanding Ohio R.C. Chapter 2743, the school, university, college, or other educational institution that employed the administrator, employee, or faculty member may also be held liable.

The negligence or consent of the plaintiff or any assumption of the risk by the plaintiff is not a defense to an action brought pursuant to this section. In an action against a school, university, college, or other educational institution, it is an affirmative defense that a school, university, college, or other institution was actively enforcing a policy against hazing at the time the cause of action arose.

(ORC 2307.44)

- (e) Whoever violates ~~any of the provisions of~~ this section is guilty of hazing, ~~a misdemeanor of the fourth degree. A violation of division (b)(1) or (2) of this section is a misdemeanor of the second degree. A violation of division (c)(1) or (2) of this section is a felony to be prosecuted under appropriate state law.~~

(ORC 2903.31)

- (f) The penalty provided for in subsection (e) hereof shall be in addition to the civil remedy provided for in subsection (d) hereof.

(Ord. 1983-13. Passed 4-18-83.)

**537.21. Contributing To Unruliness Or Delinquency Of A Child**

(a) As used in this section:

(1) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02.

(2) "Unruly child" has the same meaning as in Ohio R.C. 2151.022.

~~(a)~~ (b) No person, including a parent, guardian, or other custodian of a child, shall do any of the following:

(1) Aid, abet, induce, cause, encourage or contribute to a child or a ward of the juvenile court becoming an unruly child ~~as defined in Ohio R.C. 2151.022~~, or a delinquent child ~~as defined in Ohio R.C. 2152.02~~.

- (2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child ~~as defined in Ohio R.C. 2151.022~~, or a delinquent child ~~as defined in Ohio R.C. 2152.02~~.
  - (3) Act in a way that contributes to an adjudication of the child as a delinquent child based on the child's violation of a court order adjudicating the child an unruly child for being an habitual truant;
  - ~~(3)~~ (4) If the person is the parent, guardian, or custodian of a child who has the duties under Ohio R.C. Chapters 2152 and 2950 to register, register a new residence address, and periodically verify a residence address, and, if applicable, to send a notice of intent to reside, and if the child is not emancipated, as defined in Ohio R.C. 2919.121, fail to ensure that the child complies with those duties under Ohio R.C. Chapters 2152 and 2950.
- ~~(b)~~ (c) Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of violation of this section is a separate offense.

(ORC 2919.24)

**537.22. Unlawful Collection Of Bodily Substances**

- (a) No person shall knowingly collect any blood, urine, tissue, or other bodily substance of another person without privilege or consent to do so.
- (b) (1) Division (a) of this section does not apply to any of the following:
  - (A) The collection of any bodily substance of a person by a law enforcement officer, or by another person pursuant to the direction or advice of a law enforcement officer, for purposes of a chemical test or tests of the substance under Ohio R.C. 1547.111 (A)(1) or Ohio R.C. 4511.191(A)(2) to determine the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the bodily substance;
  - (B) The collection of any bodily substance of a person by a peace officer, or by another person pursuant to the direction or advice of a peace officer, for purposes of a test or tests of the substance as provided in Ohio R.C. 4506.17(A) to determine the person's alcohol concentration or the presence of any controlled substance or metabolite of a controlled substance.
- (2) Division (b)(1) of this section shall not be construed as implying that the persons identified in divisions (b)(1)A. and B. of this section do not have privilege to collect the bodily substance of another person as described in those divisions or as limiting the definition of "privilege" set forth in Ohio R.C. 2901.01.

(c) Whoever violates division (a) of this section is guilty of unlawful collection of a bodily substance. Except as otherwise provided in this division, unlawful collection of a bodily substance is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (a) of this section or a ~~substantially equivalent state law or municipal ordinance~~ Ohio R.C. 2927.15, unlawful collection of a bodily substance is a felony to be prosecuted under appropriate State law.

(ORC 2927.15)

## **CHAPTER 541. PROPERTY OFFENSES**

### **541.02. Arson**

(a) Prohibitions Concerning Land: No person, by means of fire or explosion, shall knowingly do any of the following:

(1) ~~cause~~ Cause, or create a substantial risk of, physical harm to any property of another without the other person's consent; ;

(2) Cause, or create a substantial risk of, physical harm to any property of the offender or another, with purpose to defraud;

(3) Cause, or create a substantial risk of, physical harm to a courthouse, school building, or other building or structure that is owned or controlled by the City, or any department, agency, or instrumentality of the City, and that is used for public purposes;

(4) Cause, or create a substantial risk of, physical harm, through the offer or the acceptance of an agreement for hire or other consideration, to any property of another without the other person's consent or to any property of the offender or another with purpose to defraud;

(5) Cause, or create a substantial risk of, physical harm to any park, preserve, wildlands, brush-covered land, cut-over land, forest, timberland, greenlands, woods, or similar real property that is owned or controlled by another person or the City, without the consent of the other person or the City;

(6) With purpose to defraud, cause, or create a substantial risk of, physical harm to any park, preserve, wildlands, brush-covered land, cut-over land, forest, timberland, greenlands, woods, or similar real property that is owned or controlled by the offender, another person, or the City.

(b) Prohibitions Concerning Structures: No person, by means of fire or explosion, shall knowingly do any of the following:

- (1) ~~cause Cause~~, or create a substantial risk of, physical harm to any structure of another that is not an occupied structure- ;
  - (2) Cause, or create a substantial risk of, physical harm, through the offer or the acceptance of an agreement for hire or other consideration, to any structure of another that is not an occupied structure;
  - (3) Cause, or create a substantial risk of, physical harm to any structure that is not an occupied structure and that is in or on any park, preserve, wildlands, brush-covered land, cut-over land, forest, timberland, greenlands, woods, or similar real property that is owned or controlled by another person or the City.
- (c) (1) Affirmative Defense: It is an affirmative defense to a charge under division (b)(1) or (2) of this section that the defendant acted with the consent of the other person.
- (2) It is an affirmative defense to a charge under division (b)(3) of this section that the defendant acted with the consent of the other person or the City.
- (d) Penalties:
- (1) Whoever violates this section is guilty of arson.
  - (2) A violation of division (a) or (b) of this section is one of the following:
    - (A) Except as otherwise provided in division (d)(2)B. of this section, a misdemeanor of the first degree;
    - (B) If the value of the property or the amount of physical harm ~~involve~~ involved is one thousand dollars (\$1,000) or more, a felony to be prosecuted under appropriate state law.
  - (3) A violation of division (a)(2), (3), (4), (5), or (6), or (b)(2) or (3), of this section is a felony to be prosecuted under appropriate state law.

(Ord. 2017-22. Passed 8-7-17.)

**Statutory reference:**

Arson, see ORC 2909.03

**541.04. Criminal Mischief**

- (a) Prohibitions: No person shall:
- (1) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with either of the following:
    - (A) The property of another;

- (B) One's own residential real property with the purpose to decrease the value of or enjoyment of the residential real property, if both of the following apply:
- (i) The residential real property is subject to a mortgage.
  - (ii) The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that real property. As used in this division, "pending" including the time between judgment entry and confirmation of sale.
- (2) With purpose to interfere with the use or enjoyment of property of another, employ a tear gas device, stink bomb, smoke generator or other device releasing a substance which 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<sub>1</sub> 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<sub>1</sub> or computer program, knowingly do any of the following:
- (A) In any manner or by any means<sub>1</sub> including, but not limited to, computer hacking, alter, damage, destroy<sub>1</sub> or modify a computer, computer system, computer network, computer software<sub>1</sub> or computer program or data contained in a computer, computer system, computer network, computer software<sub>1</sub> or computer program;
  - (B) Introduce a computer contaminant into a computer, computer system, computer network, computer software<sub>1</sub> or computer program.
- (7) Without privilege to do so, knowingly destroy or improperly tamper with a critical infrastructure facility.

(b) (1) Penalties: Whoever violates this section is guilty of criminal mischief, and shall be punished as follows: provided in division (b)(2), (3), or (4) of this section.

~~(4)~~ (2) 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.~~ one of the following:

(A) If the violation creates a risk of physical harm to any person, except as otherwise provided in division (b)(2)(b) of this section, criminal mischief committed in violation of division (a)(1), (2), (3), (4), or (5) of this section is a felony to be prosecuted under appropriate state law.

(B) If the violation creates a substantial risk of physical harm to any person or if the property involved in a violation of this section is an occupied aircraft, criminal mischief committed in violation of division (a)(1), (2), (3), (4), or (5) of this section is a felony to be prosecuted under appropriate state law.

~~(2)~~ (3) Except as otherwise provided in this division, criminal mischief committed in violation of division (a)(6) of this section is misdemeanor of the first degree. Except as otherwise provided in this division, 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 one thousand dollars (\$1,000) or more and less than ten thousand dollars (\$10,000), 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, criminal mischief committed in violation of division (a)(6) of this section is a felony to be prosecuted under appropriate State law. 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 ten thousand dollars (\$10,000) or more, or if the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (a)(6) of this section is used or intended to be used in the operation of an aircraft and the violation creates a substantial risk of

physical harm to any person or the aircraft in question is an occupied aircraft, criminal mischief committed in violation of division (A)(a) of this section is a felony to be prosecuted under appropriate State law.

(4) Criminal mischief committed in violation of division (a)(7) of this section is a felony to be prosecuted under appropriate state law.

(c) Definitions: As used in this section:

(1) "Safety Device" means any fire extinguisher, fire hose, or fire axe, or any fire escape, emergency exit, or emergency escape equipment, or any life line, life-saving ring, life preserver, or life boat or raft, or any alarm, light, flare, signal, sign or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal, or gate, or any first-aid or survival equipment, or any other device, apparatus, or equipment intended for the protecting or preserving the safety of persons or property.

(2) "Critical infrastructure facility" has the same meaning as in section 2911.21 of the Revised Code.

(3) "Improperly tamper" means to change the physical location or the physical condition of the property.

(Ord. 2017-22. Passed 8-7-17.)

**Statutory reference:**

Criminal mischief, see ORC 2909.07

**541.05. Criminal Trespass**

(a) Prohibitions: 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 conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either; ;

(5) Knowingly enter or remain on a critical infrastructure facility.

(b) Defenses:

(1) 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.

(2) 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 such authorization was secured by deception.

(c) Penalties:

(1) Whoever violates this section is guilty of criminal trespass; Criminal trespass in violation of division (a)(1), (2), (3), or (4) of this section is a misdemeanor of the fourth degree. Criminal trespass in violation of division (a)(5) of this section is a misdemeanor of the first degree.

(2) Notwithstanding ORC 2929.28, if the person, in committing the violation of this section, used a snowmobile, off-highway motorcycle or all-purpose vehicle, the court shall impose a fine of two times (2x) the usual amount imposed for the violation.

(3) If an offender previously has been convicted of or pled guilty to two (2) or more violations of this section, ORC 2911.21 or a substantially equivalent municipal ordinance, and the offender, in committing each violation, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration of that snowmobile or ~~off-highway~~ off-highway motorcycle or the certificate of registration and license plate of that all-purpose vehicle for not less than sixty (60) days. In such a case, ORC 4519.47 applies.

(d) Notwithstanding any provision, if the offender, in committing the violation of this section, used an all-purpose vehicle, the clerk of the court shall pay the fine imposed pursuant to this section to the state recreational vehicle fund created by ORC 4519.11.

~~(d)~~ (e) Definitions: As used in this section:

(1) "All-Purpose Vehicle," "Off-Highway Motorcycle" and "Snowmobile" have the same meanings as ORC 4519.01.

- (2) "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.
- (3) "Production operation," "well," and "well pad" have the same meanings as in ORC 1509.01.
- (4) "Critical infrastructure facility" means:
- (A) One of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with signs that are reasonably likely to come to the attention of potential intruders and that indicate entry is forbidden without site authorization:
- (i) A petroleum or alumina refinery;
- (ii) An electric generating facility, substation, switching station, electrical control center, or electric transmission and distribution lines and associated equipment;
- (iii) A chemical, polymer, or rubber manufacturing facility;
- (iv) A water intake structure, water treatment facility, waste water facility, drainage facility, water management facility, or any similar water or sewage treatment system and its water and sewage piping;
- (v) A natural gas company facility or interstate natural gas pipeline, including a pipeline interconnection, a natural gas compressor station and associated facilities, city gate or town border station, metering station, above-ground piping, regulator station, valve site, delivery station, fabricated assembly, or any other part of a natural gas storage facility involved in the gathering, storage, transmission, or distribution of gas;
- (vi) A telecommunications central switching office or remote switching facility or an equivalent network facility that serves a similar purpose;
- (vii) Wireline or wireless telecommunications infrastructure, including telecommunications towers and telephone poles and lines, including fiber optic lines;
- (viii) A port, trucking terminal, or other freight transportation facility;
- (ix) A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;
- (x) A transmission facility used by a federally licensed radio or television station;

- (xi) A steel-making facility that uses an electric arc furnace to make steel;
- (xii) A facility identified and regulated by the United States department of homeland security's chemical facility anti-terrorism standards program under 6 C.F.R. part 27;
- (xiii) A dam that is regulated by the state or federal government;
- (xiv) A crude oil or refined products storage and distribution facility, including valve sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline, or piping and truck loading or off-loading facility;
- (xv) A video service network and broadband infrastructure, including associated buildings and facilities, video service headends, towers, utility poles, and utility lines such as fiber optic lines. As used in this division, "video service network" has the same meaning as in ORC 1332.21.
- (xvi) Any above-ground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, or other storage facility;
- (xvii) Any above-ground portion of a well, well pad, or production operation;
- (xviii) A laydown area or construction site for pipe and other equipment intended for use on an interstate or intrastate natural gas or crude oil pipeline;
- (xix) Any mining operation, including any processing equipment, batching operation, or support facility for that mining operation.
- (B) With respect to a video service network or broadband or wireless telecommunications infrastructure, the above-ground portion of a facility installed in a public right-of-way on a utility pole or in a conduit;
- (C) Any railroad property;
- (D) An electronic asset of any of the following:

  - (i) An electric light company that is a public utility under section 4905.02;
  - (ii) An electric cooperative, as defined in ORC 4928.01;
  - (iii) A municipal electric utility, as defined in ORC 4928.01;
  - (iv) A natural gas company that is a public utility under ORC 4905.02;

(v) A telephone company that is a public utility under ORC 4905.02;

(vi) A video service provider, including a cable operator, as those terms are defined in ORC 1332.21.

(f) "Electronic asset" includes, but is not limited to, the hardware, software, and data of a programmable electronic device; all communications, operations, and customer data networks; and the contents of those data networks.

(Ord. 2017-22. Passed 8-7-17.)

**Statutory reference:**

Criminal trespass, see ORC 2911.21

**541.06. Aggravated Trespass**

(a) Prohibitions:

(1) 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~~ that person.

(2) No person shall enter or remain on a critical infrastructure facility with purpose to destroy or tamper with the facility.

(b) Penalties: Whoever violates this section is guilty of aggravated trespass, ~~a misdemeanor of the first degree.~~ Aggravated trespass in violation of division (a)(1) of this section is a misdemeanor of the first degree. Aggravated trespass in violation of division (a)(2) of this section is a felony to be prosecuted under appropriate state law.

(c) Definitions: As used in this section, "critical infrastructure facility" has the same meaning as in ORC 2911.21.

(Ord. 2017-22. Passed 8-7-17.)

