

CITY OF FRANKLIN, OHIO
ORDINANCE 2024-31

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF FRANKLIN, OHIO TO PROVIDE AMENDMENTS TO GENERAL OFFENSES FRANKLIN CITY CODE SECTIONS 501.01, 501.99, 513.01, 513.03, 531.01, 533.03, 533.04, 537.02, 537.03, 537.16, 549.03; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, Part Five of the Codified Ordinances of the City of Franklin sets forth the City's 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 laws set forth in the Ohio Revised Code.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Franklin, Ohio, a majority of members present concurring, 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. The addition, amendment, or removal of Municipal Franklin City Code Sections when passed in such form as to indicate the intention of the governing authority of the City of Franklin, Ohio to make the same a part of the Municipal Code shall be deemed to be incorporated in the Municipal Code, so that reference to the Municipal Code includes the additions, amendments, and removals.

Section 3. The codifier (meaning the person, agency or organization authorized to prepare the supplement to the Code of Ordinances of the City of Franklin, Ohio) is authorized to exclude and omit any provisions of this ordinance that are inapplicable to the City's Municipal Code.

Section 4. Supplementation of Code.

- a. In preparing a supplement to City's Municipal Code, all portions of this ordinance which have been repealed shall be excluded from the City's Municipal Code by the omission thereof from reprinted pages.
- b. When preparing a supplement to the City's Municipal Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in this ordinance and parts of this ordinance included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
 1. Organize the ordinance material into appropriate subdivisions;
 2. Provide appropriate catchlines, headings and titles for sections and other subdivisions of the City's Municipal Code printed in the supplement, and make changes in such catchlines, headings and titles;
 3. Assign appropriate numbers to sections and other subdivisions to be inserted in the City's Municipal Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
 4. Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the City's Municipal Code which embody the substantive sections or the ordinance incorporated into the Code); and
 5. Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the City's Municipal Code; but in no case shall

- the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodies in the City's Municipal Code.
- c. In preparing a supplement to the City's Municipal Code, the pages of a supplement shall be so numbered that they will fit properly into the City's Municipal Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the City's Municipal Code will be current through the date of the adoption of the latest ordinance included in the supplement.

Section 5. Provisions of Exhibit A that duplicate or track State statutes which do not become effective until after the effective date of this ordinance, shall not take effect until such statutes take effect.

Section 6. The following sections and subsections of the Municipal Code are new or have been amended with new matter in the Municipal Code, and are hereby approved, adopted and enacted.

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

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

Section 9. 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 Chapter 121 of the Ohio Revised Code, and the Rules of Council.

INTRODUCED: October 21, 2024

ADOPTED: November 4 2024

ATTEST: Kristi Dunn
Kristi Dunn, Clerk of Council

APPROVED: Brent Centers
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 2024-31 passed by City Council on November 4, 2024.

Kristi Dunn
Kristi Dunn, Clerk of Council

APPROVED AS TO FORM:

Ben Yoder
Ben Yoder, Law Director

501.01 Definitions

As used in the Codified Ordinances:

- (a) “Force” means any violence, compulsion or constraint physically exerted by any means upon or against a person or thing.
- (b) “Deadly Force” means any force that carries a substantial risk that it will proximately result in the death of any person.
- (c) “Physical Harm to Persons” means any injury, illness or other physiological impairment, regardless of its gravity or duration.
- (d) “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.
- (e) “Serious Physical Harm to Persons” means any of the following:
 - (1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
 - (2) Any physical harm that carries a substantial risk of death;
 - (3) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;
 - (4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;
 - (5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.
- (f) “Serious Physical Harm to Property” means any physical harm to property which does either of the following:
 - (1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;
 - (2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use or enjoyment for an extended period of time.
- (g) “Risk” means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.
- (h) “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.
- (i) “Offense of Violence” means any of the following:

(1) 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.

