



ORDINANCE 2022-03

AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF THE CITY OF POWELL, OHIO, TO PROVIDE AMENDMENTS, DELETIONS AND REPEAL TO PART FIVE – GENERAL OFFENSES CODE, TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SUPPLEMENTATION; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

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

BE IT ORDAINED BY THE CITY OF POWELL, STATE OF OHIO:

Section 1. Amendment. That the Codified Ordinances of the City of Powell, Ohio (the "City Municipal Code"), Part Five – General Offenses Code, is hereby amended as set forth in Section 6, below.

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

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

Section 4. Supplementation of Code.

- (a) In preparing a supplement to the City Municipal Code, all portions of this ordinance which have been repealed shall be excluded from the City Municipal Code by the omission thereof from reprinted pages.
- (b) When preparing a supplement to the City Municipal Code, the codifier may make formal, non-substantive changes in and to this ordinance and parts of this ordinance included in the supplement, insofar as it is necessary to do so as to embody them into a unified code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions;

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- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the City 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 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 Municipal Code which embody the substantive sections or the ordinance incorporated therein; and
 - (5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the City 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 embodied in the City Municipal Code.
- (c) In preparing a supplement to the City Municipal Code, the pages of a supplement shall be so numbered such that they will fit properly into the City Municipal Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared such that when they have been inserted, the City Municipal Code will be current through the date of the adoption of the most recent ordinance included in the supplement.

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

Section 6. Sections Amended. The following sections and subsections of the City Municipal Code, Part Five – General Offenses Code, are new or have been amended with new matter, deletions, and repeal, and are hereby approved, adopted and enacted, the body of each to read as set forth below the following of title, chapter, and section numbers included herein:

Chapter 501. General Provisions and Penalty: 501.01, 501.04, 501.99

Chapter 509. Disorderly Conduct and Peace Disturbance: 509.03, 509.05, 509.07

Chapter 513. Drug Abuse Control: 513.01, 513.02, 513.03, 513.04, 513.05, 513.06, 513.07, 513.08, 513.12

Chapter 517. Gambling: 517.01, 517.07, 517.08, 517.09, 517.11, 517.13, 517.14

Chapter 521. Health, Safety and Sanitation: 521.08, 521.09

Chapter 525. Law Enforcement and Public Office: 525.05, 525.12, 525.13, 525.16

Chapter 529. Liquor Control: 529.02, 529.021, 529.06, 529.07;

Chapter 533. Obscenity and Sex Offenses: 533.02, 533.04, 533.07, 533.09, 533.14

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Chapter 537. Offenses Against Persons: 537.02, 537.021, 537.10, 537.16, 537.17, 537.19

Chapter 541. Property Offenses: 541.02, 541.04, 541.05, 541.051

Chapter 545. Theft and Fraud: 545.01, 545.02, 545.03, 545.05, 545.09, 545.12, 545.14, 545.18, 545.20

Chapter 549. Weapons and Explosives: 549.01, 549.02, 549.04, 549.06, 549.10, 549.11, 549.13

Chapter 553. Railroads: 553.03, 553.04

CHAPTER 501. GENERAL PROVISIONS AND PENALTY

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 that does either of the following:
 - (1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;

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- (2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use and 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 O.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, 2923.161; or 2903.34(A)(1); 2911.12(A)(1) to (3); or 2919.22(B)(1) to (4); or felonious sexual penetration in violation of former O.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 listed in subsection (i)(1) 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 (i)(1), (2) or (3) hereof.
- (j) (1) *Property* means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. "Financial instruments associated with computers" include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.
- (2) As used in this section, "trade secret" has the same meaning as in O.R.C. § 1333.61, and "telecommunications service" and "information service" have the same meanings as in O.R.C. § 2913.01.
- (3) As used in this section, "cable television service," "computer," "computer software," "computer system," "computer network," "data," and "telecommunications device" have the same meanings as in O.R.C. § 2913.01.
- (k) *Law enforcement officer* means any of the following:

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- (1) A sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under O.R.C. § 3735.31(D), or State highway patrol trooper;
 - (2) An officer, agent, or employee of the State or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, Charter or ordinance, 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 that statutory duty and authority;
 - (3) A mayor or manager in the mayor's or manager's capacity as chief conservator of the peace within the mayor's or manager'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 O.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 O.R.C. § 737.01 as a special patrolling officer during 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 O.R.C. § 5907.02;
 - (10) A member of a police force employed by a regional transit authority under O.R.C. § 306.35(Y);
 - (11) A special police officer employed by a port authority under O.R.C. § 4582.04 or 4582.28;
 - (12) The Senate Sergeant of Arms and or Assistant Sergeant at Arms;
 - (13) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in Section 119.3 of Title 14 of the Code of Federal Regulations, 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 Parts 1542 and 1544 of Title 49 of the Code of Federal Regulations, as amended.
- (l) *Privilege* means an immunity, license or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office, or relationship, or growing out of necessity.

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- (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 O.R.C. § 3719.01, or any device, or paraphernalia;
 - (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 O.R.C. § 2901.05, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of the person's acts.
- (o) (1) A. Subject to subsection (o)(2) hereof, as used in any section contained in Part Five—General Offenses Code that sets forth a criminal offense, "person" includes all of the following:
1. An individual, corporation, business trust, estate, trust, partnership, and association;
 2. An unborn human who is viable.
- B. As used in any section contained in Part Five - General Offenses Code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, trust, partnership and association.
- C. As used in subsection (o)(1)A. hereof:
1. *Unborn human* means an individual organism of the species *Homo sapiens* from fertilization until live birth.
 2. *Viable* means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.
- (2) Notwithstanding subsection (o)(1)A. hereof, in no case shall the portion of the definition of the term "person" that is set forth in subsection (o)(1)A.2. hereof be applied or construed in any section contained in Part Five—General Offenses Code that sets forth a criminal offense in any of the following manners:
- A. Except as otherwise provided in subsection (o)(2)A. hereof, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of O.R.C. § 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate O.R.C. § 2919.12, division (B) of O.R.C. § 2919.13, or O.R.C. §§ 2919.15, 2919.151, 2919.17 or 2919.18, may be punished as a violation of O.R.C. §

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2919.12, division (B) of O.R.C. § 2919.13, or O.R.C. §§ 2919.15, 2919.151, 2919.17 or 2919.18, 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 O.R.C. § 2919.12.

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

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

(p) *School safety zone* consists of a school, school building, school premises, school activity, and school bus.

(q) *School, school building, and school premises* have the same meanings as in O.R.C. § 2925.01.

(r) *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 O.R.C. Ch. 3314; a governing body of an educational service center; or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under O.R.C. § 3301.07.

(s) *School bus* has the same meaning as in O.R.C. § 4511.01.

State Law reference— (O.R.C. § 2901.01)

501.04 RULES OF CONSTRUCTION.

(a) Except as otherwise provided in subsection (c) or (d) hereof, sections of the Codified Ordinances defining offenses or penalties shall be strictly construed against the Municipality and liberally construed in favor of the accused.

(b) Rules of criminal procedure and sections of the Ohio Revised Code providing for criminal procedure shall be construed so as to effect the fair, impartial, speedy and sure administration of justice.

(c) Any provision of a section of the Codified Ordinances that refers to a previous conviction of or plea of guilty to a violation of a section of the Codified Ordinances or Ohio Revised Code or of a division of a section of the Codified Ordinances or Ohio Revised Code shall be

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construed to also refer to a previous conviction of or plea of guilty to a substantially equivalent offense under an existing or former law of this state, another state, or the United States or under an existing or former municipal ordinance.

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

State Law reference— (O.R.C. § 2901.04)

501.99 PENALTIES FOR MISDEMEANORS.

- (a) *Financial Sanctions.* In addition to imposing court costs pursuant to O.R.C. § 2947.23, the court imposing a sentence upon an offender for a misdemeanor committed under the Codified Ordinances, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section. 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:

- (1) *Restitution.* 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 on the victim's economic loss. The court may not impose restitution as a sanction pursuant to this section 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.

If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the 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.

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

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civil action for purposes of imposing liability against an insurer under O.R.C. § 3937.18.

If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than five percent of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.

The victim or survivor 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.

(2) *Fines.* A fine in the following amount:

- A. For a misdemeanor of the first degree, not more than \$1,000.00;
- B. For a misdemeanor of the second degree, not more than \$750.00;
- C. For a misdemeanor of the third degree, not more than \$500.00;
- D. For a misdemeanor of the fourth degree, not more than \$250.00;
- E. For a minor misdemeanor, not more than \$150.00.

(3) *Reimbursement of costs of sanctions.*

- A. 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 O.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.
- B. The amount of reimbursement ordered under subsection (a)(3)A. 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 subsection. If the court does not order reimbursement under that subsection, confinement costs may be assessed pursuant to a repayment policy adopted under O.R.C. § 2929.37. In addition, the offender may be required to pay the fees specified in O.R.C. § 2929.38 in accordance with that section.

State Law reference— (O.R.C. § 2929.28(A))

(b) *Jail Terms.*

- (1) Except as provided in O.R.C. § 2929.22 or 2929.23, 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 General Offenses Code, 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;

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- D. For a misdemeanor of the fourth degree, not more than 30 days.
- (2) A. A court that sentences an offender to a jail term under this section may permit the offender to serve the sentenced in intermittent confinement or may authorize a limited release of the offender as provided in O.R.C. § 2929.26(B). The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.
- B. 1. If a prosecutor, as defined in O.R.C. § 2935.01, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.
2. If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.
- (3) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to O.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 this section, the court may impose as part of the sentence pursuant to O.R.C. § 2929.28 a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to O.R.C. §§ 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and O.R.C. § 2929.37, both of the following apply:
- A. The court shall specify both of the following as part of the sentence:
1. If the person is presented with an itemized bill pursuant to O.R.C. § 2929.37 for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.
2. If the person does not dispute the bill described in subsection (b)(4)A.1. of this section and does not pay the bill by the times specified in O.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 subsection (b)(4)A.2. of this section.