**Statutory reference:**

Aggravated trespass, see ORC 2911.211

**541.11. Vehicular Vandalism; Railroad Vandalism**

(a) Vehicular Vandalism:

(1) 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.

(2) Whoever violates division (a)(1) this section is guilty of vehicular vandalism. Except as otherwise provided in this division (a)(2), vehicular vandalism is a misdemeanor of the first degree. If the violation of division (a)(1) of this section creates a substantial risk of physical harm or causes physical harm or serious physical harm to any person or if the violation of division (a)(1) of this section causes serious physical harm to property, vehicular vandalism is a felony to be prosecuted under appropriate State law.

(3) As used in this division:

(A) "Alley," "Street," and "vehicle" have the same meanings as in ORC 4511.01.

(B) "Highway" means any highway as defined in ORC 4511.01 or any lane, road, street, alley, bridge or overpass.

(C) "Vessel" and "Waters of this State" have the same meanings as in ORC 1546.01.

(b) Railroad Vandalism:

(1) No person shall knowingly, and by any means, drop or throw any object at, onto or in the path of any railroad rail, railroad track, locomotive, engine, railroad car<sub>1</sub> or other vehicle of a railroad company which such vehicle is on a railroad track.

(2) No person, without privilege to do so, shall climb upon or into any locomotive, engine, railroad car<sub>1</sub> or other vehicle of a railroad company when it is on a railroad track.

(3) No person, without privilege to do so, shall disrupt, delay<sub>1</sub> or prevent the operation of any train or other vehicle of a railroad company while such vehicle is on a railroad track.

~~(4) No person, without privilege to do so, shall knowingly enter or remain on the land or premises of a railroad company.~~

~~(5)~~ (4) Whoever violates division (b)(1) of this section is guilty of railroad vandalism. Whoever violates division (b)(2) of this section is guilty of criminal trespass on a locomotive, engine railroad car or other railroad vehicle. Whoever violates division (b)(3) of this section is guilty of interference with the operation of a train.

~~(6)~~ (5) Except as otherwise provided in this division ~~(b)(6)~~ railroad vandalism; criminal trespass on a locomotive, engine, railroad car<sub>1</sub> or other railroad vehicle; and interference with the operation of a train each is a misdemeanor of the first degree. Except as otherwise provided in this division ~~(b)(6)~~, if the violation of division

(b)(1), (b)(2), or (b)(3) of this section causes ~~serious~~ physical harm to property or creates a substantial risk of physical harm to any person, the violation is a felony to be prosecuted under appropriate State law.

Except as otherwise provided in this division, if the violation of division (b)(1), (b)(2), or (b)(3) of this section causes physical harm to any person, the violation is a felony to be prosecuted under appropriate State law.

~~(7) Whoever violates division (b)(4) of this section is guilty of criminal trespass on the land or premises of a railroad company, a misdemeanor of the fourth degree.~~

(c) Railroad Grade Crossing Device Vandalism.

(1) No person shall knowingly deface, damage, obstruct, remove or otherwise impair the operation of any railroad grade crossing warning signal or other protective device, including any gate, bell, light, crossbuck, stop sign, yield sign, advance warning sign or other advance pavement marking.

(2) Whoever violates division (c)(1) this section is guilty of railroad grade crossing device vandalism. Except as otherwise provided in this division, railroad grade crossing device vandalism is a misdemeanor of the first degree. Except as otherwise provided in this division (c)(2), if the violation of this section causes serious physical harm to property or creates substantial risk of physical harm to any person, the violation is a felony to be prosecuted under appropriate State law.

(Ord. 2017-22. Passed 8-7-17.)

**Statutory reference:**

Vehicular vandalism, see ORC 2909.09

Railroad vandalism, see ORC 2909.10

Railroad grade crossing device vandalism, ORC 2909.101

**541.111. Endangering Aircraft**

(a) Prohibitions: 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.

(b) 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 the United States, or a law enforcement officer, authorized to discharge firearms and acting within the scope of the officer's, agent's, or employee's 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.

~~(b)~~ (c) Penalties:

(1) Whoever violates division (a) of this section is guilty of endangering aircraft, a misdemeanor of the first degree. If the violation creates a 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 state law.

(2) Whoever violates division (b) 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, endangering airport operations is a felony to be prosecuted under appropriate state law. If the violation creates a substantial risk of physical 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 (b) of this section while hunting shall be suspended or revoked pursuant to ORC 1533.68.

(3) Any bow and arrow, air gun, spring-operated gun, or firearm that has been used in a felony violation of this section shall be seized or forfeited, and shall be disposed of pursuant to ORC Chapter 2981.

~~(e)~~ (d) Definitions:

"Air Gun" means a hand pistol or rifle that propels its projectile by means of releasing compressed air, carbon dioxide, or other gas.

"Airport operational surface" means 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.

"Firearm" has the same meaning as in ORC Section 2923.11.

"Spring-Operated Gun" means a hand pistol or rifle that propels a projectile not less than four or more than five millimeters (4 mm - 5 mm) in diameter by means of a spring.

(Ord. 2017-22. Passed 8-7-17.)

**Statutory reference:**

Endangering aircraft or airport operations, see ORC 2909.08

**541.16. Diminishing Or Interfering With Forfeitable Property**

- (a) Prohibitions: 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 City's lawful authority to take the property into its custody or control under ORC 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 proceeding under ORC Chapter 2981.
- (b) Penalties: Whoever violates this section is guilty of interference with or diminishing forfeitable property. Except as otherwise provided in this division, interference with or diminishing forfeitable property is a misdemeanor of the first degree. If the value of the property is ~~five hundred dollars (\$500)~~ one thousand dollars (\$1,000) or more, interference with or diminishing forfeitable property is a felony to be prosecuted under appropriate state law.

(Ord. 2017-22. Passed 8-7-17.)

**Statutory reference:**

Interference with or diminishing forfeitable property, see ORC 2981.07

**CHAPTER 545. THEFT AND FRAUD**

**545.02. Theft**

- (a) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:
- (1) Without the consent of the owner or person authorized to give consent;
  - (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
  - (3) By deception;
  - (4) By threat;

- (5) By intimidation.
- (b) (1) 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.
- (2) If any of the following criteria are met, then a violation of this section is a felony to be prosecuted under appropriate state law:
- (A) If the value of the property or services is ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000.00) or more;
- (B) If the property stolen is any of the property listed in Ohio R.C. 2913.71;
- (C) If the victim of the offense is an elderly person or disabled adult;
- (D) If the victim of the offense is an active duty service member, or spouse of an active duty service member;
- ~~(D)~~ (E) If the property stolen is a firearm or dangerous ordnance;
- ~~(E)~~ (F) If the property stolen is a motor vehicle;
- ~~(F)~~ (G) If the property stolen is any dangerous drug, or if the offender previously has been convicted of a felony drug abuse offense; ~~or~~
- ~~(G)~~ (H) 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
- ~~(H)~~ (I) If the property stolen is anhydrous ammonia.
- (c) In addition to the penalties described in division (b)(1) and (b)(2)A. of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:
- (1) Unless division (c)(2) of this section applies, suspend for not more than six months the offenders driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;
- (2) If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to division (c)(I) of this section, ~~Ohio R.C. 2913.02(B)(9)(a)~~ Ohio R.C. 2913.02(B)(10)(a), ~~or a substantially equivalent~~

~~municipal ordinance~~, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in Ohio R.C. 4510.02(A)(7), provided that the suspension shall be at least six months.

- (d) In addition to the penalties described in division (b)(1) and (b)(2)A. of this section, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to section 501.99 of this Code, or Ohio R.C. 2929.18 or 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit the theft of rented property or rental services shall be determined pursuant to the provisions of section 545.19 of this Chapter or Ohio R.C. 2913.72.
- (e) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under division (c) of this section may grant the offender limited driving privileges during the period of the suspension in accordance with Ohio R.C. Chapter 4510.

**Statutory reference:**

Theft, see Ohio R.C. 2913.02

Felony theft provisions, see Ohio R.C. 2913.02(B)

**545.03. Unauthorized Use Of A Vehicle**

- (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 ~~knowing~~ knowingly use or operate an aircraft, motor vehicle, ~~motor boat~~ 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 forty-eight (48) hours.
- ~~(c) No person shall knowingly enter into or upon an aircraft, motor vehicle, motorcycle, motor boat or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.~~
- ~~(d)~~ (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 the actor 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.

~~(e)~~ (d) Whoever violates this section is guilty of unauthorized use of a vehicle.

- (1) A violation of division (a) of this section is a misdemeanor of the first degree, except that 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, the violation is a felony offense to be prosecuted under appropriate State law.
- (2) A violation of division (b) of this section is a felony offense to be prosecuted under appropriate State law.
- (3) A violation of division (c) of this section is a misdemeanor of the first degree.

**Statutory reference:**

Unauthorized use of a vehicle, see Ohio R.C. 2913.03

**545.04. Unauthorized Use Of Property**

- (a) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent.
- (b) No person, in any manner and by any means, including but not limited to computer hacking, shall knowingly gain access to, attempt to gain access to, or cause access to be gained to any computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service without the consent of, or beyond the scope of the express or implied consent of, the owner of the computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service or other person authorized to give consent.
- (c) Except as permitted under Ohio R.C. 5503.101, no person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the law enforcement automated database system created pursuant to Ohio R.C. 5503.10 without the consent of, or beyond the scope of the express or implied consent of, the chair of the law enforcement automated data system steering committee.
- ~~(e)~~ (d) No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the law enforcement ~~automated database system created~~ gateway established and operated pursuant to Ohio R.C. 5503.10 109.57(C)(1) 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~~ the superintendent of the Bureau of Criminal Identification and Investigation.

No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the Ohio law

enforcement gateway established and operated pursuant to Ohio R.C. 109.57(C)(1) without the consent of, or beyond the scope of the express or implied consent of, the superintendent of the Bureau of Criminal Identification and Investigation.

~~(d)~~ (e) The affirmative defenses contained in section 545.03(d) of this Chapter are affirmative defenses to a charge under this section.

~~(e)~~ (f) Whoever violates division (a) of this section is guilty of unauthorized use of property. Except as otherwise provided in subdivision ~~(e)(1) or (e)(2)~~ (f)(1) or (f)(2), unauthorized use of property is a misdemeanor of the fourth degree.

(1) Except as otherwise provided in subdivision ~~(e)(2)~~ (f)(2), 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 ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000.00) or more, a violation of division (a) of this section 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)~~ (g) Whoever violates division (b) of this section is guilty of unauthorized use of computer, cable, or telecommunication property, a felony to be prosecuted under appropriate State law.

~~(g)~~ (h) Whoever violates division (c) of this section is guilty of unauthorized use of the law enforcement automated database system, a felony to be prosecuted under appropriate State law.

~~(h)~~ (i) As used in this section:

(1) "Cable operator" means any person or group of persons that does either of the following:

(A) Provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in that cable system;

(B) Otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.

(2) "Cable service" means any of the following:

- (A) The one-way transmission to subscribers of video programming or of information that a cable operator makes available to all subscribers generally;
  - (B) Subscriber interaction, if any, that is required for the selection or use of video programming or of information that a cable operator makes available to all subscribers generally, both as described in this definition;
  - (C) Any cable television service.
- (3) "Cable system" means any facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community. "Cable system" does not include any of the following:
- (A) Any facility that serves only to retransmit the television signals of one or more television broadcast stations;
  - (B) Any facility that serves subscribers without using any public right-of-way;
  - (C) Any facility of a common carrier that, under ~~47 U.S.C. 522(7)(e)~~ 47 U.S.C. 522(7)(c), is excluded from the term "cable system" as defined in 47 U.S.C. 522(7);
  - (D) Any open video system that complies with 47 U.S.C. 573;
  - (E) Any facility of any electric utility used solely for operating its electric utility system.

**Statutory reference:**

Unauthorized use of property, see Ohio R.C. 2913.04

Telecommunications: fraud and unlawful use of a device, felony offenses, see Ohio R.C. 2913.05 and 2913.06

**545.05. Passing Bad Checks**

(a) As used in this section:

- (1) "Check" includes any form of debit from a demand deposit account, including but not limited to any of the following:
  - (A) A check, bill of exchange, draft, order of withdrawal, or similar negotiable or non-negotiable instrument;

- (B) An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check, or any form of automated clearing house transaction.
- (2) "Issue a check" means causing any form of debit from a demand deposit account.
- (b) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored or knowing that a person has ordered or will order stop payment on the check or other negotiable instrument.
- (c) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored if either of the following occurs:
- (1) The drawer has no account with the drawee at the time of issue or the stated date, whichever is later.
  - (2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within thirty (30) days after issue or the stated date, whichever is later, and the liability of the drawer, indorser, or any party who may be liable thereon is not discharged by payment or satisfaction within ten (10) days after receiving notice of dishonor.
- ~~(d) For purposes of this section, a person who issues or transfers a check, bill of exchange, or other draft is presumed to have the purpose to defraud if the drawer fails to comply with Ohio R.C. 1349.16 by doing any of the following when opening a checking account intended for personal, family, or household purposes at a financial institution:~~
- ~~(1) Falsely stating that he or she has not been issued a valid driver's or commercial driver's license or identification card issued under Ohio R.C. 4507.50;~~
  - ~~(2) Furnishing the license or card, or another identification document that contains false information;~~
  - ~~(3) Making a false statement with respect to the drawer's current address or any additional relevant information reasonably required by the financial institution.~~
- (e) (d) In determining the value of the payment for purposes of division ~~(f)~~ (e) 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 one hundred eighty (180) consecutive days.
- ~~(f)~~ (e) 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 one thousand dollars (\$1,000) 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 one thousand five hundred dollars (\$1,500) or more, passing bad checks is a felony to be prosecuted under appropriate State law.

(ORC 2913.11)

**545.06. 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;
- (3) As an officer, employee, or appointee of the City or as a public servant as defined under Ohio R.C. 2921.01, knowingly misuse a credit card account held by the City.

(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 such 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 such 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 such 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 subsection (d)(3) hereof, a violation of subsection (a), (b)(1), or (c) hereof is a misdemeanor of the first degree.
- (2) Except as otherwise provided in this subsection or subsection (d)(3) hereof, a violation of subsection (b)(2), (3), or (4) hereof is a misdemeanor of the first

degree. If the cumulative retail value of the property and services involved in one or more violations of subsection (b)(2), (3), or (4) hereof, which violations involve one or more credit card accounts and occur within a period of ninety (90) consecutive days commencing on the date of the first violation, is one thousand dollars (\$1,000) 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 subsection (b)(1) or (b)(2) hereof, misuse of credit cards is a felony to be prosecuted under appropriate state law.

(ORC 2913.21)

**545.10. Tampering With Records**

(a) No person, knowing ~~that he or she~~ the person has no privilege to do so, and with purpose to defraud or knowing that ~~he or she~~ the person 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 subsection (a)(1) hereof.

(b) Whoever violates this section is guilty of tampering with records.

(1) Except as provided in subsection (b)(3) hereof, if the offense does not involve data or computer software, tampering with records is whichever of the following is applicable:

- (A) If subsection (b)(1)B. hereof does not apply, a misdemeanor of the first degree.
- (B) If the writing or record is a will unrevoked at the time of the offense, a violation of this section is a felony to be prosecuted under appropriate State law.