(2) 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 section, division, or offense listed in "Offense of Violence" in subsection

(a) hereof;

(3) 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;

(4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (a), (b) or (c) hereof.

(j) "Property" means:

(1) 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) 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) 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.

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

(1) 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.

- (2) An officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of such statutory duty and authority;
- (3) A mayor, in the mayor's capacity as chief conservator of the peace within the mayor's municipal corporation;
- (4) 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;
- (5) 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;
- (6) A person appointed by a mayor pursuant to Ohio R.C. 737.10 as a special patrolling officer during a riot or emergency, for the purposes and during the time when the person is appointed;
- (7) A member of the organized militia of this state or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;
- (8) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor;
- (9) A veterans' home police officer appointed under Ohio R.C. 5907.02;
- (10) A member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y);
- (11) A special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28.
- (12) The House of Representatives Sergeant at Arms if the House of Representatives Sergeant at Arms has arrest authority pursuant to Ohio

R.C. 101.311(E)(1) and an Assistant House of Representatives Sergeant at Arms.

- (13) The Senate Sergeant at Arms and an Assistant Senate Sergeant at Arms;
 - (14) 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.
- (l) "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.
 - (m) "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:
 - (1) Any controlled substance, as defined in Ohio R.C. 3719.01, or any device or paraphernalia related thereto;

(2) Any unlawful gambling device or paraphernalia;

(3) Any dangerous ordnance or obscene material.

(n) 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.

(o) (1) "Person" Subject to subsection (ii) 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) An individual, corporation, business trust, estate, trust, partnership and association.

(B) An unborn human who is viable.

(i) 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.

(ii) As used in subsection (o)(1)(B) of this definition, “unborn human” means an individual organism of the species *Homo sapiens* from fertilization until live birth. “Viable” means the stage of development of a human fetus at which there is a realistic probability of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.

(2) Notwithstanding subsection (o)(1) of this definition, in no case shall the portion of the definition of the term “person” that is set forth in subsection (o)(1)(B) 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:

(A) Except as otherwise provided in subsection (2)(A). of this definition, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as any violation of Ohio R.C. 2903.01 through 2903.06, 2903.08, 2903.11 through 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), 2919.151, 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.

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

(i) Her delivery of a stillborn baby.

(ii) Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying.

(iii) 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.

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

(v) 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.

(p) “School,” “School Building,” and “School Premises” have the same meanings as in Ohio R.C. 2925.01.

(q) “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~~ Director of Education and Workforce prescribes minimum standards under Ohio R.C. 3301.07.

(r) “School Bus” has the same meaning as in Ohio R.C. 4511.01.

(s) “School Safety Zone” consists of a school, school building, school premises, school activity, and school bus.

(ORC 2901.01)

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

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

(2) 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;

(3) Having been convicted of one or more theft offenses, as defined in Ohio

R.C. 2913.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent theft offense;

(4) Having been convicted of one or more felony drug abuse offenses, as defined in Ohio R.C. 2925.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent felony drug abuse offense;

(5) Having been convicted of two or more felonies, and having been imprisoned pursuant to sentence for any such offense, he or she commits a subsequent offense;

(6) Having been convicted of three or more offenses of any type or degree other than traffic offenses, alcoholic intoxication offenses, or minor misdemeanors, and having been imprisoned pursuant to sentence for any such offense, he or she commits a subsequent offense.

(ORC 2935.36)

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)

(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.

(6) 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.

(7) If a court sentences an offender to a jail term under this section, the sentencing court retains jurisdiction over the offender and the jail term. Upon motion of either party or upon the court's own motion, the court, in the court's sole discretion and as the circumstances warrant, may substitute one or more community control sanctions under Ohio R.C. 2929.26 or 2929.27 for any jail days that are not mandatory jail 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. 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.

(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.

(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.