State Law reference— (O.R.C. § 2929.24)

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- (c) *Organizations.* Regardless of the penalties provided in subsections (a) and (b) hereof, an organization convicted of an offense pursuant to Section 501.11 shall be fined, in accordance with this section. The court shall fix the fine as follows:

<u>Type of Misdemeanor</u>	<u>Maximum Fine</u>
First degree	\$5,000.00
Second degree	4,000.00
Third degree	3,000.00
Fourth degree	2,000.00
Minor	1,000.00
Misdemeanor not specifically classified	2,000.00
Minor misdemeanor not specifically classified	1,000.00

- (1) When an organization is convicted of an offense that is 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 the penalty so provided shall be imposed in lieu of the penalty provided in this subsection (c).
- (2) When an organization is convicted of an offense that is not specifically classified, and the penalty provided includes a higher fine than the fine that is provided in this subsection (c), then the penalty imposed shall be pursuant to the penalty provided for the violation of the section defining the offense.
- (3) This subsection (c) 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 this subsection (c).

State Law reference— (O.R.C. 2929.31)

CHAPTER 509. DISORDERLY CONDUCT AND PEACE DISTURBANCE

509.03 DISORDERLY CONDUCT; INTOXICATION.

- (a) No person shall recklessly cause inconvenience, annoyance, or alarm to another by doing any of the following:
- (1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;
 - (2) Making unreasonable noise or offensively coarse utterance, gesture, or display, or communicating unwarranted and grossly abusive language to any person, ~~which by~~

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~~its very utterance or usage inflicts injury or tends to incite an immediate breach of the peace;~~

- (3) Insulting, taunting, or challenging another, under circumstances in which such conduct is likely to provoke a violent response;
 - (4) Hindering or preventing the movement of persons on a public street, road, highway, or ~~right-of-way~~ right-of-way, or to, from, within, or upon public or private property, so as to interfere with the rights of others, and by any act which serves no lawful and reasonable purpose of the offender;
 - (5) Creating a condition which is physically offensive to persons or which presents a risk of physical harm to persons or property, by any act which serves no lawful and reasonable purpose of the offender.
- (b) No person, while voluntarily intoxicated shall do either of the following:
- (1) In a public place or in the presence of two or more persons, engage in conduct likely to be offensive or to cause inconvenience, annoyance or alarm to persons of ordinary sensibilities, which conduct the offender, if he were not intoxicated, should know is likely to have such effect on others;
 - (2) Engage in conduct or create a condition which presents a risk of physical harm to himself or another, or to the property of another.
- (c) Violation of any statute or ordinance of which an element is operating a motor vehicle, locomotive, watercraft, aircraft or other vehicle while under the influence of alcohol or any drug of abuse, is not a violation of subsection (b) hereof.
- (d) If a person appears to an ordinary observer to be intoxicated, it is probable cause to believe that person is voluntarily intoxicated for purposes of subsection (b) hereof.
- (e) (1) Whoever violates this section is guilty of disorderly conduct.
- (2) Except as otherwise provided in this ~~subsection~~ subsections (e)(3) and (4), disorderly conduct is a minor misdemeanor.
- (3) Disorderly conduct is a misdemeanor of the fourth degree if any of the following applies:
- A. The offender persists in disorderly conduct after reasonable warning or request to desist.
 - B. The offense is committed in the vicinity of a school or in a school safety zone.
 - C. The offense is committed in the presence of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person who is engaged in the person's duties at the scene of a fire, accident, disaster, riot or emergency of any kind.
 - D. The offense is committed in the presence of any emergency facility person who is engaged in the person's duties in an emergency facility.
- (4) If an offender previously has been convicted of or pleaded guilty to three or more violations of ~~division (B)~~ subsection (b) of this section, a violation of ~~division (B)~~ subsection (b) of this section is a misdemeanor of the fourth degree.
- (f) As used in this section:
- (1) *Emergency medical services person* is the singular of "emergency medical services personnel" as defined in O.R.C. § 2133.21.

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- (2) *Emergency facility person* is the singular of "emergency facility personnel" as defined in O.R.C. § 2909.04.
- (3) *Emergency facility* has the same meaning as in O.R.C. § 2909.04.
- (4) *Committed in the vicinity of a school* has the same meaning as in O.R.C. § 2925.01.

State Law reference— (O.R.C. § 2917.11)

509.05 MISCONDUCT AT AN EMERGENCY.

- (a) No person shall knowingly do any of the following:
 - (1) Hamper the lawful operations of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person, engaged in the person's duties at the scene of a fire, accident, disaster, riot, or emergency of any kind;
 - (2) Hamper the lawful activities of any emergency facility person who is engaged in the person's duties in an emergency facility;
 - ~~(2)~~ (3) Fail to obey the lawful order of any law enforcement officer engaged in the law enforcement officer's duties at the scene of or in connection with a fire, accident, disaster, riot, or emergency of any kind.
- (b) Nothing in this section shall be construed to limit access or deny information to any news media representative in the lawful exercise of the news media representative's duties.
- (c) Whoever violates this section is guilty of misconduct at an emergency. Except as otherwise provided in this subsection, misconduct at an emergency is a misdemeanor of the fourth degree. If a violation of this section creates a risk of physical harm to persons or property, misconduct at an emergency is a misdemeanor of the first degree.
- (d) As used in this section:
 - (1) *Emergency medical services person* is the singular of "emergency medical services personnel" as defined in O.R.C. § 2133.21.
 - (2) *Emergency facility person* is the singular of "emergency facility personnel" as defined in O.R.C. § 2909.04.
 - (3) *Emergency facility* has the same meaning as in O.R.C. § 2909.04.

State Law reference— (O.R.C. § 2917.13)

509.07 MAKING FALSE ALARMS.

- (a) No person shall do any of the following:
 - (1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;
 - (2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;
 - (3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur;

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(4) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to impede the operation of a critical infrastructure facility.

- (b) This section does not apply to any person conducting an authorized fire or emergency drill.
- (c) Whoever violates this section is guilty of making false alarms, a misdemeanor of the first degree. If a violation of this section results in economic harm of \$1,000.00 or more, or if a violation of this section pertains to a purported, threatened, or actual use of a weapon of mass destruction, making false alarms is a felony and shall be prosecuted under appropriate state law.
- (d) Any act that is a violation of this section and any other section of the Codified Ordinances may be prosecuted under this section, the other section, or both sections.
- (e) As used in this section:
- (1) "Critical infrastructure facility" has the same meaning as in O.R.C. § 2911.21.
- (2) "economic "Economic harm" and "weapon of mass destruction" have the same meanings as in Section 509.06.

State Law reference— (O.R.C. § 2917.32)

CHAPTER 513. DRUG ABUSE CONTROL

513.01 DEFINITIONS.

As used in this chapter, certain terms are defined as follows:

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

Controlled substance means a drug, compound, mixture, preparation or substance included in Schedule I, II, III, IV, or V.

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

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

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

Manufacturer means a person who manufactures a controlled substance as "manufacture" is defined in O.R.C. § 3715.01 and includes a "manufacturer of dangerous drugs" as defined in section 4729.01 of the Revised Code.

Except as provided in subsection (1) hereof:

Marihuana means 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 section 928.01 of the Revised Code.

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State Law reference— (O.R.C. § 3719.01)

(1) *Marihuana* does not include hashish.

State Law reference— (O.R.C. § 2925.01)

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

Official written order means 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.

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

Pharmacy has the same meaning as in O.R.C. § 4729.01.

Poison means any drug, chemical, or preparation likely to be deleterious or destructive to adult human life in quantities of four grams or less.

Licensed health professional authorized to prescribe drugs, prescriber and prescription have the same meanings as in O.R.C. § 4729.01.

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.

Schedule I, Schedule II, Schedule III, Schedule IV and Schedule V mean controlled substance Schedules I, II, III, IV, and V respectively, as established by rule adopted under O.R.C. § 3719.41, as amended pursuant to O.R.C. § 3719.43 or 3719.44, or as established by emergency rule adopted under section 3719.45 of the Revised Code.

Wholesaler means 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 a "wholesale distributor of dangerous drugs" as defined in O.R.C. § 4729.01.

State Law reference— (O.R.C. § 3719.01)

Drug of abuse means any controlled substance as defined in subsection (b) hereof, any harmful intoxicant as defined in subsection (x) hereof and any dangerous drug as defined in subsection (r) hereof.

State Law reference— (O.R.C. § 3719.011)

Dangerous drug means 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 prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;

B. Under O.R.C. ch. 3715 or 3719, the drug may be dispensed only upon a prescription.

(2) Any drug that contains a Schedule V narcotic drug and that is exempt from O.R.C. ch. 3719 or to which that chapter does not apply;

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(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 O.R.C. § 3715.01.

State Law reference— (O.R.C. § ~~4729.02~~ 4729.01)

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

(1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II or Schedule III, with the exception of any controlled substance analog, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in subsection (2), (5), or (6) hereof, whichever of the following is applicable:

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

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

C. An amount equal to or exceeding 30 grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol, or lysergic acid amide, or a Schedule I stimulant or depressant;

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

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

F. An amount equal to or exceeding 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the Federal Drug Abuse Control laws as defined in O.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 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 and the Federal Drug Abuse Control laws;

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

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

- (3) An amount equal to or exceeding 20 grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III opiate or opium derivative;
- (4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance.
- (5) An amount equal to or exceeding 200 solid dosage units, 16 grams or 16 milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid.
- (6) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in schedule III, schedule IV, or schedule V, if the defendant is charged with a violation of section 2925.11 of the Revised Code and the sentencing provisions set forth in divisions (C)(10)(b) and (C)(11) of that section will not apply regarding the defendant and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in division (D)(1), (2), (3), (4), or (5) of this section for the other schedule III, IV, or V controlled substance that is combined with the fentanyl-related compound.

Unit dose means 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.

Cultivate includes planting, watering, fertilizing or tilling.

Drug abuse offense means any of the following:

- (1) A violation of O.R.C. §§ 2925.02, 2925.03, 2925.04—~~2925.06~~, 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; or a violation of O.R.C. § 2913.02(A) that constitutes theft of drugs;
- (2) A violation of an existing or former law of this or any other state or of the United States, that is substantially equivalent to any section listed in subsection (1) hereof;
- (3) An offense under an existing or former law of this or any other 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 or attempt to commit, or complicity in committing or attempting to commit any offense under subsection (1), (2) or (3) hereof.

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

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,

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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.

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

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

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

Standard pharmaceutical reference manual means the current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.