(2) Except as provided in subsection (b)(3) hereof, if the offense involves a violation of subsection (a) hereof involving data or computer software, tampering with records is whichever of the following is applicable:

- (A) Except as otherwise provided in subsection (b)(2)B. hereof, 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 ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000.00) or a violation of this section 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, a violation of this section is a felony to be prosecuted under appropriate State law.

**Statutory reference:**

Tampering with records, see Ohio R.C. 2913.42

**545.11. 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 ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000.00) or more, or if the victim of the offense is an elderly person, or disabled adult, active duty service member, or spouse of an active duty service member, a violation of this section is a felony to be prosecuted under appropriate to State law.

**Statutory reference:**

Securing writings by deception, see Ohio R.C. 2913.43

**545.13. Defrauding Creditors**

- (a) No person, with purpose to defraud one or more of the person's creditors, shall do any of the following:
- (1) Remove, conceal, destroy, encumber, convey or otherwise deal with any of the person's property;
- (2) Misrepresent or refuse to disclose to a fiduciary appointed to administer or manage the person's affairs or estate, the existence, amount or location of any of the person's property, or any other information regarding such property that the person is legally required to furnish to the fiduciary.
- (b) Whoever violates this section is guilty of defrauding creditors, a misdemeanor of the first degree if the value of the property involved is less than one thousand dollars (\$1,000.00). If the value of the property involved is one thousand dollars (\$1,000.00) or more, it is a felony to be prosecuted under appropriate state law.

**Statutory reference:**

Defrauding creditors, see Ohio R.C. 2913.45

**545.15. Solicitation Of Contributions; Prohibitions**

- (a) The following acts and practices are hereby prohibited and declared unlawful as applied to the planning, conducting, or executing of any solicitation of contributions for a charitable organization or charitable purpose or to the planning, conducting, or executing of a charitable sales promotion:
- (1) Committing any deceptive act or practice;
  - (2) Misleading any person as to any material fact concerning the solicitation of contributions for a charitable organization or charitable purpose or concerning a charitable sales promotion;
  - (3) Using any representation that implies that the contribution is for or on behalf of a charitable organization, or using any emblem, device, or printed matter belonging to or associated with a charitable organization, without having first been authorized in writing to do so by the charitable organization;
  - (4) Using a name, symbol, or statement that is so closely related or similar to that used by another charitable organization, public official, or public agency in such a manner that the use of the name, symbol, or statement tends to confuse or mislead a person being solicited for contributions, except that the name, symbol, or statement may be used if written permission is obtained from the other charitable organization, public official, or public agency and filed with the Ohio Attorney General prior to any solicitation for a charitable purpose or prior to engaging in any charitable sales promotion;
  - (5) Misleading any person in any manner in the belief, or making or using any representation to any person that implies, that the organization on whose behalf a solicitation or charitable sales promotion is being conducted is a charitable organization or that the proceeds of the solicitation or charitable sales promotion will be used for charitable purpose if either of those is not the fact;
  - (6) Misleading any person in any manner in the belief, or making or using any representation to any person that implies, that any other person sponsors, endorses, or approves of the solicitation or charitable sales promotion when that other person has not given its consent in writing to that representation or to the use of its name for any of those purposes;
  - (7) Using or exploiting the fact of registration in such a manner as to lead any person to believe that the registration in any manner constitutes and endorsement or approval by the State of Ohio;
  - (8) Representing directly or by implication that a charitable organization will receive a fixed or estimated percentage of the gross revenue for a solicitation campaign that is greater than that set forth in the contract filed with the Ohio Attorney General pursuant to Ohio R.C. 1716.08, or that a charitable organization will receive an actual or estimated dollar amount or percentage per unit of goods or

services purchased or used in a charitable sales promotion that is greater than that agreed to by the commercial co-venturer and the charitable organization;

- (9) Filing false or misleading information in any document required to be filed with the Ohio Attorney General under Ohio R.C. Chapter 1716;
  - (10) Filing false or misleading information in response to a request from the Ohio Attorney General under Ohio R.C. 1716.15;
  - (11) Failing to provide complete and timely payment to a charitable organization of the proceeds from a solicitation campaign or charitable sales promotion;
  - (12) Operating in violation of, or failing to comply with, any of the requirements of Ohio R.C. Chapter 1716 or any rule adopted thereunder.
- (b) ~~Whoever violates any provisions of this section, other than subdivision (a)(1), is guilty of a misdemeanor of the first degree. Each occurrence of a solicitation of a contribution from any person in violation this section, other than subdivision (a) (1), is considered a separate offense. The act of soliciting contributions for any charitable organization or charitable purpose or engaging in a charitable sales promotion without complying with the requirements of Ohio R.C. Chapter 1716 or any rule adopted pursuant thereto, is a nuisance.~~
- (c) Whoever violates subdivision (a)(1) of this section is guilty of solicitation fraud. Except as otherwise provided in division (d) hereof, solicitation fraud is one of the following:
- (1) A misdemeanor of the first degree.
  - (2) If the offender previously has been convicted of or pleaded guilty to a theft offense or a violation of (a)(1) of this section, or Ohio R.C. 1716.14(A)(1) ~~or a substantially equivalent municipal ordinance~~, a felony to be prosecuted under appropriate State law.
  - (3) If the value of the contribution or contributions made in violation is ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000.00) or more, a felony to be prosecuted under appropriate State law.
  - (4) When an offender commits a series of offenses in violation of division (a)(1) of this section as part of a common scheme or plan to defraud multiple victims, all of the offenses may be tried as a single offense. If the offenses are tried as a single offense, the value of the contributions for purposes of determining the value as required by this division is the aggregate value of all contributions involved in all offenses in the common scheme or plan to defraud multiple victims. In prosecuting a single offense under this division, 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 offenses as part

of a common scheme or plan to defraud multiple victims as described in this division.

- (d) If the victim of the offense is an elderly person or disabled adult, a violation of division (a)(1) of this section is a felony to be prosecuted under appropriate State law, and section 545.17 and Ohio R.C. 2913.61 ~~applies~~ apply to the solicitation fraud.

**Statutory reference:**

Solicitation of contributions; prohibitions, see Ohio R.C. 1716.14

Penalties, see Ohio R.C. 1716.99

**545.16. 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 division (d) hereof, solicitation fraud is one of the following:
  - (1) A misdemeanor of the first degree.
  - (2) If the value of the property involved is ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000.00) or more, a felony to be prosecuted under appropriate State law.
  - (3) If the property involved is any of the property listed in section 545.18 or Ohio R.C. 2913.71, a felony to be prosecuted under appropriate State law.
  - (4) If the property involved is a motor vehicle, as defined in Ohio R.C. 4501.01; a dangerous drug, as defined in Ohio R.C. 4729.01; or if the property involved is a firearm or dangerous ordnance, as defined in Ohio R.C. 2923.11, a felony to be prosecuted under appropriate State law.

**Statutory reference:**

Receiving stolen property, see Ohio R.C. 2913.51

**545.17. Value Of Stolen Property**

- (a) When a person is charged with a theft offense, or with a violation of section 545.15(a)(1) involving a victim who is an elderly person or disabled adult that involves property valued at ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000.00) or

more, the value of the stolen property shall be determined in accordance with Ohio R.C. 2913.61(A).

- (b) If more than one item of property or services is involved in a theft offense or in a violation of section 545.15(a)(1) involving a victim who is an elderly person or disabled adult, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property or services involved in the offense.
- (c) (1) When a series of offenses under section 545.02, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of section 545.15(a)(1), section 545.02, section 545.03, section 545.04, section 545.06(b)(1) or (b)(2), section 545.11 or Ohio R.C. 2913.31, involving a victim who is an elderly person or disabled adult, is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses shall be tried as a single offense. When a series of offenses under section section 545.02, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of section 545.02 involving a victim who is an active duty service member or spouse of an active duty service member is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses shall be tried as a single offense. The value of the property or services involved in the series of offenses for the purpose of determining the value 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 section 545.02 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 section 545.15(a)(1), section 545.02, section 545.03, section 545.04, section 545.06(b)(1) or (b)(2), section 545.11 or Ohio R.C. 2913.31, whether committed against one victim or more than one victim, involving a victim who is an elderly person or disabled adult, 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 is the aggregate value of all property and services involved in all of the offenses in the course of conduct.
- (3) In prosecuting a single offense under subsection (c)(1) or (c)(2) hereof, 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 in the offender's same employment, capacity, or relationship to another as described in subsection (c)(1) hereof, 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 subsection (c)(2) hereof.

- (d) 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 subsection (d)(1) hereof, and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing such property with new property of like kind and quality.
  - (3) The value of any real or personal property that is not covered under subsection (d)(1) or (d)(2) hereof, and the value of services, is the fair market value of the property or services. As used in this section, "fair market value" is the money consideration which a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.
- (e) Without limitation on the evidence that may be used to establish the value of property 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 market 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 such 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 that 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.

**Statutory reference:**

Value of stolen property, see Ohio R.C. 2913.61

**545.18. 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 section 545.02 or 545.16 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 Ohio R.C. 4503.22, a temporary ~~license placard or windshield sticker~~ motor vehicle license registration as prescribed by Ohio R.C. 4503.182, or any comparable temporary motor vehicle license plate, placard or sticker registration as prescribed by the applicable law of another state of 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 Ohio R.C. 4505.07;
- (e) A blank form for any license listed in Ohio R.C. 4507.01(A).

**Statutory reference:**

Degree of offense when certain property involved, see Ohio R.C. 2913.71

**545.22. Admissibility Of Evidence Of Lack Of Capacity To Consent**

- (a) In a prosecution for any alleged violation of a provision of this chapter, if the lack of consent of the victim is an element of the provision that allegedly was violated, evidence that, at the time of the alleged violation, the victim lacked the capacity to give consent is admissible to show that the victim did not give consent.
- (b) As used in this section, "lacks the capacity to consent" means being impaired for any reason to the extent that the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person or the person's resources.

**Statutory reference:**

Admissibility of evidence of lack of capacity to consent, see Ohio R.C. 2913.73

**CHAPTER 549. WEAPONS AND EXPLOSIVES**

**549.01. Definitions**

As used in this chapter:

"Automatic Firearm." Any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. ~~"Automatic firearm also means any semi-automatic firearm designed or specially adapted to fire more than thirty-one (31) cartridges without reloading, other than a firearm chambering only .22 caliber short, long, or long-rifle cartridges."~~

"Ballistic Knife." A knife with a detachable blade that is propelled by a spring-operated mechanism.

"Dangerous Ordnance."

(a) Any of the following, except as provided in subdivision (b) of this definition:

- (1) Any automatic or sawed-off firearm, zip-gun, or ballistic knife;
- (2) Any explosive device or incendiary device;
- (3) Nitrolycerin, 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;

- (4) 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;
- (5) Any firearm muffler or ~~silencer~~ or suppressor;
- (6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.
- ~~(7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol, tobacco, firearms, and explosives under the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the bureau not to be regulated under the "National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a).~~

(b) "Dangerous Ordinance" does not include any of the following:

- (1) 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;
- (2) 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;
- (3) 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;
- (4) Black powder, priming quills, and percussion caps possessed and lawfully used to ~~fire~~ fire a cannon of a type defined in subdivision (b)(3) of this ~~definition~~ 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;
- (5) 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;
- (6) Any device that is expressly excepted from the ~~definition~~ definition of a destructive device pursuant to the Gun Control Act of 1968, 82 Stat. 1213, 18 U.S.C. 921(a)(4), as amended, and regulations issued under that Act;

(7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives under the Gun Control Act of 1968. 82 Stat. 1213. 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the National Firearms Act, 68A Stat. 725 (1934), 26 U.S.C. 5845(a).

"Deadly Weapon." Any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.

"Explosive." Any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. ~~"Explosives"~~ "Explosive" does not include "fireworks," as defined in Ohio R.C. ~~3743.01, or 3743.01,~~ or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored or used in any activity described in Ohio R.C. 3743.80, provided the activity is conducted in accordance with all applicable laws, rules and regulations including, but not limited to, the provisions of Ohio R.C. 3743.80 and the rules of the Fire Marshal adopted pursuant to Ohio R.C. 3737.82.

"Explosive Device." Any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.

"Firearm."

- (a) 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.
- (b) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence including, but not limited to, the representations and actions of the individual exercising control over the firearm.

"Handgun." Means any of the following:

(a) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;

(b) Any combination of parts from which a firearm, of a type described in definition "Handgun", subdivision (a), can be assembled.

"Incendiary Device." Any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agent and a means to ignite it.

"Sawed-Off Firearm." A shotgun with a barrel less than eighteen (18) inches long, or a rifle with a barrel less than sixteen (16) inches long, or a shotgun or rifle less than twenty-six (26) inches long overall. "Sawed-off firearm" does not include any firearm with an overall length of at least ~~twenty-six~~ twenty-six inches that is approved for sale by the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives under the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the "National Firearms Act." 68A Stat. 725 (1934), 26 U.S.C. 5845(a).

"Semi-Automatic Firearm." Any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

"Zip-Gun." Any of the following:

- (a) Any firearm of crude and extemporized manufacture;
- (b) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
- (c) Any industrial tool, signaling device, or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried, or used as a firearm.

**Statutory reference:**

Weapons control definitions, see Ohio R.C. 2923.11

HISTORY

*Amended by Ord. 2019-28 on 12/2/2019*

*Amended by Ord. 2019-29 on 12/16/2019*

**549.02. Carrying Concealed Weapons**

(a) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:

- (1) A deadly weapon other than a handgun;

- (2) A handgun other than a dangerous ordnance;
  - (3) A dangerous ordnance.
- (b) No person who has been issued a concealed handgun license ~~or temporary emergency license to carry a concealed handgun under Ohio R.C. 2923.125 or 2923.1213~~ or a license to carry a concealed handgun that was issued by another state with which the Ohio Attorney General has entered into a reciprocity agreement under Ohio 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; before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then is carrying a concealed handgun, provided that it is not a violation of this division if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop;~~
  - (2) If the person is stopped for a law enforcement purpose and ~~if the person~~ is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;
  - (3) If the person is stopped for a law enforcement purpose, if the person is carrying a concealed handgun, and if the person is approached by any law enforcement officer while stopped, knowingly remove or attempt to remove the loaded handgun from the holster, pocket, or other place in which the person is carrying it, knowingly grasp or hold the loaded handgun, or knowingly have contact with the loaded handgun by touching it with the person's hands or fingers at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person removes, attempts to remove, grasps, holds, or has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer;
  - (4) If the person is stopped for a law enforcement purpose and 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 Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in this subdivision (c)(1)B, or Ohio R.C. 2923.12(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 subdivisions (b), (c), (e), (f), (i) and (j) of Section 549.01, 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 subdivisions (b), (c), (e), (f), (i) and (j) of Section 549.01, in the actor's own home for any lawful purpose.
- (2) ~~Subdivision (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 Ohio 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 Ohio R.C. 109.69~~ has been issued a concealed handgun license that is valid at the time of the alleged carrying or possession of a handgun or who, at the time of the alleged carrying or possession of a handgun, is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division Ohio R.C. 2923.125(G)(1), unless the person knowingly is in a place described in section 549.03(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) (1) ~~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 license under Ohio R.C. 2923.125 or 2923.1213 as a condition for the dismissal of the charge.~~
- (2) ~~If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (B)(1) of this section as it existed prior to June 13, 2022 (the effective date of the amendment to Ohio R.C. 2923.12), the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.~~
- (f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this division or subdivision (t)(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 subdivision (f)(2) of this section, if the offender previously has been convicted of a violation of this section, Ohio R.C. 2923.12, or ~~any substantially equivalent 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 subdivision (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 subdivision (a)(2) of this section promptly produces a valid license or temporary emergency license to carry a concealed handgun issued under Ohio R.C. 2923.125 or 2923.1213, or a license to carry a concealed handgun that was issued by another state with which the Ohio Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69, and if at the time of the violation the person was not knowingly in a place described in section 549.03(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 these 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:~~

- ~~(i) Within ten (10) days after the arrest, the offender presents a license or temporary emergency license to carry a concealed handgun issued under Ohio 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 Ohio R.C. 109.69, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.~~
- ~~(ii) At the time of the arrest, the offender was not knowingly in a place described in section 549.03(b).~~

(2) A person shall not be arrested for a violation of division (a)(2) of this section solely because the person does not promptly produce a valid concealed handgun license. If a person is arrested for a violation of division (a)(2) of this section and is convicted of or pleads guilty to the violation, the offender shall be punished as follows:

(A) The offender shall be guilty of a minor misdemeanor if both of the following apply:

- (i) Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest, to the law enforcement agency that employs the arresting officer.
- (ii) At the time of the arrest, the offender was not knowingly in a place described in Ohio R.C. 2923.126(B).