(2) 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 community-based correctional facility or 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) 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) 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's occupation or care for the offender's family;

(B) Authorize the offender to be released so that the offender may seek or maintain employment, receive education or training, receive treatment, perform community service, or otherwise fulfill an obligation imposed by law or by the court. A release pursuant to this division shall be only for the duration of time that is needed to fulfill the purpose of the release and for travel that reasonably is necessary to fulfill the purposes of release.

(3) The court may order that a reasonable portion of the income earned by the offender upon a release pursuant to division (d)(2) of this section be applied to any financial sanction imposed under division (f) of this section.

(4) No court shall sentence any person to a prison term for a misdemeanor or to a jail term for a minor misdemeanor.

(5) If a court sentences a person who has been convicted of or pleaded guilty to a misdemeanor to a community residential sanction as described in division (d)(1) of this section, at the time of reception and at other times the person in charge of the operation of the halfway house, community alternative sentencing center, district community alternative sentencing center, or other place at which the offender will serve the residential sanction determines to be appropriate, the person in charge of the operation of the halfway house, community alternative sentencing center, district community alternative sentencing center, or other place may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the halfway house, community alternative sentencing center, district community alternative sentencing center, or other place at which the offender will serve the residential sanction may cause a convicted offender in the halfway house, community alternative sentencing center, district community alternative sentencing center, or other place who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.

(6) The Municipality may enter into a contract with a halfway house for use of the halfway house to house misdemeanor offenders under a sanction imposed under division (d)(1)A. of this section.

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

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

(f) Financial Sanctions.

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

(A) Restitution.

(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.
- (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.
- (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)(1) 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, except as provided in divisions (D)(2) and (3) of this section, be transmitted to the treasurer of state to be credited to the address confidentiality program fund created by Ohio R.C. 111.48.

(2) A court that imposes a fine under division (D)(1) of this section may retain up to twenty-five per cent of amounts collected in satisfaction of the fine to cover administrative costs.

(3) A court that imposes a fine under division (D)(1) of this section may assign up to twenty-five per cent of amounts collected in satisfaction of the fine to reimburse the prosecuting attorney for costs associated with prosecution of the offense.

(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(E)(1) and (2) or a substantially equivalent municipal ordinance.

(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.

(2) 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.

(3) 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. 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.

(4) No financial sanction imposed under this division (f) shall preclude a victim from bringing a civil action against the offender.

(ORC 2929.28)

(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)

(g) 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:

Misdemeanor terms, see Ohio R.C. 2929.24

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

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.

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

- (b) “Adulterate.” To cause a drug to be adulterated as described in ORC 3715.63.
- (c) “Benzodiazepine.” A controlled substance that has United States Food and Drug Administration approved labeling indicating that it is a benzodiazepine, benzodiazepine derivative, triazolobenzodiazepine, or triazolobenzodiazepine 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.
- (d) “Bulk Amount.” Of a controlled substance means any of the following:
- (1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II or Schedule III, with the exception of any controlled substance analog, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in division (b), (e), or (f) of this definition, whichever of the following is applicable:
- (A) 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;
- (B) 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;
- (C) 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;
- (D) 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;
- (E) 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;
- (F) 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 Ohio R.C. 3719.01, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;
- (G) An amount equal to or exceeding three (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;
- (2) 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;

(3) 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;

(4) 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.

(5) 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.

(6) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in schedule III, schedule IV, or schedule V, if the defendant is charged with a violation of 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.

(e) “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.

(f) “Cocaine.” Any of the following:

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

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

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

(g) “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.

(h) “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.

(i) “Controlled Substance.” A drug, compound, mixture, preparation, or substance included in Schedule I, II, III, IV, or V, 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.

(j) “Controlled Substance Analog.”

(1) The phrase means, except as provided in division (2) of this definition, a substance to which both of the following apply:

(A) The chemical structure of the substance is substantially similar to the structure of a controlled substance in Schedule I or II.

(B) One of the following applies regarding the substance:

(i) 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.