Juvenile means a person under 18 years of age.

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

School premises means 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 O.R.C. Ch. 3314, or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under O.R.C. § 3301.07 and on which some of the instruction, extracurricular activities, or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.

School building means any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular

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activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.

Counterfeit controlled substance means:

- (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 that trademark, trade name or identifying mark; or
- (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; or
- (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance; or
- (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 marking, labeling, packaging, distribution or the price for which it is sold or offered for sale.

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

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

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

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

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

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

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

~~*Lawful prescription* means 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.~~

~~*Deception and theft offense* have~~ has the same meanings meaning as in O.R.C. § 2913.01.

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Outsourcing facility, repackager of dangerous drugs, and third-party logistics provider have the same meanings as in O.R.C. § 4729.01.

State Law reference— (O.R.C. §§ 2925.01)

513.02 GIFT OF MARIHUANA.

- (a) No person shall knowingly give or offer to make a gift of ~~20 grams or less~~ of marihuana.
- (b) Whoever gives a gift of twenty grams or less of marihuana ~~violates this section~~ is guilty of trafficking in marihuana. Trafficking in marihuana involving a gift of twenty grams or less of marihuana is a minor misdemeanor for the first offense and, for any subsequent offense, it is a misdemeanor of the third degree. If the offense was committed in the vicinity of a school or the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.
- (c) The court may suspend for not ~~less than six months~~ or more than five years the driver's or commercial driver's license or permit of any person who is convicted of or pleads guilty to any violation of this section. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit in accordance with Ohio R.C. 2925.03(G). If an offender's driver's or commercial driver's license or permit is suspended pursuant to this subsection, the offender, at any time after the expiration of two years from the day on which the offender's sentence was imposed, may file a motion with the sentencing court requesting termination of the suspension; upon the filing of such a motion and the court's finding of good cause for the termination, the court may terminate the suspension.

State Law reference— (O.R.C. § §§ 2925.03(C)(3)(h), 2925.03(D) and (G)(1))

513.03 DRUG ABUSE; CONTROLLED SUBSTANCE POSSESSION OR USE.

- (a) No person shall knowingly obtain, possess or use a controlled substance or a controlled substance analog.
- (b) This section does not apply to the following:
 - (1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with O.R.C. chs. 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.

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As used in division ~~(B)(4)(d)~~ **(b)(4)** of this section, "deception" and "theft offense" have the same meanings as in O.R.C. § 2913.01.

(c) Whoever violates subsection (a) hereof is guilty of one of the following:

- (1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule III, IV, or V, whoever violates subsection (a) hereof is guilty of possession of drugs. Possession of drugs is a misdemeanor if the amount of the drug involved does not exceed the bulk amount. The penalty for the offense shall be determined as follows: possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, a felony and shall be prosecuted under appropriate State law.
- (2) 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. Possession of marihuana is a misdemeanor if the amount of the drug involved does not exceed 200 grams. The penalty for the offense shall be determined as follows:
 - A. Except as otherwise provided in subsection (c)(2)B. hereof, 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.
- (3) 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. Possession of hashish is a misdemeanor if the amount of the drug involved does not exceed the maximum amount specified in subsection (c)(3)B. hereof. The penalty for the offense shall be determined as follows:
 - A. Except as otherwise provided in subsection (c)(3)B. hereof, 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.
- (d) In addition to any other sanction that is imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not ~~less than six months~~ or more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.
- (e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

State Law reference— (O.R.C. § 2925.11)

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513.04 POSSESSING DRUG ABUSE INSTRUMENTS.

- (a) No person shall knowingly make, obtain, possess or use any instrument, article or thing the customary and primary purpose of which is for the administration or use of a dangerous drug, other than marihuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article or thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marihuana, or to prepare a dangerous drug, other than marihuana, for unlawful administration or use.
- (b) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with O.R.C. chs. 3719, 4715, 4723, 4729, 4730, 4731 and 4741.
- (c) Whoever violates this section is guilty of possessing drug abuse instruments, a misdemeanor of the second degree. If the offender previously has been convicted of a drug abuse offense, violation of this section is a misdemeanor of the first degree.
- (d) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not ~~less than six months~~ or more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.

State Law reference— (O.R.C. § 2925.12)

513.05 PERMITTING DRUG ABUSE.

- (a) No person, who is the owner, operator or person in charge of a locomotive, watercraft, aircraft or other vehicle as defined in O.R.C. § 4501.01(A), shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.
- (b) No person, who is the owner, lessee or occupant, or who has custody, control or supervision of premises, or real estate, including vacant land, shall knowingly permit the premises, or real estate, including vacant land, to be used for the commission of a felony drug abuse offense by another person.
- (c) Whoever violates this section is guilty of permitting drug abuse, a misdemeanor of the first degree. ~~If the felony drug abuse offense in question is a violation of O.R.C. § 2925.02, or 2925.03, unless either of the following apply, in which case permitting drug abuse is a felony and shall be prosecuted under appropriate state law:~~
 - (1) The drug abuse offense in question is a violation of O.R.C. §§ 2925.02, 2925.03, or 2925.04.
 - (2) The drug abuse offense in question is a violation of O.R.C. § 2925.041 and the offender had actual knowledge, at the time the offender permitted the vehicle, premises, or real estate to be used as described in division (a) or (b) of this section, that the person who assembled or possessed the chemicals in question in violation of O.R.C. § 2925.041 had assembled or possessed them with the intent to manufacture a controlled substance in schedule I or II in violation of O.R.C. § 2925.04.

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- (d) In addition to any other sanction imposed for an offense under this section, the court that sentences a person who is convicted of or pleads guilty to a violation of this section may suspend for not more than five ~~ears~~ years the offender's driver's or commercial driver's license or permit. However, if the ~~offended~~ offender pleaded guilty to or was convicted of a violation of O.R.C. § 4511.19 or a substantially similar ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

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

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

State Law reference— (O.R.C. § 2925.13(A)-(D),(F))

513.06 ILLEGAL CULTIVATION OF MARIHUANA.

- (a) No person shall knowingly cultivate marihuana.
- (b) This section does not apply to any person listed in O.R.C. § 2925.03(B)(1)—(3) to the extent and under the circumstances described in those divisions.
- (c) Whoever commits a violation of subsection (a) hereof is guilty of illegal cultivation of marihuana. Illegal cultivation of marihuana is a misdemeanor if the amount of marihuana involved does not exceed 200 grams.
- (1) Except as otherwise provided in subsection (c)(2) hereof, illegal cultivation of marihuana is a minor misdemeanor, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the fourth degree.
- (2) If the amount of marihuana involved equals or exceeds 100 grams but is less than 200 grams, illegal cultivation of marihuana is a misdemeanor of the fourth degree, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the third degree.
- (d) ~~(4)~~ In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for no more than five years the offender's driver's or commercial license or permit. However, if the offender pleaded guilty to or was convicted of a violation of O.R.C. § 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial ~~drier's~~ driver's license or permit ~~for not more than five years in accordance with with division (G) of section 2925.03 of the Revised Code. If an offender's driver's or commercial driver's license or permit is suspended in accordance with that division, the offender may request termination of, and the court may terminate, the suspension in accordance with that division.~~
- (2) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to the effective date o f this amendment 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 O.R.C. § 4511.19 or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set

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

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

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

State Law reference— (O.R.C. § 2925.04)

513.07 POSSESSING OR USING HARMFUL INTOXICANTS.

- (a) Except for lawful research, clinical, medical, dental, or veterinary purposes, no person, with purpose to induce intoxication or similar physiological effects, shall obtain, possess, or use a harmful intoxicant.
- (b) Whoever violates this section is guilty of abusing harmful intoxicants, a misdemeanor of the first degree. If the offender previously has been convicted of a drug abuse offense, abusing harmful intoxicants is a felony of the fifth degree.
- (c) ~~(1)~~ In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of O.R.C. § 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with O.R.C. § 2925.38.

~~(2) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to the effective date of this amendment 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 O.R.C. § 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.~~

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

State Law reference— (O.R.C. § 2925.31)

513.08 ILLEGALLY DISPENSING DRUG SAMPLES.

- (a) No person shall knowingly furnish another a sample drug.
- (b) Subsection (a) hereof does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other

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persons whose conduct is in accordance with O.R.C. chs. 3719, 4715, 4729, 4730, 4731, and 4741.

- (c) Whoever violates this section is guilty of illegal dispensing of drug samples. If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in Schedule III, IV, or V, or is marihuana, the penalty for the offense shall be determined as follows:
- (1) Except as otherwise provided in subsection (c)(2) hereof, illegal dispensing of drug samples is a misdemeanor of the second degree.
 - (2) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a misdemeanor of the first degree.
- (d) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of O.R.C. § 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with section 2925.38 of the Revised Code.

State Law reference— (O.R.C. § 2925.36)

513.12 DRUG PARAPHERNALIA.

- (a) As used in this section, "drug paraphernalia" means any equipment, product or material of any kind that is used by the offender, intended by the offender for use or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance in violation of this chapter or O.R.C. ch. 2925. "Drug paraphernalia" includes, but is not limited to, any of the following equipment, products or materials that are used by the offender, intended by the offender for use or designated by the offender for use, in any of the following manners:
- (1) A kit for propagating, cultivating, growing or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived;
 - (2) A kit for manufacturing, compounding, converting, producing, processing or preparing a controlled substance;
 - (3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine;
 - (4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;
 - (5) Testing equipment for identifying, or analyzing the strength, effectiveness or purity of, a controlled substance;
 - (6) A scale or balance for weighing or measuring a controlled substance;
 - (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, for cutting a controlled substance;

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

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- (11) The existence and scope of legitimate uses of the equipment, product or material in the community;
- (12) Expert testimony concerning the use of the equipment, product or material.
- (c) (1) Subject to subsection (d)(2) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.
- (2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product or material will be used as drug paraphernalia.
- (3) No person shall place an advertisement in any newspaper, magazine, handbill or other publication that is published and printed and circulates primarily within this state, if the person knows that the purpose of the advertisement is to promote the illegal sale in the state of the equipment, product or material that the offender intended or designed for use as drug paraphernalia.
- (d) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with O.R.C. chs. 3719, 4715, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.
- (2) Subsection (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marijuana.
- (e) Notwithstanding O.R.C. ch. 2981, any drug paraphernalia that was used, possessed, sold or manufactured in violation of this section shall be seized, after a conviction for that violation shall be forfeited, and upon forfeiture shall be disposed of pursuant to O.R.C. § 2981.12.
- (f) (1) Whoever violates subsection (c)(1) hereof is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.
- (2) Except as provided in subsection (f)(3) hereof, whoever violates subsection (c)(2) hereof is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.
- (3) Whoever violates subsection (c)(2) hereof by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.
- (4) Whoever violates subsection (c)(3) hereof is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.
- (g) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of O.R.C. § 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with section 2925.38 of the Revised Code.