(B) The offender shall be guilty of a misdemeanor and shall be fined five hundred dollars (\$500.00) if all of the following apply:

- ~~(i) The offender previously had been issued a license to carry a concealed handgun under Ohio 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 Ohio R.C. 109.69 and that was similar in nature to a license issued under Ohio R.C. 2923.125 concealed handgun license, and that license expired within the two (2) years immediately preceding the arrest.~~
- ~~(ii) Within forty-five (45) days after the arrest, the offender presents ~~any type of license identified in subdivision (f) (2)A.I. of this section~~ a concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in Ohio R.C. 2945.71.~~

(iii) At the time of the commission of the offense, the offender was not knowingly in a place described in section 549.03(b).

(C) If neither subdivision (f)(2)A. nor (f)(2)B. of this section applies, the offender shall be punished under subdivision (f)(1) of this section.

(3) ~~Except as otherwise provided in this division, carrying~~ Carrying concealed weapons in violation of subdivision (b)(1) of this section is a misdemeanor of the ~~first~~ second degree and, ~~in addition to any other penalty or sanction imposed for a violation of subdivision (b)(1) of this section, the offender's license or temporary emergency license to carry a concealed handgun shall be suspended pursuant to Ohio R.C. 2923.128(A)(2). If, at the time of the stop of the offender for a law enforcement purpose that was the basis of the violation, any law enforcement officer involved with the stop had actual knowledge that the offender has been issued a license or temporary emergency license to carry a concealed handgun, carrying concealed weapons in violation of subdivision (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 Ohio R.C. 2923.128(A)(2).~~

(4) Carrying concealed weapons in violation of subdivision (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 subdivision (b)(2) or (b)(4) of this section, ~~or~~ or Ohio R.C. 2923.12(B)(2) or ~~(B)(4)~~ (B)(4), ~~or any substantially equivalent 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 subdivision (b)(2) or (b)(4) of this section, the offender's concealed handgun license ~~or temporary emergency license to carry a concealed handgun~~ shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

(5) Carrying concealed weapons in violation of division (b)(3) of this section is a felony to be prosecuted under appropriate State law.

(6) If a person being arrested for a violation of division (a)(2) of this section is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), and if at the time of the violation the person was not knowingly in a place described in Ohio R.C. 2923.126(B), the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1) and if the person is not in a place described in Ohio R.C. 2923.126(B), the officer shall issue a citation and the offender shall be assessed a civil penalty of not more than five hundred dollars (\$500.00). The citation shall be automatically dismissed and the civil penalty shall not be assessed if both of the following apply:

- (A) Within ten (10) days after the issuance of the citation, the offender presents a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), which were both valid at the time of the issuance of the citation to the law enforcement agency that employs the citing officer.
- (B) At the time of the citation, the offender was not knowingly in a place described in Ohio R.C. 2923.126(B).
- (7) If a person being arrested for a violation of division (a)(2) of this section is knowingly in a place described in Ohio R.C. 2923.126(B)(5) and is not authorized to carry a handgun or have a handgun concealed on the person's person or concealed ready at hand under that division, the penalty shall be as follows:
- (A) Except as otherwise provided in this division, if the person produces a valid concealed handgun license within ten days after the arrest and has not previously been convicted or pleaded guilty to a violation of division (a)(2) of this section, the person is guilty of a minor misdemeanor;
- (B) Except as otherwise provided in this division, if the person has previously been convicted of or pleaded guilty to a violation of division (a)(2) of this section, the person is guilty of a misdemeanor of the fourth degree;
- (C) Except as otherwise provided in this division, if the person has previously been convicted of or pleaded guilty to two (2) violations of division (a)(2) of this section, the person is guilty of a misdemeanor of the third degree;
- (D) Except as otherwise provided in this division, if the person has previously been convicted of or pleaded guilty to three (3) or more violations of division (a)(2) of this section, or convicted of or pleaded guilty to any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is a dangerous ordnance, the person is guilty of a misdemeanor of the second degree.
- (g) If a law enforcement officer stops a person to question the person regarding a possible violation of this section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If the Court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division, Ohio R.C. 2923.163(B) applies.

(h) For purposes of this section, "deadly weapon" or "weapon" does not include any knife, razor, or cutting instrument if the instrument was not used as a weapon.

(ORC 2923.12)

**Statutory reference:**

Carrying concealed weapons, see Ohio R.C. 2923.12

Carrying concealed handguns, licensing through county sheriff, see Ohio R.C 2923.124 et seq.

Conveyance or possession of deadly weapons or dangerous ordnance on school premises, felony offense, see Ohio R.C 2923.122

Conveyance, possession, or control of deadly weapon or dangerous ordinance in a courthouse, felony offense, see Ohio R.C 2923.123

Possession of deadly weapon while under detention, felony offense, see Ohio R C 2923.131

Possession of firearm in liquor permit premises, felony offense, see Ohio R.C 2923.121

**549.03. Notice To Law Enforcement; Prohibited Places; Private Employers And Signage; Reciprocity**

(a) Notice to Law Enforcement upon Stop:

~~(1) Except as provided in subdivisions (b)(2) and (b)(3) of this section, a licensee who has been issued a license under Ohio R.C. 2923.125 or 2923.1213 may carry a concealed handgun anywhere in this City if the licensee also carries a valid license when the licensee is in actual possession of a concealed handgun. A concealed handgun license that is issued under Ohio R.C. 2923.125 of shall expire five (5) years after the date of issuance. A licensee who has been issued a license under that section shall be granted a grace period of thirty (30) days after the licensee's license expires during which the licensee's license remains valid. Except as provided in divisions (b) and (c) of this section, a licensee who has been issued a concealed handgun license under Ohio R.C. 2923.125 or 2923.1213 may carry a concealed handgun anywhere in this state if the license is valid when the licensee is in actual possession of a concealed handgun. The licensee shall give notice of any change in the licensee's residence address to the sheriff who issued the license within 45 days after that change.~~

~~(2) 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 section 549.07(e), after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves.~~

~~(3) 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 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 section 549.02, after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves.~~

(b) Prohibited Places: A valid concealed handgun license does not authorize the licensee to carry a concealed handgun in any manner prohibited under section 549.02(b) or in any manner prohibited under section 549.07. A valid license does not authorize the licensee to carry a concealed handgun into any of the following places:

- (1) A police station, sheriff's office, or State Highway Patrol station, premises controlled by the Bureau of Criminal Identification and Investigation, a State correctional institution, jail, workhouse, or other detention facility; any area of an airport passenger terminal that is beyond a passenger or property screening checkpoint or to which access is restricted through security measures by the airport authority or a public agency; or an institution that is maintained, operated, managed, and governed pursuant to Ohio R.C. 5119.02(A) or Ohio R.C. 5123.03(A)(1);
- (2) A school safety zone, if the licensee's carrying the concealed handgun is in violation of Ohio R.C. 2923.122;
- (3) A courthouse or another building or structure in which a courtroom is located if the licensee's carrying the concealed handgun is in violation of ~~Ohio R.C. 2923.123~~ Ohio R.C. 2923.1233;

- (4) Any premises or open air arena for which a D permit has been issued under Ohio R.C. Chapter 4303, if the licensee's carrying the concealed handgun is in violation of Ohio R.C. 2923.121;
- (5) Any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle or unless the licensee is carrying the concealed handgun pursuant to a written policy, rule, or other authorization that is adopted by the institution's board of trustees or other governing body and that authorizes specific individuals or classes of individuals to carry a concealed handgun on the premises;
- (6) Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;
- ~~(7) 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;~~
- (7) 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)(3) of this section, unless the governing body with authority over the building has enacted a statute, ordinance, or policy that permits a licensee to carry a concealed handgun into the building;
- ~~(8) 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;~~
- (8) A place in which federal law prohibits the carrying of handguns.
- ~~(9) Any building that is a government facility of this State or any 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 subdivision (b)(3) of this section;~~
- ~~(10) A place in which federal law prohibits the carrying of handguns.~~

(c) Private Employers and Signage:

- (1) Nothing in this section 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 section 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.
  
- (2) (A) 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.~~
  
- (B) A political subdivision shall be immune from liability in a civil action, to the extent and in the manner provided in Ohio R.C. Chapter 2744, for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto any premises or property owned, leased, or otherwise under the control of the political subdivision. As used in this division, "political subdivision" has the same meaning as in Ohio R.C. 2744.01.
  
- (C) An institution of higher education shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises of the institution, including motor vehicles owned by the institution, unless the institution acted with malicious purpose. An institution of higher education is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the institution's decision to permit a licensee or class of licensees to bring a handgun onto the premises of the institution.
  
- (D) A nonprofit corporation shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises of the nonprofit corporation, including any motor vehicle owned by the nonprofit corporation, or to any event organized by the nonprofit corporation, unless the nonprofit corporation acted with malicious purpose. A nonprofit corporation is immune from liability in a civil action for any injury, death, or loss to person or property

that allegedly was caused by or related to the nonprofit corporation's decision to permit a licensee to bring a handgun onto the premises of the nonprofit corporation or to any event organized by the nonprofit corporation.

- (3) (A) Except as otherwise provided in subdivision (c)(3)B. and subdivision (d) below, 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 section 541.05(a)(4) of this Code 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 section 541.05(a)(4) of this Code, and instead is subject only to a civil cause of action for trespass based on the violation.

If a person knowingly violates a posted prohibition of the nature described in this division and the posted land or premises is a child day-care center, type A family day-care home, or type B family day-care home, unless the person is a licensee who resides in a type A family day-care home or type B family day-care home, the person is guilty of aggravated trespass in violation of Ohio R.C. 2911.211. Except as otherwise provided in this division, the offender is guilty of a misdemeanor of the first degree. If the person previously has been convicted of a violation of this division or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, the offender is guilty of a felony to be prosecuted under appropriate state law.

- (B) 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.

- (C) As used in this division (c)(3):

- (i) "Residential Premises" has the same meaning as in Ohio R.C. 5321.01, except "residential premises" does not include a dwelling unit that is owned or operated by a college or university.
- (ii) "Landlord," "tenant," and "rental agreement" have the same meaning as in Ohio R.C. 5321.01.

(D) Law Enforcement and Investigator Possession:

- (i) Subject to division (2) of this section, an establishment serving the public may not prohibit or restrict a law enforcement officer or investigator who is carrying validating identification from carrying a weapon on the premises that the officer or investigator is authorized to carry, regardless of whether the officer or investigator is acting within the scope of that officer's or investigator's duties while carrying the weapon.
- (ii) Division (1) of this section does not apply with respect to a law enforcement officer's or investigator's carrying of a weapon on the premises of an establishment serving the public if the officer or investigator is not acting within the scope of the officer's or investigator's duties, the weapon is a firearm issued or approved by the law enforcement agency served by the officer or by the bureau of criminal identification and investigation with respect to an investigator, and the agency or bureau has a restrictive firearms carrying policy.
- (iii) (1) Subject to division (3)(B) of this section, the owner of an establishment serving the public, the operator of an establishment serving the public, and the employer of persons employed at an establishment serving the public shall be immune from liability in a civil action for injury, death, or loss to person or property that allegedly was caused by or related to a law enforcement officer or investigator bringing a weapon into the establishment or onto the premises of the establishment.  
  
(2) The immunity provided in division (3)(A) of this section is not available to an owner, operator, or employer of an establishment serving the public with respect to injury, death, or loss to person or property of the type described in that division if the owner, operator, or employer engaged in an act or omission that contributed to the injury, death, or loss and the owner's, operator's, or employer's act or omission was with malicious purpose, in bad faith, or in a wanton or reckless manner.
- (iv) As used in this section:
  - (1) "Establishment serving the public" means a hotel, a restaurant or other place where food is regularly offered for sale, a retail business or other commercial establishment or office building that is open to the public, a sports venue, or any other place of public accommodation, amusement, or resort that is open to the public.
  - (2) "Hotel" has the same meaning as in section 3731.01 of the Revised Code.

- (3) "Sports venue" means any arena, stadium, or other facility that is used primarily as a venue for sporting and athletic events for which admission is charged.
- (4) "Investigator" has the same meaning as in section 109.541 of the Revised Code.
- (5) "Restrictive firearm carrying policy" and "validating identification" have the same meanings as in section 2923.121 of the Revised Code.
- (6) "Law enforcement officer" has the same meaning as in section 9.69 of the Revised Code.

(d) Reciprocity:

- (1) A person who holds a valid concealed handgun license ~~to carry a concealed handgun that was~~ issued pursuant to the law of by another state that is recognized by the Ohio Attorney General pursuant to a reciprocity agreement entered into pursuant to section 109.69 of the Revised Code or a person who holds a valid concealed handgun license under the circumstances described in Ohio R.C. 109.69(B) has the same right to carry a concealed handgun in this municipality as a person who was issued a concealed handgun license ~~to carry a concealed handgun~~ under section 2923.125 of the Revised Code and is subject to the same restrictions that apply to a person who ~~carries a license~~ has been issued a license under that section that is valid at the time in question.
- (2) A peace officer has the same right to carry a concealed handgun in this municipality as a person who was issued a license to carry a concealed handgun under section 2923.125 of the Revised Code, provided that the officer when carrying a concealed handgun under authority of this division is carrying validating identification. For purposes of reciprocity with other states, a peace officer shall be considered to be a licensee in this State.
- (3) (A) A qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to Ohio R.C. 2923.126(F)(2) and a valid firearms requalification certification issued pursuant to Ohio R.C. 2923.126(F)(3) has the same right to carry a concealed handgun in this municipality as a person who was issued a license to carry a concealed handgun under section 2923.125 of the Revised Code 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 (F)(2) of Ohio R.C. 2923.126 and a valid firearms requalification certification issued pursuant to division (F)(3) of Ohio R.C. 2923.126 shall be considered to be a licensee in this State.

(ii) (a.) 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:

(1.) 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.

(2.) 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.

(3.) 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.