(ii) With respect to a particular person, that person represents or intends the substance to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(2) The phrase does not include any of the following:

(A) A controlled substance;

(B) Any substance for which there is an approved new drug application;

(C) With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent that conduct with respect to that substance is pursuant to that exemption;

(D) Any substance to the extent it is not intended for human consumption before the exemption described in division (b)(3) of this definition takes effect with respect to that substance.

(3) 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.

(k) “Counterfeit Controlled Substance.” Any of the following:

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

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

processed, packed, or distributed it.

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

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

(l) “Cultivate.” Includes planting, watering, fertilizing or tilling.

(m) “Dangerous Drug.” Any of the following:

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

(A) Under the Federal Food, Drug, and Cosmetic Act, 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 may be dispensed only upon a prescription.

(B) Under ORC Chapter 3715 or 3719, the drug may be dispensed only upon a prescription.

(2) 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.

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

(4) Any drug that is a biological product, as defined in Ohio R.C. 3715.01.

(n) “Deception.” Has the same meaning as in ORC 2913.01.

(o) “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.

(p) “Dispense.” Means to sell, leave with, give away, dispose of, or deliver.

(q) “Distribute.” Means to deal in, ship, transport or deliver, but does not include administering or dispensing a drug.

(r) “Drug.” Any of the following:

(1) Any article recognized in the official United States pharmacopeia, 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.

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

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

(4) Any article intended for use as a component of any article specified in division (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.

(s) "Drug Abuse Offense." Any of the following:

(1) 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.

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

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

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

(t) "Person with a drug dependency." 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.

(u) "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 Ohio R.C. 4729.01.

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

(w) "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.

(x) "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.

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

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

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

- (B) Any aerosol propellant.
- (C) Any fluorocarbon refrigerant.
- (D) Any anesthetic gas.
- (2) Gamma Butyrolactone;
- (3) 1,4 Butanediol.

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

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

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

(ac) "Laboratory." A laboratory 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.

(ad) "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.

(ae) "Licensed Health Professional Authorized to Prescribe Drugs" or "Prescriber." An individual who is authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual's professional practice, including only the following:

- (1) A dentist licensed under ORC Chapter 4715.
- (2) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds current, valid license issued under ORC Chapter 4723 to practice nursing as an advanced practice registered nurse;
- (3) 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;

(4) An optometrist licensed under ORC Chapter 4725 to practice optometry under a therapeutic pharmaceutical agents certificate.

(5) A physician authorized under ORC Chapter 4731 to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(6) 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.

(7) A veterinarian licensed under ORC Chapter 4741.

(af) "L.S.D." Lysergic acid diethylamide.

(ag) "Major Drug Offender." Has the same meaning as in ORC 2929.01. (ah) "Mandatory Prison Term." Has the same meaning as in ORC 2929.01.

(ai) "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.

(aj) "Manufacturer." A person who manufactures a controlled substance, as "manufacture" is defined in ORC 3715.01, and includes a "manufacturer of dangerous drugs" as defined in ORC 4729.01..

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

(al) "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.

(am) "Minor Drug Possession Offense." Either of the following:

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

(2) 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.

(an) "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.

(ao) “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.

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

(aq) “Pharmacist.” A person licensed under ORC Chapter 4729 to engage in the practice of pharmacy.

(ar) “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.

(as) “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.

(at) “Prescription.” Means all of the following:

(1) 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.

(2) For purposes of ORC 2925.61, 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.

(3) 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:

(A) An individual who there is reason to believe is at risk of experiencing an opioid-related overdose;

(B) 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.

(4) 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.

(5) For purposes of ORC 3313.7110, 3313.7111, 3314.143, 3326.28, 3328.29, 4723.483, 4729.88, 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.

(6) For purposes of ORC Chapter 3728 and ORC 4723.483, 4729.88, 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.

(7) 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.

(au) "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.

(av) "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) and that qualifies a person as a professionally licensed person.