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State Law reference— (O.R.C. § 2925.14)

CHAPTER 517. GAMBLING

State Law reference— ~~Contributing to delinquency of minors, O.R.C. § 2151.41;~~ Search warrants O.R.C. § 2933.21(E); Licensing charitable bingo games, O.R.C. § 2915.08

517.01 DEFINITIONS.

As used in this chapter:

- (a) *Bookmaking* means the business of receiving or paying off bets.
- (b) *Bet* means the hazarding of anything of value upon the result of an event, undertaking or contingency, but does not include a bona fide business risk.
- (c) *Scheme of chance* means a slot machine unless authorized under O.R.C. Ch. 3772, lottery unless authorized under O.R.C. Ch. 3770, numbers game, pool conducted for profit, or other scheme in which a ~~participate~~ participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit. "Scheme of chance" includes the use of an electronic device to reveal the results of a game entry if valuable consideration is paid, directly or indirectly, for a chance to win a prize. Valuable consideration is deemed to be paid for a chance to win a prize in the following instances:
 - (1) Less than 50 percent of the goods or services sold by a scheme of chance operator in exchange for game entries are used or redeemed by participants at any one location;
 - (2) Less than 50 percent of participants who purchase goods or services at any one location do not accept, use or redeem the goods or services sold or purportedly sold;
 - (3) More than 50 percent of prizes at any one location are revealed to participants through an electronic device simulating a game of chance or a "casino game" as defined in O.R.C. § 3772.01;
 - (4) The good or service sold by a scheme of chance operator in exchange for a game entry cannot be used or redeemed in the manner advertised;
 - (5) A participant pays more than fair market value for goods or services offered by a scheme of chance operator in order to receive one or more game entries;
 - (6) A participant may use the electronic device to purchase additional game entries;
 - (7) A participant may purchase additional game entries by using points or credits won as prizes while using the electronic device;
 - (8) A scheme of chance operator pays out in prize money more than 20 percent of the gross revenue received at one location; or
 - (9) A participant makes a purchase or exchange in order to obtain any good or service that may be used to facilitate play on the electronic device.

As used in this subsection, "electronic device" means a mechanical, video, digital or electronic machine or device that is capable of displaying information on a screen or other mechanism and that is owned, leased or otherwise possessed by any person conducting a scheme of chance, or by that person's partners, affiliates, subsidiaries

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or contractors. "Electronic device" does not include an electronic instant bingo system.

- (d) *Game of chance* means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.
- (e) *Game of chance conducted for profit* means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.
- (f) *Gambling device* means any of the following:
- (1) A book, totalizer or other equipment for recording bets;
 - (2) A ticket, token or other device representing a chance, share or interest in a scheme of chance or evidencing a bet;
 - (3) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;
 - (4) Any equipment, device, apparatus or paraphernalia specially designed for gambling purposes;
 - (5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter.
- (g) *Gambling offense* means the following:
- (1) A violation of O.R.C. ~~§§ 2915.02—2915.092, 2915.10 or 2915.11~~ Ch. 2915;
 - (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 listed in subsection (g)(1) hereof or a violation of O.R.C. § 2915.06 as it existed prior to July 1, 1996;
 - (3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States, of which gambling is an element;
 - (4) A conspiracy or attempt to commit, or complicity in committing, an any offense under subsection (g)(1), (2) or (3) hereof.
- (h) Except as otherwise provided in this chapter, *charitable organization* means either of the following:
- (1) An organization that is ~~and has received from the Internal Revenue Service a determination letter that currently is in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;~~
 - (2) A volunteer rescue service organization, volunteer firefighter's organization, veteran's organization, fraternal organization, or sporting organization that is exempt from federal, income taxation under subsection 501(c)(4), (c)(7), (c)(8), (c)(10) or (c)(19) of the Internal Revenue Code.
- To qualify as a charitable organization, an organization shall have been in continuous existence as such in this State for a period of two years immediately preceding either the making of an application for a bingo license under O.R.C. § 2915.08 or the conducting of any game of chance as provided in division (D) of O.R.C. § 2915.02.
- (i) *Religious organization* means any church, body of communicants or group that is not organized or operated for profit, that gathers in common membership for regular worship and religious observances.

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- (j) *Veteran's organization* means any individual post or state headquarters of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post, state headquarters, or auxiliary unit is incorporated as a nonprofit corporation and either has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association or has received a letter from the national veteran's association indicating that the state headquarters is in good standing with the national veteran's association. As used in this subsection, "national veteran's association" means any veteran's association that has been in continuous existence as such for a period of at least five years and either is incorporated by an act of the United States Congress or has a national dues-paying membership of at least 5,000 persons.
- (k) *Volunteer firefighter's organization* means any organization of volunteer firefighters, as defined in O.R.C. § 146.01, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company and that is recognized or ratified by a county, municipal corporation, or township.
- (l) *Fraternal organization* means any society, order, state headquarters, or association within this state, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge or chapter of a national or state organization, that exists exclusively for the common business of or sodality of its members.
- (m) *Volunteer rescue service organization* means any organization of volunteers organized to function as an emergency medical service organization as defined in O.R.C. § 4765.01.
- (n) *Charitable bingo game* means any bingo game described in subsection (o)(1) or (2) of this section that is conducted by a charitable organization that has obtained a license pursuant to O.R.C. § 2915.08 and the proceeds of which are used for a charitable purpose.
- (o) *Bingo* means either of the following:
- (1) A game with all of the following characteristics:
 - A. The participants use bingo cards or sheets, including paper formats and electronic representation or image formats, that are divided into 25 spaces arranged in five horizontal and five vertical rows of spaces, with each space, except the central space, being designated by a combination of a letter and a number and with the central space being designated as a free space.
 - B. The participants cover the space on the bingo cards or sheets that correspond to combinations of letters and numbers that are announced by a bingo game operator.
 - C. A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically from a receptacle that contains 75 objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the 75 possible combinations of a letter and a number that can appear on the bingo cards or sheets.
 - D. The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers as described in subsection (o)(1)C. hereof, that a predetermined and preannounced pattern of spaces has been covered on a bingo card or sheet being used by a participant.
 - (2) Instant bingo, ~~punch boards~~ electronic instant bingo, and raffles.

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- (p) *Conduct* means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance, a scheme of chance, or a sweepstakes.
- (q) *Bingo game operator* means any person, except security personnel, who performs work or labor at the site of bingo, including, but not limited to, collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, selling or redeeming electronic instant bingo tickets, credits, or vouchers, accessing an electronic instant bingo system other than as a participant, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages. "Bingo game operator" does not include a person who is installing, maintaining, updating, or repairing an electronic instant bingo system.
- (r) *Participant* means any person who plays bingo.
- (s) *Bingo session* means a period that includes both of the following:
- (1) Not to exceed five continuous hours for the conduct of one or more games described in subsection (o)(1) of this section, instant bingo, and ~~seal-cards~~ electronic instant bingo;
 - (2) A period for the conduct of instant bingo and ~~seal-cards~~ electronic instant bingo for not more than two hours before and not more than two hours after the period described in subsection (s)(1) of this section.
- (t) *Gross receipts* means all money or assets, including admission fees, that a person receives from bingo without the deduction of any amounts for prizes paid out or for the expenses of conducting bingo. "Gross receipts" does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide auxiliary unit or society of a charitable organization conducting bingo, provided all of the following apply:
- (1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two years prior to conducting bingo.
 - (2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage.
 - (3) The food and beverages are sold at customary and reasonable prices.
- (u) *Security personnel* includes any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, township constable, or a police officer of a municipal corporation or has successfully completed a peace officer's training course pursuant to O.R.C. §§ 109.71—109.79 and who is hired to provide security for the premises on which bingo is conducted.
- (v) *Charitable purpose* means that the net profit of bingo, other than instant bingo, or electronic instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:
- (1) Any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;

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- (2) A veteran's organization that is a post, chapter, or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least 75 percent of the members of which are veterans and substantially all of the other members of which are individuals who are spouses, widows, or widowers of veterans, or such individuals, provided that no part of the net earnings of such post, chapter, or organization inures to the benefit of any private shareholder or individual, and further provided that the net profit is used by the post, chapter, or organization for the charitable purposes set forth in division (B)(12) of O.R.C. § 5739.02, is used for awarding scholarships to or for attendance at an institution mentioned in division (B)(12) of O.R.C. § 5739.02, is donated to a governmental agency, or is used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief;
- (3) A fraternal organization that has been in continuous existence in this state for 15 years and that uses the net profit exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals if contributions for such use would qualify as a deductible charitable contribution under subsection 170 of the Internal Revenue Code;
- (4) A volunteer firefighter's organization that uses the net profit for the purposes set forth in subsection (k) of this section.
- (w) *Internal Revenue Code* means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as now or hereafter amended.
- (x) *Youth athletic organization* means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are 21 years of age or younger by means of sponsoring, organizing, operating or contributing to the support of an athletic team, club, league or association.
- (y) *Youth athletic park organization* means any organization, not organized for profit, that satisfies both of the following:
- (1) It owns, operates and maintains playing fields that satisfy both of the following:
 - A. The playing fields are used ~~at least 100 days per year~~ for athletic activities by one or more organizations not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are 18 years of age or younger by means of sponsoring, organizing, operating or contributing to the support of an athletic team, club, league or association;
 - B. The playing fields are not used for any profit-making activity at any time during the year,
 - (2) It uses the proceeds of bingo it conducts exclusively for the operation, maintenance and improvement of its playing fields of the type described in paragraph (1) hereof.
- (z) *Bingo supplies* means bingo cards or sheets; instant bingo tickets or cards; electronic bingo aids; raffle tickets; punch boards; seal cards; instant bingo ticket dispensers; electronic instant bingo systems; and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. Items that are "bingo supplies" are not gambling devices if sold or otherwise provided, and used, in accordance with this chapter. For purposes of this chapter, "bingo supplies" are not to be considered equipment used to conduct a bingo game.