(4.) Before retiring from service as a peace officer with that agency, the person was regularly employed as a peace officer for an aggregate of fifteen 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.

(b.) A retired peace officer identification card issued to a person under division (F)(2)(a) 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 in this section. In addition to the required content specified in this division, a retired peace officer identification card issued to a person under this section may include the firearms requalification certification described in 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 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 this section, provided that the credentials so issued to retired peace officers are stamped with the word "RETIRED."

(c.) 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 this section.

(iii) 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 (F)(2)(a)(i) to (iv) of this section, the public agency may provide the retired peace officer with the opportunity to attend a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801. The retired peace officer may be required to pay the cost of the course.

If a retired peace officer who satisfies the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section attends a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801 of, the retired peace officer's successful completion of the firearms requalification program requalifies the retired peace officer for purposes of division (F) 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 (F)(2)(a)(i) to (iv) 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 (F)(2) of this section.

A retired peace officer who attends a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801 may be required to pay the cost of the program.

(B) An active duty member of the armed forces of the United States who is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1) has the same right to carry a concealed handgun in this City as a person who was issued a concealed handgun license under Ohio R.C. 2923.125 and is subject to the same restrictions as specified in this section.

(C) A tactical medical professional who is qualified to carry firearms while on duty under Ohio R.C. 109.771 has the same right to carry a concealed handgun in

this City as a person who was issued a concealed handgun license under Ohio R.C. 2923.125.

(e) As used in this section:

- (1) "Qualified retired peace officer" means a person who satisfies all of the following:
  - (A) The person satisfies the criteria set forth in Ohio R.C. 2923.126 (F) (2)(a)(i) to (v).
  - (B) The person is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
  - (C) The person is not prohibited by federal law from receiving firearms.
- (2) "Retired peace officer identification card" means an identification card that is issued pursuant to Ohio R.C. 2923.126(F)(2) to a person who is a retired peace officer.
- (3) "Government facility of this State or a political subdivision of this State" means any of the following:
  - (A) A building or part of a building that is owned or leased by the government of this State or a political subdivision of this State and where employees of the government of this state or the political subdivision regularly are present for the purpose of performing their official duties as employees of the State or political subdivision;
  - (B) The office of a deputy registrar serving pursuant to Ohio R.C. Chapter 4503 that is used to perform deputy registrar functions.
- (4) "Validating identification" means photographic identification issued by the agency for which an individual serves as a peace officer that identifies the individual as a peace officer of the agency.
- (5) "Governing body" has the same meaning as in Ohio R.C. 154.01.
- (6) "Tactical medical professional" has the same meaning as in Ohio R.C. 109.71.
- (7) "Nonprofit corporation" means any private organization that is exempt from federal income taxation pursuant to subsection 501(a) and described in subsection 501(c) of the Internal Revenue Code.

**Statutory reference:**

Duties of licensed individual, see Ohio R.C. 2923.126

Establishment serving public may not prohibit or restrict law enforcement officer or investigator from carrying weapon on premises; immunity, see Ohio R.C. 2923.1214

Amended by Ord. 2019-28 on 12/2/2019

Amended by Ord. 2019-29 on 12/16/2019

**549.05. Responsibility For Posting And Location Of Signs**

~~(a) The following persons, boards, and entities, or designees, Each person, board, or entity that owns or controls any place or premises identified in Ohio R.C. 2923.126(B) as a place into which a valid license does not authorize the licensee to carry a concealed handgun, or a designee of such a person, board, or entity, shall post in one or more conspicuous the following locations in the premises a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto these premises."~~

~~(1) 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;~~

~~(2) Each sheriff, chief of police, or person in charge of every county, multicounty, municipal, municipal county, or multicounty municipal jailer 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;~~

~~(3) 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;~~

~~(4) 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;~~

~~(5) 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;~~

~~(6) 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 section 549.03 of this Code, 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)(3) of that section.~~

~~(b) 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 Ohio Revised Code section 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."~~

~~(1) 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;~~

~~(2) A governing body of a school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code 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;~~

~~(3) The principal or chief administrative officer of a nonpublic school in a conspicuous location on property owned or controlled by that nonpublic school.~~

(ORC 2923.1212)

**549.06. 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.

(ORC 2923.15)

**549.07. 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 twenty-four (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 eighteen (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 section 333.01(a) of this Code or Ohio R.C. 4511.19(A), regardless of whether the person at the time of the transportation or possession as described in this division is the operator of or a passenger in the motor vehicle.
- (e) ~~No person who has been issued a license or temporary emergency license to carry a concealed handgun under Ohio R.C. 2923.125 or 2923.1213 shall do any of the following:~~ concealed handgun license or who is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in Ohio R.C. 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:
- ~~(1) 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 subdivision (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 Ohio 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 subdivision (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.~~

(1) Before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop;

(2) Before or at the time an employee of the motor carrier enforcement unit asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the commercial motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an employee of the unit during the stop and the person already has notified another employee of the unit of that fact during the same stop;

(3) Knowingly fail to remain in the motor vehicle while stopped or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;

(4) Knowingly have contact with the loaded handgun by touching it with the person's hands or fingers in the motor vehicle at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer;

(5) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

(f) (1) Divisions (a), (b), (c), and (e) of this section do not apply to any of the following:

- (A) An officer, agent, or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's, or employee's duties;
  - (B) Any person who is employed in this state, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subdivision (f) (1)B. of this section 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 either is zoned for agriculture or is used for agriculture.
  - (C) The person owns the real property described in subdivision (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:
    - (i) While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;
    - (ii) In the direction of a street, highway, or other public or private property used by the public for vehicular traffic or parking;
    - (iii) At or into an occupied structure that is a permanent or temporary habitation;
    - (iv) 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 Ohio R.C. 1533.103 by the chief of the division of wildlife.
- (B) The person discharges a firearm at a wild quadruped or game bird as defined in Ohio R.C. 1531.01 during the open hunting season for the applicable wild quadruped or game bird.
- (C) The person discharges a firearm from a stationary ~~electric-powered~~ all-purpose vehicle as defined in Ohio R.C. 1531.01 from private or publicly owned lands 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:
- (i) While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;
  - (ii) 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;
  - (iii) At or into an occupied structure that is a permanent or temporary habitation;
  - (iv) 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 either is zoned for agriculture or is used for agriculture.
  - (C) The person owns the real property described in subdivision (d)(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 subdivision (d)(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~~ has been issued a concealed handgun license issued to the person under Ohio 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 Ohio R.C. 109.69. that is valid at the time in question or the person is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1).

(B) The person transporting or possessing the handgun is not knowingly in a place described in section 549.03(b) of this Code.

~~(C) One of the following applies:~~

~~(i) The handgun is in a holster on the person's person.~~

~~(ii) 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.~~

~~(iii) 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 Ohio 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 Ohio R.C. 1531.01 or a motor vehicle during the open hunting season for a wild quadruped or game bird.

(C) The person is on or in an ~~electric-powered~~ all-purpose vehicle as defined in Ohio R.C. 1531.01 on private or publicly owned lands 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 divisions (d)(1) and (2) of section 549.02 of this Code are affirmative defenses to a charge under division (b) or (c) of this section that involves a firearm other than a handgun.

(2) It is an affirmative defense to a charge under division (b) or (c) of this section of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that this affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by division (b) or (c) of this section while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.

(h) (1) No person who is charged with a violation of division (b), (c), or (d) of this section shall be required to obtain a ~~license or temporary emergency license to carry a concealed handgun~~ license under Ohio R.C. 2923.125 or 2923.1213 as a condition for the dismissal of the charge.

(2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (e) of this section as it existed prior to September 30, 2011, and the conduct that was the basis of the violation no longer would be a violation of division (e) of this section on or after September 30, 2011, or if a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (e)(1) or (2) of this section as it existed prior to the effective date of this amendment, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.

If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (b) or (c) of this section as the division existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of division (b) or (c) of this section on or after September 30, 2011, due to the application of division (f)(5) of this section as it exists on and after September 30, 2011, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.

(i) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. ~~Violation~~ A violation of division (a) of this section is a felony to be prosecuted under appropriate State law. A 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. ~~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 Ohio 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 Ohio 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 Ohio R.C. 2923.128 (a)(2). A violation of division (e)(1), (2), or (5) of this section is a felony to be prosecuted under appropriate State law. A violation of division (e)(4) or (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 (6) of this section, 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 (6) of this section, the offender's license or temporary emergency license to carry a concealed handgun shall be suspended pursuant to Ohio 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 Ohio R.C. 2923.125 or 2923.1213, or a license to carry a concealed handgun that was issued by another state with which the Ohio Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69 and the offender was not knowingly in a place described in section 549.03(b) of this Code, 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, 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.~~

A violation of division (e)(1) or (2) of this section is a misdemeanor of the second degree. A violation of division (e)(4) of this section is a felony to be prosecuted under appropriate State law. A violation of division (e)(3) or (5) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of division (e)(3) or (5) of this section, a felony to be prosecuted under appropriate State law. In addition to any other penalty or sanction imposed for a misdemeanor violation of division (e)(3) or (5) of this section, the offender's concealed handgun license shall be suspended pursuant to division Ohio R.C. 2923.128(A)(2). A violation of division (B) of this section is a felony to be prosecuted under appropriate State law.

(j) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense,

the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division, Ohio R.C. 2923.163(B) applies.

(k) As used in this section:

(1) "Motor vehicle," "street," and "highway" have the same meanings as in Ohio R.C. 4511.01.

(2) "Occupied structure" has the same meaning as in Ohio R.C. 2909.01.

(3) "Agriculture" has the same meaning as in Ohio R.C. 519.01.

(4) "Tenant" has the same meaning as in Ohio R.C. 1531.01.

~~(5) "Unloaded" means 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. For the purposes of division (k)(5)A. of this section, ammunition held in stripper clips or in en bloc clips is not considered ammunition that is loaded into a magazine or speed loader.~~

~~(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.~~

(5) (A) "Unloaded" means, with respect to a firearm other than a firearm described in division (K)(6) of this section, that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm in question, and one of the following applies:

(i) There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.

(ii) Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.

(B) For the purposes of division (k)(5)(A)(ii) of this section, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:

(i) A package, box, or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;

(ii) A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.

(C) For the purposes of divisions (k)(5)(a) and (b) of this section, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.

(6) "Unloaded" means, with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.

~~(6)~~ (7) "Commercial motor vehicle" has the same meaning as in Ohio R.C. 4506.25(A).

~~(7)~~ (8) "Motor carrier enforcement unit" means the motor carrier enforcement unit in the department of public safety, division of state highway patrol that is created by Ohio R.C. 5503.34.

(I) Divisions (k)(5)(A) and (B) of this section do not affect the authority of a person who has been issued a concealed handgun license that is valid at the time in question to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in those divisions, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter. A person who has been issued a concealed handgun license that is valid at the time in question may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter.

**Statutory reference:**

Improperly handling firearms in a motor vehicle, see Ohio R.C. 2923.16

**549.09. Unlawful Transactions In Weapons**

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

- (1) Recklessly sell, lend, give, or furnish any firearm to any person prohibited by Ohio R.C. 2923.13 or 2923.15 from acquiring or using any firearm, or recklessly sell, lend, give, or furnish any dangerous ordnance to any person prohibited by Ohio R.C. 2923.13, 2923.15 or section 549.06 of this Code, or Ohio R.C. 2923.17 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) of this section;
- (3) Except as otherwise provided in division (b) of this section, knowingly solicit, persuade, encourage, or entice a federally licensed firearms dealer or private seller to transfer a firearm or ammunition to any person in a manner prohibited by state or federal law;
- (4) Except as otherwise provided in division (b) of this section, with an intent to deceive, knowingly provide materially false information to a federally licensed firearms dealer or private seller;
- (5) Except as otherwise provided in division (b) of this section, knowingly procure, solicit, persuade, encourage, or entice a person to act in violation of division (a)(3) or (4) of this section;
- ~~(6) 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;~~
- ~~(7)~~ (6) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing him to be authorized to acquire dangerous ordnance pursuant to Ohio R.C. 2923.17, or negligently fail to take a complete record of the transaction and forthwith forward a copy of that record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;
- ~~(8)~~ (7) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.

(b) Divisions (a)(3), (4), and (5) of this section do not apply to any of the following:

- (1) A law enforcement officer who is acting within the scope of the officer's duties;
- (2) A person who is acting in accordance with directions given by a law enforcement officer described in division (b)(1) of this section.

(c) Whoever violates this section is guilty of unlawful transactions in weapons. A violation of division (a)(1) or (2) of this section is a felony to be prosecuted under appropriate State law. A violation of division (a)(3), (4), or (5) of this section is a felony of the third degree. A violation of division (a)(6) ~~or (7)~~ of this section is a misdemeanor of the second degree. A violation of division ~~(a)(8)~~ (a)(7) of this section is a misdemeanor of the fourth degree.

(d) As used in this section:

- (1) "Ammunition" has the same meaning as in section 2305.401 of the Revised Code.
- (2) "Federally licensed firearms dealer" has the same meaning as in section 5502.63 of the Revised Code.
- (3) "Materially false information" means information regarding the transfer of a firearm or ammunition that portrays an illegal transaction as legal or a legal transaction as illegal.
- (4) "Private seller" means a person who sells, offers for sale, or transfers a firearm or ammunition and who is not a federally licensed firearms dealer.

**Statutory reference:**

Unlawful transactions in weapons, see Ohio R.C. 2923.20

*Amended by Ord. 2019-28 on 12/2/2019*

*Amended by Ord. 2019-29 on 12/16/2019*



## LEGISLATIVE COVER MEMO

**Introduction:** May 2, 2022

**Agenda Item:** **Resolution 2022-36**  
AMENDING THE POSITION DESCRIPTION FOR FINANCE DIRECTOR

**Submitted by:** Cindi Chibis, Human Resource

**Scope/Description:** As we prepare to recruit and hire new a new Finance Director, we updated the position description to reflect the duties of the positions more accurately.

**Budget Impact:** None.

**Exhibits:** Exhibit A: Finance Director Position Description

**Recommendation:** Approval

CITY OF FRANKLIN, OHIO  
RESOLUTION 2022-36

**AMENDING THE POSITION DESCRIPTION FOR FINANCE DIRECTOR**

WHEREAS, Section 8.08 of the Franklin City Charter requires this Council to adopt a Position Classification Plan containing position descriptions for all City positions, considering the duties, authority and responsibility of each position;

WHEREAS, this Council adopted a Position Classification Plan and position descriptions on August 18, 2003; and

WHEREAS, upon the request and recommendation of the City Manager/Safety Director, this Council now finds it desirable to update the position descriptions for the Finance Director;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Franklin, Ohio, a majority of members of Council present concurring, that:

Section 1. The position description for Finance Director is hereby amended as shown in the attached Exhibit A.

Section 2. It is found that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 3. That this resolution shall become effective immediately upon its passage.

ADOPTED: May 2, 2022

ATTEST: \_\_\_\_\_  
Khristi Dunn, Clerk of Council

APPROVED: \_\_\_\_\_  
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of a resolution passed by that body on May 2, 2022.