(aw) "Professionally Licensed Person." Any of the following:

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

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

(3) 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;

(4) A person licensed under ORC Chapter 4707;

(5) A person who has been issued a certificate of registration as a registered barber under ORC Chapter 4709;

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

(7) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, 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;

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

(9) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license, or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under ORC Chapter 4717;

- (10) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse- midwifery under ORC Chapter 4723;
- (11) A person who has been licensed to practice optometry or to engage in optical dispensing under ORC Chapter 4725;
- (12) A person licensed to act as a pawnbroker under ORC Chapter 4727;
- (13) A person licensed to act as a precious metals dealer under ORC Chapter 4728;
- (14) A person licensed as a pharmacist, or pharmacy intern, or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;
- (15) A person licensed under 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;
- (16) A person who is authorized to practice as a physician assistant under ORC Chapter 4730;
- (17) A person who has been issued a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under ORC Chapter 4731 or has been issued a certificate to practice a limited branch of medicine under that chapter;
- (18) A person licensed as a psychologist or school psychologist under ORC Chapter 4732;
- (19) A person registered to practice the profession of engineering or surveying under ORC Chapter 4733;
- (20) A person who has been issued a license to practice chiropractic under ORC Chapter 4734;
- (21) A person licensed to act as a real estate broker or real estate salesperson under ORC Chapter 4735;
- (22) A person registered as a registered environmental health specialist under ORC Chapter ~~4736~~ 3776;
- (23) A person licensed to operate or maintain a junkyard under ORC Chapter 4737;
- (24) A person who has been issued a motor vehicle salvage dealer's license under ORC Chapter 4738;
- (25) A person who has been licensed to act as a steam engineer under ORC Chapter 4739;
- (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under ORC Chapter 4741;
- (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under ORC Chapter 4747;
- (28) A person who has been issued a class A, class B, or class C license or who has been registered as an investigator or security guard employee under ORC Chapter 4749;

- (29) A person licensed to practice as a nursing home administrator under ORC Chapter 4751;
- (30) A person licensed to practice as a speech-language pathologist or audiologist under ORC Chapter 4753;
- (31) A person issued a license as an occupational therapist or physical therapist under ORC Chapter 4755;
- (32) 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;
- (33) A person issued a license to practice dietetics under ORC Chapter 4759;
- (34) A person who has been issued a license or limited permit to practice respiratory therapy under ORC Chapter 4761;
- (35) A person who has been issued a real estate appraiser certificate under ORC Chapter 4763.
- (36) A person who has been issued a home inspector license under ORC Chapter 4764;
- (37) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules.
- (ax) "Public Premises." Any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.
- (ay) "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.
- (az) "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.
- (ba) "Schedule I, II, III, IV or V." Controlled substance Schedules I, II, III, IV, and V, respectively, as established 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.
- (bb) "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~~ Director of Education and Workforce 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.
- (bc) "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.
- (bd) "School Premises." Either of the following:
 - (1) The parcel of real property on which any school is situated, whether or not any instruction,

extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed.

(2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under ORC Chapter 3314, or the governing body of a nonpublic school for which the ~~State Board~~ Director of Education and Workforce 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.

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

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

(bg) "Unit Dose." An amount or unit of 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.

(bh) "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)

HISTORY

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.

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

(1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct was in accordance with ORC 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 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.

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

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

(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 acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose as described in division (b)(2)B. of this section.
- (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)E. 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 or a violation of section ORC 2925.12, ORC 2925.14 (C) (1), or ORC 2925.141 if all of the following apply:

- (i) The evidence of the obtaining, possession, or use of the controlled substance or controlled substance analog drug abuse instruments, or drug paraphernalia 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 who is serving a community control sanction or is under a sanction on post-release control acts pursuant to division (b)(2)(B) of this section, then ORC 2929.141(B), 2929.15(B)(2), 2929.25(D)(3), or 2967.28(F)(3) applies to the person with respect to any violation of the sanction or post-release control sanction based on a minor drug possession offense, as defined in ORC 2925.11, or a violation of ORC 2925.12, 2925.14(C)(1), or ORC 2925.141.