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- (aa) *Instant bingo* means a form of bingo that shall use folded or banded tickets or paper cards with perforated break-open tabs, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners, and may also include games in which some winners are determined by the random selection of one or more bingo numbers by the use of a seal card or bingo blower. "Instant bingo" also includes a punch board game. In all "instant bingo" the prize amount and structure shall be predetermined. "Instant bingo" does not include electronic instant bingo or any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations.
- (bb) *Seal card* means a form of instant bingo that uses instant bingo tickets in conjunction with a board or placard that contains one or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols.
- (cc) *Raffle* means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one or more winners of the raffle are determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle. "Raffle" does not include the drawing of a ticket stub or other detachable section of a ticket purchased to attend a professional sporting event if both of the following apply:
- (1) The ticket stub or other detachable section is used to select the winner of a free prize given away at the professional sporting event; and
 - (2) The cost of the ticket is the same as the cost of a ticket to the professional sporting event on days when no free prize is given away.
- (dd) *Punch board* means a form of instant bingo that uses a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle, ~~when used in conjunction with instant bingo.~~ A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.
- (ee) *Gross profit* means gross receipts minus the amount actually expended for the payment of prize awards.
- (ff) *Net profit* means gross profit minus expenses.
- (gg) *Expenses* means the reasonable amount of gross profit actually expended for all of the following:
- (1) The purchase or lease of bingo supplies;
 - (2) The annual license fee required under O.R.C. § 2915.08;
 - (3) Bank fees and service charges for a bingo session or game account described in O.R.C. § 2915.10;
 - (4) Audits and accounting services;
 - (5) Safes;
 - (6) Cash registers;
 - (7) Hiring security personnel;

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- (8) Advertising bingo;
 - (9) Renting premises in which to conduct a bingo session;
 - (10) Tables and chairs;
 - (11) Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;
 - (12) Payment of real property taxes and assessments that are levied on a premises on which bingo is conducted;
 - (13) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the Attorney General under division ~~(B)(4)~~ (F)(1) of O.R.C. § 2915.08.
- (hh) *Person* has the same meaning as in O.R.C. § 1.59 and includes any firm or any other legal entity, however organized.
- (ii) *Revoke* means to void permanently all rights and privileges of the holder of a license issued under O.R.C. §§ 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.
- (jj) *Suspend* means to interrupt temporarily all rights and privileges of the holder of a license issued under O.R.C. §§ 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.
- (kk) *Distributor* means any person who purchases or obtains bingo supplies and who does either of the following:
- (1) Sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this state;
 - (2) Modifies, converts, adds to, or removes parts from the bingo supplies to further their promotion or sale for use in this state.
- (ll) *Manufacturer* means any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale.
- (mm) *Gross annual revenues* means the annual gross receipts derived from the conduct of bingo described in subsection (o)(1) of this section plus the annual net profit derived from the conduct of bingo described in subsection (o)(2) of this section.
- (nn) *Instant bingo ticket dispenser* means a mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has the following characteristics:
- (1) It is activated upon the insertion of United States currency.
 - (2) It performs no gaming functions.
 - (3) It does not contain a video display monitor or generate noise.
 - (4) It is not capable of displaying any numbers, letters, symbols, or characters in winning or losing combinations.
 - (5) It does not simulate or display rolling or spinning reels.
 - (6) It is incapable of determining whether a dispensed bingo ticket or card is a winning or nonwinning ticket or card and requires a winning ticket or card to be paid by a bingo game operator.

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- (7) It may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses.
- (8) It is not part of an electronic network and is not interactive.
- (oo) (1) *Electronic bingo aid* means an electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following:
- A. It provides a means for a participant to input numbers and letters announced by a bingo caller.
 - B. It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device.
 - C. It identifies a winning bingo pattern.
- (2) *Electronic bingo aid* does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.
- (pp) ~~*Deal of instant bingo tickets*~~ means a single game of instant bingo tickets, or a single game of electronic instant bingo tickets, all with the same serial number.
- (qq) (1) *Slot machine* means either of the following:
- A. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain;
 - B. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct bingo or a scheme or game of chance.
- (2) *Slot machine* does not include a skill-based amusement machine, ~~or an instant bingo ticket dispenser~~, or an electronic instant bingo system.
- (rr) *Net profit from the proceeds of the sale of instant bingo or electronic instant bingo* means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of instant bingo supplies for the purpose of conducting instant bingo or electronic instant bingo, and, in the case of instant bingo or electronic instant bingo conducted by a veteran's, fraternal, or sporting organization, minus the payment by that organization of real property taxes, and assessments levied on a premises on which instant bingo or electronic instant bingo is conducted.
- (ss) *Charitable instant bingo organization* means an organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and is a charitable organization as defined in this section. A "charitable instant bingo organization" does not include a charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is created by a veteran's organization, a fraternal organization, or a sporting organization in regards to bingo conducted or assisted by a veteran's organization, a fraternal organization, or a sporting organization pursuant to O.R.C. § 2915.13.
- (tt) *Game flare* means the board or placard, or electronic representation of a board or placard, that accompanies each deal of instant bingo or electronic instant bingo tickets and that ~~has printed on or affixed to it~~ includes the following information for the game:
- (1) The name of the game;

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- (2) The manufacturer's name or distinctive logo;
 - (3) The form number;
 - (4) The ticket count;
 - (5) The prize structure, including the number of winning instant bingo tickets by denomination and the respective winning symbol or number combinations for the winning instant bingo tickets;
 - (6) The cost per play;
 - (7) The serial number of the game.
- (uu) (1) *Skill-based amusement machine* means a mechanical, video, digital, or electronic device that rewards the player or players, if at all, only with merchandise prizes or with redeemable vouchers redeemable only for merchandise prizes, provided that with respect to rewards for playing the game all of the following apply:
- A. The wholesale value of a merchandise prize awarded as a result of the single play of a machine does not exceed \$10.00;
 - B. Redeemable vouchers awarded for any single play of a machine are not redeemable for a merchandise prize with a wholesale value of more than \$10.00;
 - C. Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than \$10.00 times the fewest number of single plays necessary to accrue the redeemable vouchers required to obtain that prize; and
 - D. Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.
- A card for the purchase of gasoline is a redeemable voucher for purposes of division (uu)(1) of this section even if the skill-based amusement machine for the play of which the card is awarded is located at a place where gasoline may not be legally distributed to the public or the card is not redeemable at the location of, or at the time of playing, the skill-based amusement machine.
- (2) A device shall not be considered a skill-based amusement machine and shall be considered a slot machine if it pays cash or one or more of the following apply:
- A. The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game.
 - B. Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the player's score;
 - C. The outcome of the game, or the value of the redeemable voucher or merchandise prize awarded for winning the game, can be controlled by a source other than any player playing the game.
 - D. The success of any player is or may be determined by a chance event that cannot be altered by player actions.
 - E. The ability of any player to succeed at the game is determined by game features not visible or known to the player.

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- F. The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.
- (3) All of the following apply to any machine that is operated as described in subsection (uu)(1) of this section:
- A. As used in subsection (uu) of this section, "game" and "play" mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single game, play, contest, competition, or tournament may be awarded redeemable vouchers or merchandise prizes based on the results of play.
 - B. Advance play for a single game, play, contest, competition, or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single non-contest, competition, or tournament play.
 - C. To the extent that the machine is used in a contest, competition, or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of redeemable vouchers or merchandise prizes that are stated prior to the start of the contest, competition, or tournament.
- (4) For purposes of subsection (uu)(1) of this section, the mere presence of a device, such as a pin-setting, ball-releasing, or scoring mechanism, that does not contribute to or affect the outcome of the play of the game does not make the device a skill-based amusement machine.
- (vv) *Merchandise prize* means any item of value, but shall not include any of the following:
- (1) Cash, gift cards, or any equivalent thereof;
 - (2) Plays on games of chance, state lottery tickets, or bingo, ~~or instant bingo~~;
 - (3) Firearms, tobacco, or alcoholic beverages; or
 - (4) A redeemable voucher that is redeemable for any of the items listed in subsection (vv)(1), (2), or (3) of this section.
- (ww) *Redeemable voucher* means any ticket, token, coupon, receipt, or other noncash representation of value.
- (xx) *Pool not conducted for profit* means a scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.
- (yy) *Sporting organization* means a hunting, fishing, or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to, the league of Ohio sportsmen, and that has been in continuous existence in this state for a period of three years.
- (zz) *Community action agency* has the same meaning as in O.R.C. § 122.66.

State Law reference— (O.R.C. § 2915.01)

- (aaa) (1) *Sweepstakes terminal device* means a mechanical, video, digital, or electronic machine or device that is owned, leased, or otherwise possessed by any person conducting

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a sweepstakes, or by that person's partners, affiliates, subsidiaries, or contractors, that is intended to be used by a sweepstakes participant, and that is capable of displaying information on a screen or other mechanism. A device is a sweepstakes terminal device if any of the following apply:

- A. The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
- B. The device utilizes software such that the simulated game influences or determines the winning of or value of the prize.
- C. The device selects prizes from a predetermined finite pool of entries.
- D. The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.
- E. The device predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.
- F. The device utilizes software to create a game result.
- G. The device reveals the prize incrementally, even though the device does not influence the awarding of the prize or the value of any prize awarded.
- H. The device determines and associates the prize with an entry or entries at the time the sweepstakes is entered.

(2) As used in this subsection and in Section 517.02:

- A. *Enter* means the act by which a person becomes eligible to receive any prize offered in a sweepstakes.
- B. *Entry* means one event from the initial activation of the sweepstakes terminal device until all of the sweepstakes prize results from that activation are revealed.
- C. *Prize* means any gift, award, gratuity, good, service, credit, reward, or any other thing of value that may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.
- D. *Sweepstakes terminal device facility* means any location in this Municipality where a sweepstakes terminal device is provided to a sweepstakes participant, except as provided in O.R.C. § 2915.02(G).