\_\_\_\_\_  
Khristi Dunn, Clerk of Council



# CITY OF FRANKLIN

## POSITION DESCRIPTION

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<b>Employee Name:</b>		<b>Department:</b>	<b>Finance</b>
<b>Civil Service Status:</b>	<b>Unclassified</b>	<b>Position Title:</b>	<b>Finance Director</b>
<b>Employment:</b>	<b>Full-time</b>	<b>Reports To:</b>	<b>City Council</b>
<b>FLSA Status:</b>	<b>Exempt</b>	<b>Supervises:</b>	<b>Income Tax Administrator, Chief Utility Clerk, <i>Utility Billing Administrator, Secretary to Finance Director, Payroll Clerk, Finance Clerk</i></b>

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*GENERAL DESCRIPTION: Under direction of City Manager, the Finance Director shall keep the financial records of the City, exhibiting accurate statements of all moneys received and expended, of all property owned by the City, and of all taxes and assessments. Advises City Council and the City Manager concerning the City's finances. Supervises Finance Department staff. Oversees billing and collections for Franklin Utility Billing services. Creates and maintains the City's financial data and produces financial reports. Enforces account oversight and compliance. Understands and supports the City's vision. Sets and models high performance standards characterized by integrity. Earns the trust and respect of others and effectively leads achieve strategic objectives.*

**ESSENTIAL FUNCTIONS OF THE POSITION:** For purposes of 42 USC 12101.

1. *Supervises and directs financial operations of the City; advises City Council and the City Manager concerning the City's finances; supervises the billing and collection of the water and sewer department; assists the City Manager with the preparation of the annual budget; directs the approval, audit, and certification of all claims against the City for payroll, goods, and services; prepares financial reports for City Council and state and federal agencies as required; attends City Council meetings as required; invests idle funds. Establishes objectives for the Finance Department which support the City's short-term and long-term financial goals. Advises City Council and the City Manager concerning the City's finances. Exercises integrity, discretion, and independent judgment with respect to financial matters.*
2. *Meets all job safety requirements and all applicable OSHA safety standards that pertain to essential functions. Oversees and directs all department services such as budgeting, payroll, account receivables, account payables, general accounting, purchasing, forecasting, risk management, and property and liability insurance activities. Supervises the billing and collection of the water and sewer department. Demonstrates in-depth knowledge of daily operations of all areas of responsibility and daily activities of direct reports.*
3. *Demonstrates regular and predictable attendance. Collects all money due and payable to the City and serves as the custodian of all public money of the City and disburses funds as required by law, ordinance or resolution.*
4. *Examines and audits the account of all City officers, employees, departments, boards and commissions, and assists the City Manager in the appropriation and submission of appropriation measures, estimates, budgets and other financial matters.*
5. *Oversees the hiring, training, and evaluation of direct reports. Attracts, retains, and motivates staff to work toward shared objectives. Effectively manages the performance of staff to achieve annual goals.*
6. *Responsible for the annual audit performed by the Auditor of State's Office or designated independent public auditors. Oversees audit and tax functions, coordinate activities with outside audit firms.*
7. *Responsible for portfolio and funds investment management within the guidelines of City Policy. Provides oversight of cash management and controls. Oversees and coordinates annual and long-range fiscal planning efforts and develops forecasts and trends analysis for revenue and expenditures and establishes internal controls. Reviews financial operations on an ongoing basis.*
8. *Assists the City Manager with the preparation of the annual budget. Develops and manages the budget request cycle. Controls*



## CITY OF FRANKLIN POSITION DESCRIPTION

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*appropriation, expenditure, and receipts process.*

### OTHER DUTIES AND RESPONSIBILITIES:

1. Performs other duties as required.

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### QUALIFICATIONS: *(\* indicates developed after employment)*

Bachelor's degree in accounting, business, public administration, or related field or equivalent combination of experience and training; considerable experience in public finance administration, including experience in local government, in a responsible professional or supervisory capacity.

**Communication Skills:** *Ability to make clear and effective presentations to City Council and other stakeholders. Ability to maintain effective relationships with City Council members, community officials, leaders, organizations, the public, and staff. Ability to read, analyze, and interpret general business periodicals, professional journals, policy and procedure manuals, and governmental regulations. Ability to write reports and business correspondence clearly and informatively. Ability to effectively present financial information and respond to questions from staff, patrons, and members of the community. Ability to deal effectively with confrontational individuals and/or challenging situations.*; Compile and prepare reports; maintain records according to established procedures; develop and maintain effective working relationships; prepare accurate documentation; complete routine forms;

**Education and Experience:** Generally accepted accounting principles; budgeting; government structure and process; department goals and objectives; department policies and procedures; public relations; Ohio Revised Code as it relates to financial practices and procedures; office practices and procedures; supervisory principles and practices. *Bachelor's Degree in accounting, business, public administration, or related field required. Minimum of three years' experience in public finance administration and supervisory experience preferred. Thorough knowledge of administrative policies governing public sector financial practices and procedures. Ability to be bonded. Knowledge of government standards and accounting protocol as well as Generally Accepted Accounting Principles (GAAP).*

**Equipment, Tools and Materials:** Computer, copier, calculator, fax machine. *Ability to use computer equipment, modern fiscal software and equipment, and standard office equipment. Ability to periodically drive vehicle.*

**Licensure or Certification Requirements:** ~~None.~~ *Valid Ohio driver's license, acceptable motor vehicle record, and continuous insurability required. Certification by the Ohio Treasurer's Office' Center for Public Investment Management as required by Ohio Revised Code Sections 135.22 and 321.46. Must be bonded.*

**Math skills:** *Read, copy, and record figures accurately; add, subtract, multiply, and divide whole numbers; Advanced mathematical, fiscal, and statistical skills. Ability to effectively present complex data to the City Council, staff, and the general public. Ability to create and adhere to annual budgets. Ability to effectively negotiate contracts. Ability to develop and implement cost saving measures.*

**Physical Requirements: (with or without accommodation):** *Ability to occasionally operate a motor vehicle, hold, lift, reach, stoop and turn. Ability to frequently, grasp, sit, stand, walk, and use keyboard. Specific vision abilities required for this job include close and distance vision. Ability to speak English and hear required. Duties are primarily performed in an office environment.*

**Reasoning Skills:** *deal with many variables and determine specific action; define problems, collect data, establish facts, and draw valid conclusions;* exercise independent judgment and discretion; understand, interpret, and apply laws, rules, or regulations to specific situations;

**Technical Skills:** *Ability to use accounting system, payroll software, e-mail, spreadsheet, and office software. Ability to maintain complex financial records and prepare reports from the records. Ability to learn automated system functions used in carrying out job duties.*



# CITY OF FRANKLIN

## POSITION DESCRIPTION

**INHERENTLY HAZARDOUS OR PHYSICALLY DEMANDING WORKING CONDITIONS:** (For purposes of O.R.C. 4167)

Employee has exposure to chemical compounds found in an office environment (e.g., toner, correction fluid, etc.). Employee is occasionally exposed to outdoor weather conditions, May be exposed to hazardous driving conditions, verbal abuse by the public, or to human blood or other body substances.

- 1. Emergency plans and fire plans.
- 2. Compressed gases.
- 3. Portable fire extinguishers.
- 4. Handling of material and supplies. (Includes mechanical handling equipment, the manner in which things are stored, and housekeeping.)
- 5. Hazardous chemicals.

The employee:

- 1. Works in or around crowds.
- 2. Has contact with potentially violent or emotionally distraught persons.

To perform this job successfully, an individual must be able to perform each essential duty satisfactorily, and must demonstrate the necessary skills, knowledge, and abilities required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The above reflects general information considered necessary to describe the essential functions of the job and shall not be construed as an exhaustive statement of duties, responsibilities or requirements that may be inherent in the job. It is not intended to limit the right of any supervisor to assign, direct, or control the work of employees under his/her supervision. The use of a particular expression to describe duties shall not be held to exclude other duties not mentioned that are of similar kind or level of difficulty.

This position description in no manner states or implies that these are the only duties and responsibilities to be performed by the position incumbent. My (employee) signature below signifies that I have reviewed and understand the contents of my position description.

\_\_\_\_\_  
(Signature of Appointing Authority/Designee)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature of Employee)

\_\_\_\_\_  
(Date)



# LEGISLATIVE COVER MEMO

**Introduction:** May 2, 2022

**Agenda Item:** **Resolution 2022-37**

AMENDING RESOLUTION 2022-23 AND AUTHORIZING POSITION TITLES AND THE NUMBER OF POSITIONS FOR EACH TITLE FOR CITY OF FRANKLIN AND FRANKLIN MUNICIPAL COURT PERSONNEL FOR THE YEAR 2022

**Submitted by:** Cindi Chibis, Human Resource

**Scope/Description:** This Resolution provides for the creation of a part-time interim Finance Director and addition of a patrol officer for traffic enforcement.

**Budget Impact:** None.

**Exhibits:** Exhibit A: Position Titles and Number of Positions

**Recommendation:** Approval

CITY OF FRANKLIN, OHIO  
RESOLUTION 2022-37

**AMENDING RESOLUTION 2022-23 AND AUTHORIZING POSITION TITLES AND THE NUMBER OF POSITIONS FOR EACH TITLE FOR CITY OF FRANKLIN AND FRANKLIN MUNICIPAL COURT PERSONNEL FOR THE YEAR 2022**

WHEREAS Section 3.03 of the City of Franklin Charter grants this Council the power to fix the number of employees in the various offices, departments, divisions, bureaus, boards and commissions of the City, by ordinance or resolution; and

WHEREAS, Section 1901.33 of the Ohio Revised code provides that the judge of a municipal court may appoint one or more mental health professionals, one or more probation officers, an assignment commissioner, deputy assignment commissioners, and other court aides on a full-time, part-time, hourly, or other basis and one or more typists, stenographers, statistical clerks, and official court reporters; and

WHEREAS, Section 171.04 of the Codified Ordinances of the City of Franklin requires this Council, by ordinance or resolution, to establish a yearly list of position titles and the number of positions that may be filled under each title for each department of the City government; and

WHEREAS, on March 21, 2022 this Council passed Resolution 2022-23 authorizing position titles for each title for City of Franklin personnel for the Year 2022;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Franklin, a majority of the members of Council present concurring, that:

Section 1. The attached list, Exhibit A, of position titles and the number of positions to be filled under each title for the year 2022 is hereby authorized and approved, subject to the availability of funds authorized in the Annual Appropriations Ordinance:

Section 2. It is found that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 3. The changes set forth in this Resolution are effective immediately.

ADOPTED: May 2, 2022

ATTEST: \_\_\_\_\_  
Khristi Dunn, Clerk of Council

APPROVED: \_\_\_\_\_  
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of a resolution passed by that body on May 2, 2022.

\_\_\_\_\_  
Khristi Dunn, Clerk of Council

**City of Franklin**  
**Authorized Position Titles**

Section 8, Item B.
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	<u>Full Time</u>	<u>Part-Time</u>	<u>Seasonal</u>	<u>Volunteer</u>
<b>A. Council:</b>				
Clerk of Council	1	0	0	0
<b>B. Administration:</b>				
City Manager	1	0	0	0
Admin. Assistant to City Manager	1	0	0	0
Secretary to City Manager	0	1	0	0
Human Resources Specialist	1	0	0	0
Seasonal Intern	0	0	4	0
<b>C. Finance Department:</b>				
Finance Director	1	0	0	0
<b>Interim Finance Director</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>
Finance Clerk	0	1	0	0
Payroll Clerk	1	0	0	0
Accounts Payable Clerk	1	0	0	0
<u>Income Tax Division:</u>				
Income Tax Administrator	1	0	0	0
Income Tax Clerk	1	1	0	0
Seasonal Income Tax Clerk	0	0	2	0
<u>Utility Billing Division:</u>				
Utility Billing Administrator	1	0	0	0
Utility Clerk	1	1	0	0
<b>D. Law Department:</b>				
Law Director	0	1 (contractual)		
Prosecutor	0	1	0	0
<b>E. Public Works Department:</b>				
Public Works Director	1	0	0	0
Secretary to Director	1	0	0	0
Custodian	1	0	0	0
Seasonal Labor	0	0	10	0
<u>Parks Division:</u>				
Park Worker/Lead	1	0	0	0
Park Worker	1	0	0	0
Recreation/Event Coordinator	0	1	0	0
Pool Manager	0	0	1	0
Asst. Pool Manager	0	0	1	0
Parks & Recreation Personnel (including Lifeguards)	0	0	40	0

**City of Franklin  
Authorized Position Titles**

	<u>Full Time</u>	<u>Part-Time</u>	<u>Seasonal</u>	<u>Volunteer</u>
<u>Stormwater Division:</u>				
Utility Person – Stormwater	2	0	0	0
 <u>Streets Division:</u>				
Street Superintendent	1	0	0	0
Utility Person – Street	4	0	0	0
 <u>Water Division &amp; Sewer Division:</u>				
Water & Sewer Superintendent	1	0	0	0
Utility Person	7	0	0	0
 <u>Water Treatment Division:</u>				
Water Treatment Superintendent	1	0	0	0
 <b>F. Safety Department:</b>				
Safety Director	0	0	0	0
Assistant to the Safety Director	0	0	0	0
 <u>Fire &amp; EMS Division:</u>				
Chief	1	0	0	0
Secretary to Fire & EMS Division	0	2	0	0
Captain	1	0	0	0
Lieutenant	3	0	0	0
Firefighter	12	0	0	0
Second Lieutenant	0	0	0	9
Volunteer Firefighter	0	0	0	65
 <u>Police Division:</u>				
Chief	1	0	0	0
Captain	0	0	0	0
Lieutenant	2	0	0	0
Sergeant	3	0	0	0
Patrol Officer	<del>20</del> <b>21</b>	0	0	0
School Resource Officer	0	1	0	0
Dispatcher	7	0	0	0
Property Room & Evidence Manager	0	1	0	0
Reserve Officer	0	0	0	12
Reserve Dispatcher	0	0	0	5
 <u>Building &amp; Zoning Division:</u>				
City Engineer	1	0	0	0
Zoning Official	0	0	0	0
Code Official	1	0	0	0

**City of Franklin**  
**Authorized Position Titles**

Section 8, Item B.