(D) 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 or a violation of ORC 2925.12, ORC 2925.14(C)(1), or ORC

2925.141 committed by a person who qualifies for protection pursuant to division (b)(2)B. of this section;

(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.

(E) Division (b)(2)B. of this section does not apply to any person who twice previously has been granted an immunity under division (b)

(2)B. of this section. No person shall be granted an immunity under division (b)(2)B. of this section more than two (2) times.

(F) 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.

(b) 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, with the exception of marihuana, or is cocaine, L.S.D., heroin, any fentanyl-related compound, hashish, a controlled substance analog, 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 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.

(c) 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.

(d) In addition to any prison term or jail term authorized or required by subsection

(c) hereof and Ohio R.C. 2915.11, 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 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.

(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)

531.01 Interference With Custody

(a) No person, knowing he is without privilege to do so or being reckless in that regard, shall entice, take, keep or harbor any of the following persons from his parent, guardian or custodian:

(1) A child under the age of eighteen or a ~~mentally or physically handicapped~~ child with a mental or physical disability under the age of twenty-one;

(2) A person committed by law to an institution for delinquent, unruly, neglected or dependent children;

(3) A person committed by law to an institution for ~~the mentally ill~~ persons with mental illnesses or an institution for persons with intellectual disabilities.

(b) It is an affirmative defense to a charge of enticing or taking under subsection (a)

(1) hereof that the actor reasonably believed that his conduct was necessary to preserve the child's health or safety. It is an affirmative defense to a charge of keeping or harboring under subsection (a) hereof that the actor In good faith gave notice to law enforcement or judicial authorities within a reasonable time after the child or committed person came under his shelter, protection or influence.

(c) Whoever violates this section is guilty of interference with custody, a misdemeanor of the third degree.

(ORC 2919.23)

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 a violation of former Ohio R.C. 2907.12, unlawful sexual conduct with a minor is a felony to be prosecuted under appropriate state law.

(ORC 2907.04)

HISTORY

Amended by Ord. 2022-14 on 5/2/2022

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)

HISTORY

Amended by Ord. 2022-14 on 5/2/2022

537.02 Vehicular Homicide; Vehicular Manslaughter

(a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, utility vehicle, mini-truck, 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, utility vehicle, mini-truck 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, utility vehicle, mini-truck, 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 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, mini-truck, and utility vehicle" ~~has~~ have the same meanings 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

HISTORY

Amended by Ord. 2022-14 on 5/2/2022

537.03 Assault

(a) No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn.

(b) No person shall recklessly cause serious physical harm to another or to another's unborn.

(c) Whoever violates this section is guilty of assault. Except as otherwise provided in subsections (c)(1), (c)(2), (c)(3) and (c)(4), assault is a misdemeanor of the first degree.

(1) If the offense is committed by a caretaker against a functionally impaired person under the caretaker's care, assault is a felony to be prosecuted under appropriate State law.

(2) If victim of the offense is a school teacher or administrator or a school bus operator, and the offense occurs is a school, on school premises, in a school building, on a school bus, or while the victim is outside of school premises or a school bus and is engaged in duties or official responsibilities associated with the victim's employment or position as a school teacher or administrator or a school bus operator, including, but not limited to, driving, accompanying, or chaperoning students at or on class or field trips, athletic events, or other school extracurricular activities or functions outside of school premises, assault is a felony to be prosecuted under appropriate State law.

(3) If the victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation, a firefighter, or a person performing emergency medical service, while in the performance of their official duties, assault is a felony to be prosecuted under appropriate State law.

(4) If the victim of the offense is an officer or an 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, assault is a felony to be prosecuted under appropriate State law.