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

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

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

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

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

(ddd) Electronic instant bingo system means both of the following:

- (1) A mechanical, electronic, digital, or video device and associated software to which all of the following apply:
 - A. It is used by not more than one player at a time to play electronic instant bingo on a single screen that is physically connected to the device;
 - B. It is located on the premises of the principal place of business of a veteran's or fraternal organization that holds a type II or type III bingo license to conduct electronic instant bingo at that location issued under O.R.C. § 2915.08.

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

State Law reference— (O.R.C. § 2915.01)

517.07 INSTANT BINGO CONDUCT.

(a) No charitable organization that conducts instant bingo shall do any of the following:

- (1) Fail to comply with the requirements of divisions (A)(1), (2), and (3) of O.R.C. § 2915.09;
- (2) Conduct instant bingo unless either of the following applies:
 - A. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 501(c)(3) of the Internal Revenue Code, is a charitable organization as defined in Section 517.01, is in good standing in the state pursuant to O.R.C. § 2915.08, and is in compliance with O.R.C. Ch. 1716;
 - B. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) or is a veteran's organization described in subsection 501(c)(4) of the Internal Revenue Code, and conducts instant bingo under Section 517.14.
- (3) Conduct instant bingo on any day, at any time, or at any premises not specified on the organization's license issued pursuant to O.R.C. § 2915.08;
- (4) Permit any person whom the organization knows or should have known has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator in the conduct of instant bingo;
- (5) Purchase or lease supplies used to conduct instant bingo or punch board games from any person except a distributor licensed under O.R.C. § 2915.081;
- (6) Sell or provide any instant bingo ticket or card for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare;
- (7) Sell an instant bingo ticket or card to a person under 18 years of age;
- (8) Fail to keep unsold instant bingo tickets or cards for less than three years;
- (9) Pay any compensation to a bingo game operator for conducting instant bingo that is conducted by the organization or for preparing, selling, or serving food or beverages at the site of the instant bingo game, permit any auxiliary unit or society of the organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at an instant bingo game conducted by the organization, or permit any auxiliary unit or society of the organization to prepare, sell, or serve food or beverages at an instant bingo game conducted by the organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;
- (10) Pay fees to any person for any services performed in relation to an instant bingo game, except as provided in Section 517.09(d);

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- (11) Pay fees to any person who provides refreshments to the participants in an instant bingo game;
- (12) A. Allow instant bingo tickets or cards to be sold to bingo game operators at a premises at which the organization sells instant bingo tickets or cards or to be sold to employees of a D permit holder who are working at a premises at which instant bingo tickets or cards are sold;
- B. Subsection (a)(12)A. of this section does not prohibit a licensed charitable organization or a bingo game operator from giving any person an instant bingo ticket as a prize in place of a cash prize won by a participant in an instant bingo game. In no case shall an instant bingo ticket or card be sold or provided for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare.
- (13) Fail to display its bingo license, and the serial numbers of the deal of instant bingo tickets or cards to be sold, conspicuously at each premises at which it sells instant bingo tickets or cards;
- (14) Possess a deal of instant bingo tickets or cards that was not purchased from a distributor licensed under O.R.C. § 2915.081 as reflected on an invoice issued by the distributor that contains all of the information required by Section 517.11(f);
- (15) Fail, once it opens a deal of instant bingo tickets or cards, to continue to sell the tickets or cards in that deal until the tickets or cards with the top two highest tiers of prizes in that deal are sold;
- (16) Possess bingo supplies that were not obtained in accordance with O.R.C. §§ ~~2915.01—2915.13~~ Ch. 2915.
- (b) A charitable organization may purchase, lease, or use instant bingo ticket dispensers to sell instant bingo tickets or cards.
- (c) Whoever violates subsection (a) of this section or a rule adopted under O.R.C. § 2915.091(C) is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (a) of this section or of such a rule, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate state law.

State Law reference— (O.R.C. § 2915.091)

517.08 RAFFLES.

- (a) (1) Subject to subsection (a)(2) of this section, ~~a charitable organization, a public school, a chartered nonpublic school, a community school, or a veteran's organization, fraternal organization, or sporting organization~~ a person or entity that is exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(3), 501(c)(4), ~~501(c)(6)~~, 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code may conduct a raffle to raise money for the ~~organization or school~~ person or entity and does not need a license to conduct bingo in order to conduct a raffle drawing that is not for profit.
- (2) If a ~~charitable organization~~ person or entity that is described in subsection (a)(1) of this section, but that is not also described in subsection 501(c)(3) of the Internal Revenue Code, conducts a raffle, the ~~charitable organization~~ person or entity shall distribute at least 50 percent of the net profit from the raffle to a charitable purpose described

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in Section 517.01(v) or to a department or agency of the federal government, the state, or any political subdivision.

- (b) Except as provided in subsection (a) of this section, no person shall conduct a raffle drawing that is for profit or a raffle drawing that is not for profit.
- (c) Whoever violates subsection (b) of this section is guilty of illegal conduct of a raffle. Except as otherwise provided in this subsection, illegal conduct of a raffle is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (b) of this section, illegal conduct of a raffle is a felony and shall be prosecuted under appropriate state law.

State Law reference— (O.R.C. § 2915.092)

517.09 CHARITABLE INSTANT BINGO ORGANIZATIONS.

- (a) As used in this section, "retail income from all commercial activity" means the income that a person receives from the provision of goods, services, or activities that are provided at the location where instant bingo other than at a bingo session is conducted, including the sale of instant bingo tickets. A religious organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, at not more than one location at which it conducts its charitable programs, may include donations from its members and guests as retail income.
- (b) (1) If a charitable instant bingo organization conducts instant bingo other than at a bingo session under a type III license issued under O.R.C. § 2915.08, the charitable instant bingo organization shall enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted to allow the owner or lessor to assist in the conduct of instant bingo other than at a bingo session, identify each location where the instant bingo other than at a bingo session is being conducted, and identify the owner or lessor of each location.
- (2) A charitable instant bingo organization that conducts instant bingo other than at a bingo session under a type III license issued under O.R.C. § 2915.08 is not required to enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted provided that the owner or lessor is not assisting in the conduct of the instant bingo other than at a bingo session and provided that the conduct of the instant bingo other than at a bingo session at that location is not more than five days per calendar year and not more than ten hours per day.
- (c) Except as provided in subsection (f) of this section, no charitable instant bingo organization shall conduct instant bingo other than at a bingo session at a location where the primary source of retail income from all commercial activity at that location is the sale of instant bingo tickets.
- (d) The owner or lessor of a location that enters into a contract pursuant to subsection (b) of this section shall pay the full gross profit to the charitable instant bingo organization, in return for the deal of instant bingo tickets. The owner or lessor may retain the money that the owner or lessor receives for selling the instant bingo tickets, provided, however, that after the deal has been sold, the owner or lessor shall pay to the charitable instant bingo organization the value of any unredeemed instant bingo prizes remaining in the deal of instant bingo tickets.

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

As used in this subsection, "expenses" means those items provided for in subsections (gg)(4), (5), (6), (7), (8), (12) and (13) of Section 517.01 and that percentage of the owner's or lessor's rent for the location where instant bingo is conducted. "Expenses" in the aggregate, shall not exceed six percent of the total gross receipts of any deal of instant bingo tickets.

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

- (e) A charitable instant bingo organization shall provide the Attorney General with all of the following information:
- (1) That the charitable instant bingo organization has terminated a contract entered into pursuant to subsection (b) of this section with an owner or lessor of a location;
 - (2) That the charitable instant bingo organization has entered into a written contract pursuant to subsection (b) of this section with a new owner or lessor of a location;
 - (3) That the charitable instant bingo organization is aware of conduct by the owner or lessor of a location at which instant bingo is conducted that is in violation of this chapter or O.R.C. Ch. 2915.
- (f) Subsection (c) of this section does not apply to a volunteer firefighter's organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, that conducts instant bingo other than at a bingo session on the premises where the organization conducts firefighter training, that has conducted instant bingo continuously for at least five years prior to July 1, 2003, and that, during each of those five years, had gross receipts of at least \$1,500,000.00.

State Law reference— (O.R.C. § 2915.093)

517.11 BINGO OR GAME OF CHANCE RECORDS.

- (a) No charitable organization that conducts bingo or a game of chance pursuant to Section 517.02(d), shall fail to maintain the following records for at least three years from the date on which the bingo or game of chance is conducted:
- (1) An itemized list of the gross receipts of each bingo session, each game of instant bingo by serial number, each electronic instant bingo game by serial number, each raffle, each punch board game, and each game of chance, and an itemized list of the gross profits of each game of instant bingo by serial number and each electronic instant bingo game by serial number;
 - (2) An itemized list of all expenses, other than prizes, that are incurred in conducting bingo or instant bingo, the name of each person to whom the expenses are paid, and a receipt for all of the expenses;
 - (3) A list of all prizes awarded during each bingo session, each raffle, each punch board game, and each game of chance conducted by the charitable organization, the total prizes awarded from each game of instant bingo by serial number and each

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- electronic instant bingo game by serial number, and the name, address, and social security number of all persons who are winners of prizes of \$600.00 or more in value;
- (4) An itemized list of the recipients of the net profit of the bingo or game of chance, including the name and address of each recipient to whom the money is distributed, and if the organization uses the net profit of bingo, or the money or assets received from a game of chance, for any charitable or other purpose set forth in Section 517.01(v), Section 517.02(d), or O.R.C. § 2915.101, a list of each purpose and an itemized list of each expenditure for each purpose;
 - (5) The number of persons who participate in any bingo session or game of chance that is conducted by the charitable organization;
 - (6) A list of receipts from the sale of food and beverages by the charitable organization or one of its auxiliary units or societies, if the receipts were excluded from "gross receipts" Section 517.01(t);
 - (7) An itemized list of all expenses incurred at each bingo session, each raffle, each punch board game, or each game of instant bingo or electronic instant bingo conducted by the charitable organization in the sale of food and beverages by the charitable organization or by an auxiliary unit or society of the charitable organization, the name of each person to whom the expenses are paid, and a receipt for all of the expenses.
- (b) A charitable organization shall keep the records that it is required to maintain pursuant to subsection (a) of this section at its principal place of business in this state or at its headquarters in this state and shall notify the Attorney General of the location at which those records are kept.
 - (c) The gross profit from each bingo session or game described in Section 517.01(o)(1) or (2) shall be deposited into a checking account devoted exclusively to the bingo session or game. Payments for allowable expenses incurred in conducting the bingo session or game and payments to recipients of some or all of the net profit of the bingo session or game shall be made only by checks or electronic fund transfers drawn on the bingo session or game account.
 - (d) Each charitable organization shall conduct and record an inventory of all of its bingo supplies as of the first day of November of each year.
 - (e) The Attorney General may adopt rules in accordance with O.R.C. Ch. 119 that establish standards of accounting, record keeping, and reporting to ensure that gross receipts from bingo or games of chance are properly accounted for.
 - (f) A distributor shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing to another person bingo supplies for use in this state. The record shall include all of the following for each instance:
 - (1) The name of the manufacturer from which the distributor purchased the bingo supplies and the date of the purchase;
 - (2) The name and address of the charitable organization or other distributor to which the bingo supplies were sold or otherwise provided;
 - (3) A description that clearly identifies the bingo supplies;
 - (4) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each charitable organization.