	<u>Full Time</u>	<u>Part-Time</u>	<u>Seasonal</u>	<u>Volunteer</u>
<b>G. Boards &amp; Commissions:</b>				
Planning Comm. Secretary	0	1	0	0
Civil Service Comm. Secretary	0	1	0	0
<b>H. Municipal Court:</b>				
Judge	0	1	0	0
Magistrate	1	0	0	0
Chief Bailiff	1	0	0	0
Deputy Bailiff	0	2	0	0
Security Officer	0	1	0	0
Clerk of Courts	1	0	0	0
Court Administrator	1	0	0	0
Chief Deputy Clerk	1	0	0	0
Deputy Clerk	5	1	0	0
Chief Probation Officer	1	0	0	0
Probation Officer II	1	0	0	0
Probation Officer I	1	0	0	0



# LEGISLATIVE COVER MEMO

**Introduction:** May 2, 2022

**Agenda Item:** **Resolution 2022-38**

AMENDING RESOLUTION 2022-24 AND ESTABLISHING THE ORGANIZATIONAL LISTINGS AND PAY RATES FOR CITY OF FRANKLIN AND FRANKLIN MUNICIPAL COURT OFFICIALS AND EMPLOYEES FOR THE YEAR 2022

**Submitted by:** Cindi Chibis, Human Resource

**Scope/Description:** Resolution 2022-24 is being amended to set the rates of pay for 2022. The Interim Finance Director pay range is being set at \$39.30 - \$48.98/hour  
Public Works Seasonal Labor is being raised to \$15.00/hour

**Budget Impact:** None.

**Exhibits:** Exhibit A: 2022 Payroll Rates

**Recommendation:** Approval

CITY OF FRANKLIN, OHIO  
RESOLUTION 2022-38

**AMENDING RESOLUTION 2022-17 AND ESTABLISHING THE ORGANIZATIONAL LISTINGS AND PAY RATES FOR CITY OF FRANKLIN AND FRANKLIN MUNICIPAL COURT OFFICIALS AND EMPLOYEES FOR THE YEAR 2022**

WHEREAS, section 3.03 of the City of Franklin Charter grants this Council the power to fix the number of employees in the various offices, departments, divisions, bureaus, boards and commissions of the City and to fix the rate of their compensation; and

WHEREAS, Section 1901.33 of the Ohio Revised code provides that the judge of a municipal court may appoint one or more interpreters, one or more mental health professionals, one or more probation officers, an assignment commissioner, deputy assignment commissioners, and other court aides on a full-time, part-time, hourly, or other basis. Each appointee shall receive the compensation out of the city treasury that the legislative authority prescribes in either biweekly installments or semimonthly installments, as determined by the payroll administrator and the judge may appoint one or more typists, stenographers, statistical clerks, and official court reporters, each of whom shall be paid the compensation out of the city treasury that the legislative authority prescribes; and

WHEREAS, Resolution 2022-24 established pay rates for City of Franklin Officials and Employees for the year 2022 and now needs amended;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Franklin, Ohio, a majority of members present concurring, that:

Section 1. The compensation hereafter provided in Exhibit A shall apply to the listed positions for and during the year 2022.

Section 2. It is found that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 3. This Resolution shall be immediately effective upon passage.

ADOPTED: May 2, 2022

ATTEST: \_\_\_\_\_  
Khristi Dunn, Clerk of Council

APPROVED: \_\_\_\_\_  
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of a resolution passed by that body on May 2, 2022.

\_\_\_\_\_  
Khristi Dunn, Clerk of Council

**Resolution 2022-38 Exhibit A**

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
<b>Council</b>									
Mayor	\$8,500								
Council Member	\$8,000								
Clerk of Council	\$57,784	\$59,518	\$61,310	\$63,155					
Acting Clerk	\$100 (per meeting)								
<b>Administration</b>									
City Manager	\$115,000 (per employment contract)								
Admin. Asst. to City Manager	\$61,304	\$62,530	\$63,781	\$65,057	\$66,358	\$67,685	\$69,039	\$70,420	
Secretary to City Manager	\$37,196	\$37,940	\$38,699	\$39,473	\$40,262	\$41,067	\$41,889	\$42,727	
Secretary to City Manager, P/T (per hour)	\$17.59	\$18.53	\$19.48	\$21.51	\$22.16				
Human Resources Specialist	\$51,168	\$52,703	\$54,284	\$55,913	\$57,590	\$59,318	\$61,097	\$62,930	
Seasonal Intern (per hour)	Educational Credit Only	\$12.00	\$13.00	\$14.00	\$15.00				
<b>Finance Department</b>									
Finance Director	\$81,746	\$85,425	\$89,270	\$93,287	\$97,485	\$101,872			
<i>Interim Finance Director (per hour)</i>	<b>\$39.30</b>	<b>\$41.07</b>	<b>\$42.92</b>	<b>\$44.85</b>	<b>\$46.87</b>	<b>\$48.98</b>			
Finance Clerk P/T (per hour)	\$16.26	\$17.12	\$18.00	\$18.54					
<b>Finance Division</b>									
Payroll Clerk (per hour)		\$20.89	\$22.18	\$23.38					
Accounts Payable Clerk (per hour)		\$20.89	\$22.18	\$23.38					
<b>Income Tax Division</b>									
Income Tax Administrator	\$54,762	\$56,404	\$57,587	\$58,769	\$59,951	\$61,252	\$62,552	\$63,852	\$65,121
Income Tax Clerk* (per hour)		\$20.89	\$22.18	\$23.38					
Income Tax Clerk, part-time (per hr)	\$17.60	\$18.53	\$19.48	\$21.51					
Income Tax Clerk, seasonal (per hr)	\$16.26	\$16.75	\$17.25	\$17.77					
<b>Utility Billing Division</b>									
Utility Billing Administrator	\$54,762	\$56,404	\$57,587	\$58,769	\$59,951	\$61,252	\$62,552	\$63,852	\$65,121
Utility Clerk* (per hour)		\$20.89	\$22.18	\$23.38					
Utility Clerk, part-time (per hour)	\$17.60	\$18.53	\$19.48	\$21.51					
<b>Law Department</b>									
Law Director		(per employment contract)							
Prosecutor, part-time	\$31,630	(per employment contract)							

**Resolution 2022-38 Exhibit A**

Section 8, Item C.

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
<b>Public Works Department</b>									
Public Works Director	\$89,616	\$92,304	\$95,073	\$97,925	\$100,863				
Secretary to PW Director (per hour)	\$38,585	\$39,743	\$41,822	\$44,024	\$46,225				
Custodian* (per hour)		\$17.08	\$18.09	\$19.12					
Seasonal Labor (per hour)	<del>\$11.51</del> <b>\$15.00</b>	<del>\$12.08</del>	<del>\$12.73</del>	<del>\$13.40</del>					
<b>Parks Division</b>									
Parks Superintendent	(filled by Public Works Director)								
Lead Park Worker* (per hour)	\$24.43	\$25.96	\$27.23	\$28.52					
Park Worker* (per hour)	\$23.60	\$25.11	\$26.38	\$27.64					
Recreation and Events Coordinator (per hour)	\$18.00	\$18.50	\$19.00						
Pool Manager				\$10,000					
Assistant Pool Manager (per hour)	\$14.00	\$14.50	\$15.00	\$15.50					
Head Lifeguard (per hour)	\$12.00	\$12.50	\$13.00	\$13.50					
Lifeguards (per hour)	\$11.00	\$11.50	\$12.00	\$12.50					
(additional hourly rate for pool parties)	+\$0.50								
Recreation and Event Team Member(per hour)	\$9.50	\$10.00	\$10.50	\$11.00					
(additional hourly rate for opening/closing)	+\$0.50								
<b>Stormwater Division</b>									
Stormwater Superintendent	(filled by Public Works Director)								
Utility Person I* (per hour)		\$24.74	\$26.28	\$27.64					
Utility Person II* (per hour)		\$27.93	\$28.67	\$29.20					
Utility Person III* (per hour)		\$29.33	\$30.13	\$30.69					
<b>Street Division</b>									
Street Superintendent		\$70,072	\$73,756	\$77,622					
Utility Person I* (per hour)		\$24.74	\$26.28	\$27.64					
Utility Person II* (per hour)		\$27.93	\$28.67	\$29.20					
Utility Person III* (per hour)		\$29.33	\$30.13	\$30.69					
	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
<b>Public Works Department</b>									
<b>Water Division &amp; Sewer Division</b>									
Water & Sewer Superintendent		\$70,072	\$73,756	\$77,622					
Utility Person I* (per hour)		\$24.74	\$26.28	\$27.64					
Utility Person II* (per hour)		\$27.93	\$28.67	\$29.20					
Utility Person III* (per hour)		\$29.33	\$30.13	\$30.69					

**Resolution 2022-38 Exhibit A**

<b>Public Works Department contd</b>	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
Water Treatment Division									
Water Treatment Superintendent		\$70,072	\$73,756	\$77,622					
<b>Safety Department</b>									
Safety Director	(filled by City Manager)								
Building & Zoning Division									
City Engineer	\$84,274	\$86,881	\$89,570	\$94,687	\$97,246				
Zoning Official* (per hour)	(filled by City Engineer & Fire Lieutenant)								
Code Official* (per hour)	\$29.71	31.56	33.06						
Property Maintenance	(per employment contract)								
Fire & EMS Division									
Chief	\$94,064	\$96,886	\$99,146	\$101,315	\$104,315	\$107,315	\$110,315		
Division Secretary (per hour)	\$17.61	\$18.14	\$18.69	\$19.25	\$19.82	\$20.42	\$21.03	\$21.66	\$22.31
Captain* (per hour)	\$25.44	\$26.23	\$27.04	\$27.52					
Lieutenant* (per hour)	\$21.51	\$22.18	\$22.87	\$23.58	\$24.30	\$25.05			
Firefighter-Paramedic* (per hour)	\$18.91	\$19.20	\$19.49	\$19.77	\$20.07	\$20.38	\$20.67	\$20.99	
Firefighter-EMT* (per hour)	\$16.82	\$17.08	\$17.33	\$17.59	\$17.86	\$18.12	\$18.40	\$18.68	
Volunteers: (per hour)									
Firefighter	\$10.78	\$11.10	\$11.43	\$11.78	\$12.13	\$12.49	\$12.86	\$13.25	\$13.66
EMT	\$11.32	\$11.66	\$12.01	\$12.36	\$12.73	\$13.11	\$13.50	\$13.91	\$14.34
Paramedic	\$12.98	\$13.38	\$13.77	\$14.18	\$14.61	\$15.05	\$15.49	\$15.95	\$16.44
Firefighter/Paramedic	\$17.10	\$17.61	\$18.14	\$18.68	\$19.24	\$19.82	\$20.41	\$21.03	\$21.65
Firefighter/EMT	\$13.91	\$14.33	\$14.77	\$15.21	\$15.67	\$16.13	\$16.62	\$17.12	\$17.64
Second Lieutenant	(additional stipend per hour)			\$0.25	\$0.50	\$0.75	\$1.00	\$1.25	\$1.50
Fire Inspector (per hour)	\$14.33	\$14.76	\$15.19	\$15.65	\$16.13	\$16.60	\$17.11	\$17.61	\$18.14
Police Division									
Chief	\$95,754	\$98,717	\$101,769	\$104,860	\$107,860	\$110,860	\$113,860		
Lieutenant <sup>(d)</sup> (per hour) <b>PROBATION</b>	\$35.90								
Lieutenant <sup>(d)</sup> (per hour)	\$37.78	\$42.94							
Lieutenant* <sup>(e)</sup> (per hour)	\$39.49	\$40.64	\$42.94						
Sergeant* <sup>(d)</sup> (per hour) <b>PROBATION</b>	\$33.32								
Sergeant* <sup>(d)</sup> (per hour)	\$35.08	\$38.34							
Sergeant* <sup>(e)</sup> (per hour)	\$35.26	\$36.28	\$38.34						
Patrol Officer* <sup>(b)</sup> (per hour) <b>PROBATION</b>	\$23.85								
Patrol Officer* <sup>(b)</sup> (per hour)	\$25.28	\$26.79	\$28.35	\$29.82	\$34.23				

**Resolution 2022-38 Exhibit A**

<b>Safety Department contd</b>	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
<b>Police Division contd</b>									
Patrol Officer* <sup>(c)</sup> (per hour) <b>PROBATION</b>	\$25.18								
Patrol Officer* <sup>(c)</sup> (per hour)	\$26.44	\$27.77	\$29.15	\$30.62	\$32.14	\$34.23			
School Resource Officer (per hour)	\$22.70	\$23.84	\$25.03	\$26.28	\$27.59	\$28.97			
Dispatcher* <sup>(b)</sup> (per hour) <b>PROBATION</b>	\$22.02								
Dispatcher* <sup>(b)</sup> (per hour)	\$23.13	\$24.30	\$27.86						
Dispatcher* <sup>(c)</sup> (per hour) <b>PROBATION</b>	\$23.66								
Dispatcher* <sup>(c)</sup> (per hour)	\$24.61	\$25.59	\$26.61	\$27.86					
Reserve Officer (per hour)	\$12.85	\$13.23	13.63						
Reserve Dispatcher (per hour)	\$12.85								
Property Room & Evidence Manager (per hour)	\$20.00	\$20.50							

**Municipal Court**

Judge <sup>(a)</sup>	\$22,200								
Magistrate	\$91,982	\$94,742	\$97,584	\$100,512	\$103,527				
Chief Bailiff <sup>(a)</sup>				\$29,232					
Deputy Bailiff	\$2,814	\$2,959	\$3,118	\$3,441					
Security Officer (per hour)	\$20.07								
Clerk of Courts <sup>(a)</sup>	\$36,636	\$37,368	\$38,115	\$38,877	\$39,655	\$40,448	\$41,257		
Court Administrator (additional stipend per hour)	\$3.00	\$3.50	\$4.00	\$4.50	\$5.00				
Chief Deputy Clerk (per hour)	\$25.12	\$25.62	\$25.98	-\$26.66	\$27.19	\$27.73			
Deputy Clerk (per hour)	\$19.53	\$20.56	\$21.65	\$23.23	\$23.92				
Deputy Clerk P/T (per hour)	\$15.00								
Chief Probation Officer	\$61,061	\$62,283	\$63,529	\$64,800	\$66,096	\$67,418	\$68,766		

<b>Municipal Court</b>	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
Probation Officer II (per hour)	\$24.83	\$25.32	\$25.83	\$26.35	\$26.88	\$27.42	\$27.96		
Probation Officer I (per hour)	\$21.41	\$21.84	\$22.27	\$22.72	\$23.17	\$23.63	\$24.11		

**Boards & Commissions**

Planning Comm. Secretary	\$75.00 (per meeting)								
Civil Service Secretary	\$125.00 (per month; max. \$1500 per yr)	\$65.00 (per test, per 15 applicants)	\$5.00 (per addtl applicant)						

All wages are shown as annual salaries, unless otherwise noted.

<sup>(a)</sup> Figure represents 3/5ths of total comp.; remaining portion paid directly to employee by Warren County Auditor's Office, as required by the ORC. \*Indicates Union Position

<sup>(b)</sup> Hired on or before January 1, 2018      <sup>(c)</sup> Hired after January 1, 2018      <sup>(d)</sup> Promoted on or before January 1, 2018      <sup>(e)</sup> Promoted after January 1, 2018



# LEGISLATIVE COVER MEMO

**Introduction:** May 2, 2022

**Agenda Item:** **Resolution 2022-39**

ACCEPTING THE RESIGNATION OF CINDY RYAN AND  
APPOINTING AMY MILLER AS INTERIM FINANCE DIRECTOR

**Submitted by:** Cindi Chibis, Human Resource

**Scope/Description:** Ms. Cindy Ryan has submitted her resignation as Finance Director. Ms. Amy Miller retired in 2021 from her position as Secretary to the Finance Director. Amy has agreed to return on a part-time, temporary basis as Interim Finance Director while the City searches for a new Finance Director.

**Budget Impact:** None.

**Exhibits:** None.

**Recommendation:** Approval

CITY OF FRANKLIN, OHIO  
RESOLUTION 2022-39

**ACCEPTING THE RESIGNATION OF CINDY RYAN AND APPOINTING AMY MILLER AS INTERIM FINANCE DIRECTOR**

WHEREAS, Section 6.05 of the Franklin City Charter provides that Council shall appoint, by a majority vote of its members, a Director of Finance. The Finance Director shall serve at the pleasure of the Council and may be removed from office, without cause, notice or hearing, by a majority vote of the members of the Council; and

WHEREAS, Ms. Cindy Ryan submitted her letter of resignation to be effective April 29, 2022; and

WHEREAS, upon the request and recommendation of the City Manager/Safety Director, this Council now finds it desirable to appoint an Interim Finance Director;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Franklin, Ohio, a majority of members of Council present concurring, that:

Section 1. This Council accepts the resignation of Ms. Cindy Ryan, effective April 29, 2022.