(d) If an offender who is convicted of or pleads guilty to a misdemeanor assault under this section also is convicted of or pleads guilty to a specification as described in Ohio R.C. 2941.1423 that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in Ohio R.C. 2929.24(G).

(e) As used in the section:

(1) “Emergency medical service” has the same meaning as in Ohio R.C. 3937.41.

(2) “Firefighter” has the same meaning as in Ohio R.C. 3937.41.

(3) “Investigator of the Bureau of Criminal Identification and Investigation” has the same meaning as in Ohio R.C. 2903.11.

(4) “Peace Officer” has the same meaning as Ohio R.C. 2935.01.

(5) “School teacher or administrator” means either of the following:

(A) A person who is employed in the public schools of the Municipality or State under a contract described in Ohio R.C. 3319.08 in a position in which the person is required to have a certificate issued pursuant to Ohio R.C. 3319.22 to 3319.311.

(B) A person who is employed by a nonpublic school for which the ~~State Board~~ Director of Education and Workforce prescribes minimum standards under Ohio R.C. 3301.07 and who is certified in accordance with Ohio

R.C. 3301.071.

Statutory reference:

Assault, see Ohio R.C. 2903.13

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 twenty- one (21) years of age or older.

(B) “Alternative nicotine product.”

(i) Subject to division 2. of this definition, an electronic smoking device, vapor product, or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving, or inhaling.

(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) “Cigarette.” Includes clove cigarettes and hand-rolled cigarettes.
- (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.
- (E) “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).
- (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 twenty-one (~~18~~ 21) years of age or older.
- (G) “Tobacco product.” Means any product that is made or derived from tobacco or that contains any form of nicotine, if it is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. “Tobacco product” also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. “Tobacco product” does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).
- (H) “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.
- (I) “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 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 twenty-one~~

~~(21) years of age is prohibited by law; ;~~

(i) To any person under twenty-one (21) years of age; or

(ii) Without first verifying proof of age.

(C) Knowingly furnish any false information regarding the name, age, or other identification of any 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 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 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-;

(G) Allow an employee under eighteen years of age to sell any tobacco product;

(H) Give away or otherwise distribute free samples of cigarettes, other tobacco products, alternative nicotine products, or coupons redeemable for cigarettes, other tobacco products, or alternative nicotine products.

(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 person 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 person under twenty-one (21) years of age was accompanied by a parent, spouse who is twenty-one (21) years of age or older, or legal guardian of the child.

(B) The person who gave, sold, or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a under twenty-one (21) years of age under division (a)(2)A. of this section is a parent, spouse who is twenty- one (21) years of age or older, or legal guardian of the person under twenty-one (21) years of age..

(5)(A) It is not a violation of division (a)(2)A. or (a)(2)B. of this section for a person to give or otherwise distribute to a person under twenty-one (21) years of age. cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes while the person under twenty- one (21) years of age. is participating in a research protocol if all of the following apply:

(Ai) The parent, guardian, or legal custodian of the person under twenty-one (21) years of age. has consented in writing to the child participating in the research protocol.

(Bii) An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol.

(Ciii) The person under twenty-one (21) years of age. is participating in the research protocol at the facility or location specified in the research protocol.

(B) It is not a violation of division (2)(A) or (B) of this section for an employer to permit an employee eighteen, nineteen, or twenty years of age to sell a tobacco product.

(6)(A) No delivery service shall accept from, transport or deliver to, or allow pick-up by, a person under twenty-one years of age with respect to any of the following:

(i) Alternative nicotine products;

(ii) Papers used to roll cigarettes;

(iii) Tobacco products other than cigarettes.

(B) A delivery service shall require proof of age as a condition of accepting, transporting, delivering, or allowing pickup of the items described in divisions (6)(A)(i) to (iii) of this section.