Section 2. This Council hereby appoints Ms. Amy Miller as Interim Finance Director, effective May 3, 2022.

Section 3. It is found that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 4. That this resolution shall become effective immediately upon its passage.

ADOPTED: May 2, 2022

ATTEST: \_\_\_\_\_  
Khristi Dunn, Clerk of Council

APPROVED: \_\_\_\_\_  
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of a resolution passed by that body on May 2, 2022.

\_\_\_\_\_  
Khristi Dunn, Clerk of Council



# LEGISLATIVE COVER MEMO

**Introduction:** May 2, 2022

**Agenda Item:** Resolution 2022-40

AWARDING THE BID AND AUTHORIZING EXECUTION OF THE CONTRACT WITH ASSOCIATED EXCAVATING INC. FOR THE 2022 7<sup>th</sup> STREET WATER MAIN REPLACEMENT PROJECT

**Submitted by:** Barry Conway, City Engineer

**Scope/Description:** On April 27, 2022, the City opened bids for this project, which were as follows:

Bidder	Total Bid
Associated Excavating Inc.	\$104,848.00
Larry Smith Inc.	\$108,225.00
Majors Enterprise Inc.	\$108,722.50
Campbell Excavating	\$119,597.58
Ford Development Corporation	\$126,125.00
Tall View Palladium Inc.	\$127,630.00

The Engineer’s estimated cost for this Project was \$120,000,

**Budget Impact:** The City budgeted the cost of this Project in the Waterworks Replacement Fund.

**Exhibits:** None.

**Recommendation:** Staff recommends that we accept the bid in the amount of \$104,848.00 from Associated Excavating Inc. as the lowest and best bid

CITY OF FRANKLIN, OHIO  
RESOLUTION 2022-40

**AWARDING THE BID AND AUTHORIZING EXECUTION OF THE CONTRACT WITH ASSOCIATED EXCAVATING INC. FOR THE 2022 7<sup>th</sup> STREET WATER MAIN REPLACEMENT PROJECT.**

WHEREAS, bids for the 2022 7<sup>th</sup> Street Water Main Replacement Project were opened on April 27, 2022, in accordance with the Notice to Bidders;

WHEREAS, it is determined by Council that the bid from Associated Excavating Inc. is the lowest and best; and

WHEREAS, this Council, by Ordinance 2022-10 has authorized the expenditure of funds for said contract through the appropriation of funds in the City's operating budget,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Franklin, Ohio, a majority of the members present concurring, that:

Section 1. The Bid for the 2022 7<sup>th</sup> Street Water Main Replacement Project is hereby awarded to Advanced Excavating Inc., 10532 Westbrook Rd., Brookville, Ohio 45309, in the total bid amount of One Hundred Four Thousand Eight Hundred Forty-Eight Dollars and 00 Cents (\$104,848.00), all in accordance with the Notice to Bidders, Instructions to Bidders, General Conditions, Specifications, Plans, and other documents contained in the bid packet.

Section 2. The City Manager is hereby directed to execute a contract with Advanced Excavating Inc. for the 2022 7<sup>th</sup> Street Water Main Replacement Project, in accordance with Notice to Bidders, Instructions to Bidders, General Conditions, Specifications, Plans, and other documents contained in the bid packet upon which the bid was received. The costs of the contract shall be paid out of the funds appropriated for it in the City's operating budget.

Section 3. It is hereby found that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 4. This Resolution shall become effective immediately upon its passage.

ADOPTED: May 2, 2022

ATTEST: \_\_\_\_\_  
Khristi Dunn, Clerk of Council

APPROVED: \_\_\_\_\_  
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of a resolution passed by that body on May 2, 2022.

\_\_\_\_\_  
Khristi Dunn, Clerk of Council



## LEGISLATIVE COVER MEMO

**Introduction:** May 2, 2022

**Agenda Item:** **Resolution 2022-41**

OBJECTING TO A LIQUOR RETAIL PERMIT APPLICATION ON BEHALF OF THE CITY OF FRANKLIN, OHIO

**Submitted by:** Ben Yoder, Law Director

**Scope/Description:** The City of Franklin, Ohio received written notice from the Division of Liquor Control that an application to acquire a class D-2 liquor permit was received by the Division of Liquor Control with respect to premises within the City located at the Southeast corner of East 6th Street and Riley Boulevard. According to R.C. 4303.14, the Permit Application applicant must be the lawful owner or operator of a hotel, retail food establishment or food service operation on the Premises to be lawfully issued its requested liquor permit. The Applicant, Caseys Marketing Company, DBA Caseys General Store 4243, is not the lawful owner or operator of a hotel, retail food establishment or food service operation on the Premises.

**Budget Impact:** None.

**Exhibits:** Exhibit A: Notice to Legislative Authority

**Recommendation:** Staff recommends objecting to the application.

CITY OF FRANKLIN, OHIO  
RESOLUTION 2022-41

**OBJECTING TO A LIQUOR RETAIL PERMIT APPLICATION ON BEHALF OF THE CITY OF FRANKLIN, OHIO**

WHEREAS, pursuant to Ohio Revised Code Chapter 4303, a property owner or establishment may not serve alcohol, or offer alcohol for sale, without first obtaining the necessary permit(s) for such service or sale from the Ohio Department of Commerce, Division of Liquor Control (the “Division of Liquor Control”);

WHEREAS, pursuant to R.C. 4303.271 and 4303.292, the legislative authority of a municipal corporation in which a liquor permit premises is located may object to an original application for a liquor permit, or application for renewal of an existing liquor permit;

WHEREAS, the City of Franklin, Ohio received written notice from the Division of Liquor Control, attached as “Exhibit A” to this Resolution, that an application to acquire a class D-2 liquor permit (the “Permit Application”) was received by the Division of Liquor Control with respect to premises within the City located at the Southeast corner of East 6<sup>th</sup> Street and Riley Boulevard, Franklin, Ohio 45005 (the “Premises”);

WHEREAS, according to R.C. 4303.14, the Permit Application applicant (the “Applicant”) must be the lawful owner or operator of a hotel, retail food establishment or food service operation on the Premises to be lawfully issued its requested liquor permit;

WHEREAS, the City of Franklin Law Director presented evidence to the City of Franklin City Council, at a public Council meeting held on May 2, 2022, that the Applicant is not the lawful owner or operator of a hotel, retail food establishment or food service operation on the Premises;

WHEREAS, City Council has determined the evidence presented by the Law Director constitutes lawful grounds to object to the Permit Application under R.C. 4303.271 and 4303.292; and

WHEREAS, City Council finds it necessary in order to preserve the health, safety and welfare of the residents of the City of Franklin to object to the Permit Application.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Franklin, Ohio, a majority of members present concurring, that:

Section 1. City Council hereby objects to the Permit Application based on Council’s determination that the evidence presented to Council by the Law Director demonstrates:

- (i) The Applicant is not the lawful owner or operator of a hotel, retail food establishment or food service operation on the Premises, and a D-2 liquor permit may not, therefore, be lawfully issued to the Applicant; and
- (ii) To the extent the Applicant represents in the Permit Application that it is the lawful owner or operator of a hotel, retail food establishment or food service operation on the Premises, the Applicant has misrepresented a material fact in applying to the Division of Liquor Control for a liquor permit.

Section 2. City Council hereby requests that the Division of Liquor Control hold a hearing on the Permit Application and Council’s objection to the same.

Section 3. The Clerk of Council is hereby directed to forward a copy of this Resolution to the Division of Liquor Control, together with a statement from the City of Franklin Law Director stating the Law Director

has reviewed this Resolution and, in the Law Director's opinion, the Resolution and objection hereinafter are based on substantial legal grounds.

Section 4. The Law Director and City Manager are hereby authorized to represent City Council, designate other appropriate City staff to represent City Council, and designate citizens to appear as witnesses in support of Council's objection to the Permit Application at the hearing held by the Division of Liquor Control on this matter.

Section 5. It is found that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and Chapter 105 of the Codified Ordinances.

Section 6. This Resolution shall become effective immediately upon its passage.

ADOPTED: May 2, 2022

ATTEST: \_\_\_\_\_  
Khristi Dunn, Clerk of Council

APPROVED: \_\_\_\_\_  
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of a resolution passed by that body on May 2, 2022.

\_\_\_\_\_  
Khristi Dunn, Clerk of Council

NOTICE TO LEGISLATIVE  
AUTHORITY

TO

13106380118 <small>PERMIT NUMBER</small>		NEW <small>TYPE</small>	CASEYS MARKETING COMPANY DBA CASEYS GENERAL STORE 4243 SOUTHEAST CORNER OF E 6TH & RILEY FRANKLIN OH 45005
ISSUE DATE			
03 23 2022 <small>FILING DATE</small>			
D2 <small>PERMIT CLASSES</small>			
83 <small>TAX DISTRICT</small>	044 A <small>PERMIT CLASSES</small>	D34983 <small>RECEIPT NO.</small>	

FROM 04/12/2022

PERMIT NUMBER		TYPE
ISSUE DATE		
FILING DATE		
PERMIT CLASSES		
TAX DISTRICT		RECEIPT NO.



MAILED 04/12/2022

RESPONSES MUST BE POSTMARKED NO LATER THAN. 05/13/2022

**IMPORTANT NOTICE**

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL  
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.

REFER TO THIS NUMBER IN ALL INQUIRIES A NEW 1310638-0118

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT  
THE HEARING BE HELD  IN OUR COUNTY SEAT.  IN COLUMBUS.

WE DO NOT REQUEST A HEARING.

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title)-  Clerk of County Commissioner

(Date)

Clerk of City Council

Township Fiscal Officer

CLERK OF FRANKLIN CITY COUNCIL  
1 BENJAMIN FRANKLIN WAY  
FRANKLIN OHIO 45005



**Department  
of Commerce**

Rev 2/10/2021

Mike DeWine, Governor  
Jon Husted, Lt. Governor

Division of Liquor Control  
Sheryl Maxfield, Director

Dear Local Legislative Authority Official:

Please find enclosed the legislative notice that is being sent to you regarding the applied for liquor permit as captioned on the notice. You **must**, within 30 days from the "mailed" date listed on the notice under the bar code:

- Notify the Division whether you object and want a hearing; or
- Ask for your one-time only, 30-day extension.
  - Any requests for a one-time, 30-day extension will be reviewed by the Division upon timely receipt. If granted, your additional 30-days runs from the expiration of the original 30-day period.

To be considered **timely**, your above response **must** be faxed, emailed, or mailed to the Division no later than the postmark deadline date given on the form. To speed up processing times and reduce paper, the Division respectfully asks that you either fax or email your response. Please send your response to:

**FAX:** (614) 644 – 3166

**EMAIL:** [LiquorLicensingMailUnit@com.state.oh.us](mailto:LiquorLicensingMailUnit@com.state.oh.us)

**MAIL:** Ohio Division of Liquor Control  
Attn: Licensing Unit  
6606 Tussing Road  
PO Box 4005  
Reynoldsburg, Ohio 43068-9005

Please note that the Division is no longer sending ownership information with this legislative notice. If you want to know who owns the applied for permit you can find that information in two ways:

- Go to [https://www.comapps.ohio.gov/liqr/liqr\\_apps/PermitLookup/PermitHolderOwnership.aspx](https://www.comapps.ohio.gov/liqr/liqr_apps/PermitLookup/PermitHolderOwnership.aspx) and enter the permit number listed on the legislative notice; or
- Contact your police department or your county sheriff if you are a township fiscal officer or county clerk. The Division sends the applicable law enforcement agency the pertinent ownership information when it notifies them of the permit application.

Thank you in advance for your cooperation,

Division Licensing Section

Licensing Section  
6606 Tussing Road  
Reynoldsburg, OH 43068-9009

Fax 614-728-1281  
TTY/TDD 800-750-0750  
com.ohio.gov



# LEGISLATIVE COVER MEMO

**Introduction:** May 2, 2022

**Public Hearing:** May 16, 2022

**Effective Date:** June 15, 2022

**Agenda Item:** **Ordinance 2022-15**

DETERMINING TO PROCEED WITH THE IMPROVEMENT OF CITY STREETS AND PUBLIC WAYS BY THE LIGHTING THEREOF FOR THE YEAR 2023

**Submitted by:** Khristi Dunn, Clerk of Council

**Scope/Description:** This is the second of three steps Council must act upon to implement the annual street lighting assessments for 2023.

**Budget Impact:** \$170,000 is the total projected cost for lighting of the streets, lanes and public ways for 2023. The City funds 2% of the total (\$3,400) and assessed residents' shares total \$166,600.

**Exhibits:** None

**Recommendation:** Approval

CITY OF FRANKLIN, OHIO  
ORDINANCE 2022-15

**DETERMINING TO PROCEED WITH THE IMPROVEMENT OF CITY STREETS AND PUBLIC WAYS BY THE LIGHTING THEREOF FOR THE YEAR 2023**

WHEREAS, Section 727.23 of the Ohio Revised Code requires the legislative authority of a municipal corporation that has adopted a Resolution of Necessity, pursuant to Section 727.12 of the Ohio Revised Code, to determine whether it will proceed with the proposed improvement;

WHEREAS, this Council adopted such Resolution of Necessity for the improvement of City streets and public ways by the lighting thereof for the year 2023, by Resolution 2022-33 dated April 18, 2022, and the passage of such Resolution has been advertised and noticed to residents as required by law;

WHEREAS, the Finance Director, in accordance with Resolution 2022-33, has filed with the Clerk of Council, on April 19, 2022, estimated assessments, showing the amount of the special assessment against each lot to be assessed;

WHEREAS, in accordance with Sections 727.15, 727.18 and 727.23 of the Ohio Revised Code, the time for filing claims for damages and objections has passed, and no claims for damages nor any objections were filed; and

WHEREAS, this Council finds it to be in the best interests of the health, safety and welfare of the City of Franklin, Ohio and its residents to proceed with the proposed improvement.

THE CITY OF FRANKLIN HEREBY ORDAINS, a majority of the members of Council present concurring, that:

Section 1. Council hereby determines to proceed with improving the streets and other public ways within the corporate limits of the City by the lighting thereof for the year 2023, said lighting to be provided by electrical lighting, in accordance with the provisions of Resolution 2022-33 passed by this body on April 18, 2022.

Section 2. The estimated special assessments, prepared and filed in accordance with Resolution 2022-33, are hereby adopted.

Section 3. Any claims for damages resulting from the improvement that have been filed in accordance with law shall be judicially inquired into before commencement of the improvement in accordance with Sections 727.23 and 727.18.

Section 4. It is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 5. This Ordinance shall go into effect on June 15, 2022.

INTRODUCED: May 2, 2022

ADOPTED: May 16, 2022

ATTEST: \_\_\_\_\_  
Khristi Dunn, Clerk of Council

APPROVED: \_\_\_\_\_  
Brent W. Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council do hereby certify that the foregoing is a true and correct copy of Ordinance 2022-15 passed by that body on May 16, 2022.

\_\_\_\_\_  
Khristi Dunn, Clerk of Council

Approved as to form: \_\_\_\_\_  
Ben Yoder, Law Director