~~(A7) Whoever violates division (a)(2)A., (a)(2)B., (a)(2)D., (a)(2)E., or (a)(2)F. (a)(2)G. (a)(2)H. or (a)(2)L. (a)(3) or (a)(36) 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, or pleaded guilty to~~ Ohio R.C. 2927.02(B)(1), (2), (4), (5), or (6) or (C) illegal distribution of

cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

~~(B8)~~ Whoever violates division (a)(2)C. of this section is guilty of permitting 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 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 Ohio R.C. 2927.02(B)(3), permitting 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.

~~(69)~~ Any cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a person under twenty-one (21) years of age in violation of this section and that are used, possessed, purchased, or received by a 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.

(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.

(2) 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.

(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 .

(3) 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.

(4) 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

(i) In the case of cigarettes, a person who is:

(ii) Licensed as a cigarette wholesale dealer under ORC 5743.15;

(iii) Licensed as a retail dealer as long as the person purchases cigarettes with the appropriate tax stamp affixed;

(~~iv~~) 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;
- (vi) An officer, employee, or agent of the federal government or of this state acting in the person's official capacity;
- (vii) A department, agency, instrumentality, or political subdivision of the federal government or of this state;
- (viii) A person having a consent for consumer shipment issued by the Tax Commissioner under ORC 5743.71.

(B) In the case of electronic smoking devices or vapor products, a person who is:

(i) Licensed as a distributor of tobacco or vapor products under section 5743.61 of the Revised Code;

(ii) A retail dealer of vapor products, as defined in division (C)(3) of section 5743.01 of the Revised Code, that is not licensed as a vapor distributor, as long as the tax levied by section 5743.51, 5743.62, or 5743.63 of the Revised Code, as applicable, has been paid;

(iii) An operator of a customs bonded warehouse under 19 U.S.C. 1311 or 19 U.S.C. 1555;

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

(v) A department, agency, instrumentality, or political subdivision of the federal government or of this state.

(BC) "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, electronic smoking devices, and vapor products to minors and to ensure compliance with the Master Settlement Agreement, as defined in Ohio R.C. 1346.01.

(A) No person shall cause to be shipped any cigarettes, electronic smoking devices, and vapor products 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, electronic smoking devices, and vapor products to any person in this Municipality that the carrier or other person reasonably believes is not an authorized recipient of tobacco products. If cigarettes, electronic smoking devices, and vapor products 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, electronic smoking devices, and vapor products were delivered was not an authorized recipient of tobacco products.

(3) No person engaged in the business of selling cigarettes, electronic smoking devices, and vapor products who ships or causes to be shipped cigarettes, electronic smoking devices, and vapor products 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, electronic smoking devices, and vapor products are shipped with the words "cigarettes", "electronic smoking devices", and "vapor products".

(4) 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)

HISTORY

Amended by Ord. 2022-14 on 5/2/2022

549.03 Notice To Law Enforcement; Prohibited Places; Private Employers And Signage; Reciprocity

(a) Notice to Law Enforcement upon Stop:

(1) 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.

(b) Prohibited Places: A valid concealed handgun license issued under Ohio R.C. 2923.125 or 2923.1213 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. 2923.1233;

(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) 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) 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.

(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.

(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.

(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~~-child care home, or type B family ~~day~~-child care home, unless the person is a licensee who resides in a type A family ~~day~~-child care home or type B family ~~day~~-child 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.

(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.

(iii) 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 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 under section 2923.125 of the Revised Code and is subject to the same restrictions that apply to a person who has been issued a license under that section that is valid at the time in question .

(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 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 has been issued a license issued under that section that is valid at the time in question. For purposes of reciprocity with other states, a qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to division (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.

(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:

(i) 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.

(ii) 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.

(iii) 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.

(iv) 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) (B)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.

(D) 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.

(E) 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.

(F) 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

HISTORY

Amended by Ord. 2019-28 on 12/2/2019 Amended by Ord. 2019-29 on 12/16/2019 Amended by Ord. 2022-14 on 5/2/2022 Amended by Ord. 2023-27 on 11/20/2023