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- (g) A manufacturer shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies for use in this state. The record shall include all of the following for each instance:
- (1) The name and address of the distributor to whom the bingo supplies were sold or otherwise provided;
 - (2) A description that clearly identifies the bingo supplies, including serial numbers;
 - (3) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each distributor.
- (h) The Attorney General, or any law enforcement agency, may do all of the following:
- (1) Investigate any charitable organization, distributor, or manufacturer or any officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer;
 - (2) Examine the accounts and records of the charitable organization, distributor, or manufacturer or of any officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer;
 - (3) Conduct inspections, audits, and observations of bingo or games of chance;
 - (4) Conduct inspections of the premises where bingo or games of chance are conducted or where bingo supplies are manufactured or distributed;
 - (5) Take any other necessary and reasonable action to determine if a violation of any provision of this chapter and O.R.C. Ch. 2915 has occurred and to determine whether Section 517.12 has been complied with.
- If any law enforcement agency has reasonable grounds to believe that a charitable organization, distributor, or manufacturer or an officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer has violated any provision of this chapter, the law enforcement agency may proceed by action in the proper court to enforce this chapter, provided that the law enforcement agency shall give written notice to the Attorney General when commencing an action as described in this subsection.
- (i) No person shall destroy, alter, conceal, withhold, or deny access to any accounts or records of a charitable organization, distributor, or manufacturer that have been requested for examination, or obstruct, impede, or interfere with any inspection, audit, or observation of bingo or a game of chance or of premises where bingo or a game of chance is conducted, or of premises where bingo supplies are manufactured or distributed, or refuse to comply with any reasonable request of, or obstruct, impede, or interfere with any other reasonable action undertaken by, the Attorney General or a law enforcement agency pursuant to subsection (h) of this section.
- (j) Whoever violates subsection (a) or (i) of this section is guilty of a misdemeanor of the first degree.

State Law reference— (O.R.C. § 2915.10)

517.13 BINGO EXCEPTIONS.

- (a) Ohio Revised Code §§ 2915.07—~~2915.14~~ 2915.15 or Section 517.06 et seq. of this chapter do not apply to bingo games that are conducted for the purpose of amusement only. A

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bingo game is conducted for the purpose of amusement only if it complies with all of the requirements specified in either subsection (a)(1) or (2) hereof:

- (1)
 - A. The participants do not pay any money or any other thing of value including an admission fee, or any fee for bingo cards, sheets, objects to cover the spaces or other devices used in playing bingo, for the privilege of participating in the bingo game or to defray any costs of the game, or pay tips or make donations during or immediately before or after the bingo game.
 - B. All prizes awarded during the course of the game are nonmonetary, and in the form of merchandise, goods or entitlements to goods or services only, and the total value of all prizes awarded during the game is less than \$100.00.
 - C. No commission, wages, salary, reward, tip, donation, gratuity or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game.
 - D. The bingo game is not conducted either during or within ten hours of any of the following:
 1. A bingo session during which a charitable bingo game is conducted pursuant to O.R.C. §§ 2915.07—2915.11 or Section 517.06 et seq. of this chapter;
 2. A scheme or game of chance or bingo described in Section 517.01(o)(2).
 - E. The number of players participating in the bingo game does not exceed 50.
- (2)
 - A. The participants do not pay money or any other thing of value as an admission fee, and no participant is charged more than 25 cents to purchase a bingo card or sheet, objects to cover the spaces or other devices used in playing bingo.
 - B. The total amount of money paid by all of the participants for bingo cards or sheets, objects to cover the spaces or other devices used in playing bingo does not exceed \$100.00.
 - C. All of the money paid for bingo cards or sheets, objects to cover spaces or other devices used in playing bingo is used only to pay winners monetary and nonmonetary prizes and to provide refreshments.
 - D. The total value of all prizes awarded during the game does not exceed \$100.00.
 - E. No commission, wages, salary, reward, tip, donation, gratuity or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game.
 - F. The bingo game is not conducted during or within ten hours of either of the following:
 1. A bingo session during which a charitable bingo game is conducted pursuant to O.R.C. §§ 2915.07—~~2915.11~~ 2915.15 or Section 517.06 et seq. of this chapter;
 2. A scheme of chance or game of chance or bingo described in Section 517.01(o)(2).
 - G. All of the participants reside at the premises where the bingo game is conducted.

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H. The bingo games are conducted on different days of the week and not more than twice in a calendar week.

- (b) The Attorney General, or any local law enforcement agency, may investigate the conduct of a bingo game that purportedly is conducted for purposes of amusement only if there is reason to believe that the purported amusement bingo game does not comply with subsection (a) hereof. A local law enforcement agency may proceed by action in the proper court to enforce this section if the local law enforcement agency gives written notice to the Attorney General when commencing the action.

State Law reference— (O.R.C. § 2915.12)

517.14 INSTANT BINGO CONDUCT BY A VETERAN'S OR FRATERNAL ORGANIZATION.

- (a) A Subject to the requirements of O.R.C. §§ 2915.14 and 2915.15 concerning electronic instant bingo, a veteran's organization, a fraternal organization, or a sporting organization authorized to conduct a bingo session pursuant to O.R.C. §§ ~~2915.01—2915.12~~ Ch. 2915 may conduct instant bingo, electronic instant bingo, or both other than at a bingo session under a type III license issued under O.R.C. § 2915.08 if all of the following apply:
- (1) The veteran's organization, fraternal organization, or sporting organization limits the sale of instant bingo or electronic instant bingo to 12 hours during any day, provided that the sale does not begin earlier than 10:00 a.m. and ends not later than 2:00 a.m.
 - (2) The veteran's organization, fraternal organization, or a sporting organization limits the sale of instant bingo or electronic instant bingo to its own premises and to its own members and invited guests.
 - (3) The veteran's organization, fraternal organization, or sporting organization is raising money for an organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this state and executes a written contract with that organization as required in subsection (b) of this section.
- (b) If a veteran's organization, fraternal organization, or sporting organization authorized to conduct instant bingo or electronic instant bingo pursuant to subsection (a) of this section is raising money for another organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this state, the veteran's organization, fraternal organization, or sporting organization shall execute a written contract with the organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this state in order to conduct instant bingo or electronic instant bingo. That contract shall include a statement of the percentage of the net proceeds that the veteran's, fraternal or sporting organization will be distributing to the organization that is described in subsection 509(a)(1), 509(a)(2) or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal

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income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this state.

- (c) (1) If a veteran's organization, fraternal organization, or a sporting organization authorized to conduct instant bingo or electronic instant bingo pursuant to subsection (a) of this section has been issued a liquor permit under O.R.C. Ch. 4303, that permit may be subject to suspension, revocation, or cancellation if the veteran's organization, fraternal organization, or a sporting organization violates a provision of this chapter or O.R.C. Ch. 2915.
- (2) No veteran's organization, fraternal organization, or a sporting organization that enters into a written contract pursuant to subsection (b) of this section shall violate any provision of this chapter or O.R.C. Ch. 2915, or permit, aid, or abet any other person in violating any provision of this chapter or O.R.C. Ch. 2915.
- (d) A veteran's organization, fraternal organization, or a sporting organization shall give all required proceeds earned from the conduct of instant bingo or electronic instant bingo to the organization with which the veteran's organization, fraternal organization, or a sporting organization has entered into a written contract.
- (e) Whoever violates this section is guilty of illegal instant bingo or electronic instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo or electronic instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, illegal instant bingo or electronic instant bingo conduct is a felony and shall be prosecuted under appropriate State law.

State Law reference— (O.R.C. § 2915.13)

CHAPTER 521. HEALTH, SAFETY AND SANITATION

521.08 LITTERING AND DEPOSIT OF GARBAGE, RUBBISH, JUNK, ETC.

- (a) No person, regardless of intent, shall deposit litter or cause litter to be deposited on any public property, on private property not owned by the person, or in or on waters of the state, or Municipality, unless one of the following applies:
- (1) The person is directed to do so by a public official as part of a litter collection drive;
 - (2) Except as provided in subsection (b) hereof, the person deposits the litter in a litter receptacle in a manner that prevents its being carried away by the elements;
 - (3) The person is issued a permit or license covering the litter pursuant to O.R.C. Ch. 3734 or 6111.
- (b) No person, without privilege to do so, shall knowingly deposit litter, or cause it to be deposited, in a litter receptacle located on any public property or on any private property not owned by the person, unless one of the following applies:
- (1) The litter was generated or located on the property on which the litter receptacle is located.
 - (2) The person is directed to do so by a public official as part of a litter collection drive.
 - (3) The person is directed to do so by a person whom the person reasonably believes to have the privilege to use the litter receptacle.
 - (4) The litter consists of any of the following:

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- A. The contents of a litter bag or container of a type and size customarily carried and used in a motor vehicle;
 - B. The contents of an ash tray of a type customarily installed or carried and used in a motor vehicle;
 - C. Beverage containers and food sacks, wrappings and containers of a type and in an amount that reasonably may be expected to be generated during routine commuting or business or recreational travel by a motor vehicle;
 - D. Beverage containers, food sacks, wrappings, containers and other materials of a type and in an amount that reasonably may be expected to be generated during a routine day by a person and deposited in a litter receptacle by a casual passerby.
- (c) (1) As used in subsection (b)(1) hereof, *public property* includes any private property open to the public for the conduct of business, the provision of a service, or upon the payment of a fee but does not include any private property to which the public otherwise does not have a right of access.
- (2) As used in subsection (b)(4) hereof, *casual passerby* means a person who does not have depositing litter in a litter receptacle as the person's primary reason for traveling to or by the property on which the litter receptacle is located.
- (d) As used in this section:
- (1) *Litter* means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, auxiliary containers, or anything else of an unsightly or unsanitary nature.
 - (2) *Deposit* means to throw, drop, discard or place.
 - (3) *Litter receptacle* means a dumpster, trash can, trash bin, garbage can or similar container in which litter is deposited for removal.
 - (4) *Auxiliary container* means a bag, can, cup, food or beverage service item, container, keg, bottle, or other packaging to which all of the following apply:
 - A. It is designed to be either single use or reusable.
 - B. It is made of cloth, paper, plastic, foamed or expanded plastic, cardboard, corrugated material, aluminum, metal, glass, postconsumer recycled material, or similar materials or substances, including coated, laminated, or multilayered substrates.
 - C. It is designed for consuming, transporting, or protecting merchandise, food, or beverages from or at a food service operation, retail food establishment, grocery, or any other type of retail, manufacturing, or distribution establishment.
- (e) This section may be enforced by any sheriff, deputy sheriff, police officer of a municipal corporation, police constable or officer of a township, or township or joint police district, wildlife officer designated under Ohio R.C. 1531.13, natural resources officer appointed under section 1501.24 of the Revised Code, forest-fire investigator appointed under Ohio R.C. 1503.09, conservancy district police officer, inspector of nuisances of a county, or any other law enforcement officer within the law enforcement officer's jurisdiction.

State Law reference— (O.R.C. § 3767.32)

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- ~~(e) No person shall cause or allow litter to be collected or remain in any place to the damage or prejudice of others or of the public, or unlawfully obstruct, impede, divert, corrupt or render unwholesome or impure, any natural watercourse.~~
- (f) Whoever violates ~~any provision of subsections (a) to (d) hereof,~~ this section is guilty of a misdemeanor of the third degree. The sentencing court may, in addition to or in lieu of the penalty provided in this subsection require a person who violates ~~subsections (a) to (d) hereof~~ this section to remove litter from any public or private property, or in or on any waters of the state or this Municipality.

State Law reference— (O.R.C. § 3767.99(C))

~~(g) Whoever violates subsection (e) hereof is guilty of a minor misdemeanor.~~

521.09 NOXIOUS OR OFFENSIVE ODORS.

- (a) No person shall erect, continue, use or maintain a dwelling, building, structure or place ~~for a residence or~~ for the exercise of a trade, employment or business, or for the keeping or feeding of an animal which, by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort or property of individuals or of the public.

State Law reference— (O.R.C. § 3767.13)

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

State Law reference— (ORC 3767.99)

CHAPTER 525. LAW ENFORCEMENT AND PUBLIC OFFICE

525.05 FAILURE TO REPORT A CRIME, INJURY OR KNOWLEDGE OF DEATH.

- (a) (1) Except as provided in subsection (a)(2) hereof, no person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities.
- (2) No person, knowing that a violation of division (B) of O.R.C. § 2913.04 has been, or is being committed or that the person has received information derived from such a violation, shall knowingly fail to report the violation to law enforcement authorities.
- (b) Except for conditions that are within the scope of subsection (e) hereof, no person who is a physician, limited practitioner, nurse or other person giving aid to a sick or injured person, shall negligently fail to report to law enforcement authorities any gunshot or stab wound that the person treated or observed, or any serious physical harm to persons that the person knows or has reasonable cause to believe resulted from an offense of violence.
- (c) No person who discovers the body or acquires the first knowledge of the death of a person shall fail to report the death immediately to a physician or advanced practice registered nurse whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, ambulance service, emergency squad, or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained. For

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purposes of this subsection, "advanced practice registered nurse" does not include a certified registered nurse anesthetist.

- (d) No person shall fail to provide upon request of the person to whom ~~the person has made~~ a report required by subsection (c) hereof was made, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death.
- (e) (1) As used in this subsection (e), "burn injury" means any of the following:
- A. Second or third degree burns;
 - B. Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of super-heated air;
 - C. Any burn injury or wound that may result in death- ;
 - D. Any physical harm to persons caused by or as the result of the use of fireworks, novelties and trick noisemakers, and wire sparklers, as each is defined by O.R.C. § 3743.01.
- (2) No physician, nurse, physician assistant, or limited practitioner who, outside a hospital, sanitarium, or other medical facility, attends or treats a person who has sustained a burn injury inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is such a bureau in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.
- (3) No manager, superintendent, or other person in charge of a hospital, sanitarium, or other medical facility in which a person is attended or treated for any burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is such a bureau in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.
- (4) No person who is required to report any burn injury under subsection (e)(2) or (3) hereof shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the Office of the State Fire Marshal. The report ~~shall be made on a form provided~~ shall comply with the uniform standard developed by the State Fire Marshal pursuant to O.R.C. § 3737.22(A)(15).
- (5) Anyone participating in the making of reports under subsection (e) hereof or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding O.R.C. § 4731.22, the physician-patient relationship or advanced practice registered nurse-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted pursuant to subsection (e) hereof.
- (f) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, ~~registered or licensed practical~~ nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist, or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has

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been the victim of domestic violence, as defined in O.R.C. § 3113.31, shall note that knowledge or belief and the basis for it in the patient's or client's records.

- (2) Notwithstanding O.R.C. § 4731.22, the ~~doctor-patient~~ physician-patient ~~privilege or advanced practice registered nurse-patient privilege~~ shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted under subsection (f)(1) of this section, and the information may be admitted as evidence in accordance with the rules of evidence.
- (g) Subsections (a) and (d) of this section do not require disclosure of information, when any of the following applies:
- (1) The information is privileged by reason of the relationship between attorney and client; ~~doctor~~ physician and patient; ~~advanced practice registered nurse and patient~~; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.
 - (2) The information would tend to incriminate a member of the actor's immediate family.
 - (3) Disclosure of the information would amount to revealing a news source, privileged under O.R.C. § 2739.04 or 2739.12.
 - (4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as a member of the clergy by a person seeking the aid or counsel of that member of the clergy.
 - (5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or community addiction services provider whose alcohol and drug addiction services are certified pursuant to O.R.C. § 5119.36.
 - (6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of O.R.C. § 2907.02 or 2907.05, or to victims of felonious sexual penetration in violation of former O.R.C. § 2907.12. As used in this subsection, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide ~~such~~ those services.
- (h) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.
- (i) Whoever violates subsection (a) or (b) of this section is guilty of failure to report a crime. Violation of subsection (a)(1) of this section is a misdemeanor of the fourth degree. Violation of subsection (a)(2) or (b) of this section is a misdemeanor of the second degree.
- (j) Whoever violates subsection (c) or (d) hereof is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.

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- (k) (1) Whoever negligently violates subsection (e) hereof is guilty of a minor misdemeanor.
- (2) Whoever knowingly violates subsection (e) hereof is guilty of a misdemeanor of the second degree.

(l) As used in this section, "nurse" includes an advanced practice registered nurse, registered nurse, and licensed practical nurse.

State Law reference— (O.R.C. § 2921.22)

525.12 DERELICTION OF DUTY.

- (a) No law enforcement officer shall negligently do any of the following:
 - (1) Fail to serve a lawful warrant without delay;
 - (2) Fail to prevent or halt the commission of an offense or to apprehend an offender, when it is in the law enforcement officer's power to do so alone or with available assistance.
- (b) No law enforcement, ministerial, or judicial officer shall negligently fail to perform a lawful duty in a criminal case or proceeding.
- (c) No officer, having charge of a detention facility, shall negligently do any of the following:
 - (1) Allow the detention facility to become littered or unsanitary;
 - (2) Fail to provide persons confined in the detention facility with adequate food, clothing, bedding, shelter, and medical attention;
 - (3) Fail to control an unruly prisoner, or to prevent intimidation of or physical harm to a prisoner by another;
 - (4) Allow a prisoner to escape;
 - (5) Fail to observe any lawful and reasonable regulation for the management of the detention facility.
- (d) No public official of the Municipality shall recklessly create a deficiency, incur a liability, or expend a greater sum than is appropriated by the legislative authority of the Municipality for the use in any one year of the department, agency, or institution with which the public official is connected.
- (e) No public servant shall recklessly fail to perform a duty expressly imposed by law with respect to the public servant's office, or recklessly do any act expressly forbidden by law with respect to the public servant's office.
- (f) Whoever violates this section is guilty of dereliction of duty, a misdemeanor of the second degree.
- (g) As used in this section, "public servant" includes an officer or employee of a contractor as defined in O.R.C. § 9.08.

State Law reference— (O.R.C. § 2921.44)

525.13 INTERFERING WITH CIVIL RIGHTS.

- (a) No public servant, under color of his the public servant's office, employment, or authority, shall knowingly deprive, or conspire or attempt to deprive any person of a constitutional or statutory right.

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- (b) Whoever violates this section is guilty of interfering with civil rights, a misdemeanor of the first degree.

State Law reference— (O.R.C. § 2921.45)

~~525.16 FALSE ALLEGATION OF PEACE OFFICER MISCONDUCT.~~

- ~~(a) As used in this section, *peace officer* has the same meaning as in O.R.C. § 2935.01.~~
- ~~(b) No person shall knowingly file a complaint against a peace officer that alleges that the peace officer engaged in misconduct in the performance of the officer's duties if the person knows that the allegation is false.~~
- ~~(c) Whoever violates this section is guilty of making a false allegation of peace officer misconduct, a misdemeanor of the first degree.~~

State Law reference— (O.R.C. § 2921.15)

CHAPTER 529. LIQUOR CONTROL

529.02 SALES TO AND USE BY UNDERAGE PERSONS; SECURING PUBLIC ACCOMMODATIONS.

- (a) Except as otherwise provided in this chapter or O.R.C. Ch. 4301, no person shall sell beer or intoxicating liquor to an underage person, or shall buy beer or intoxicating liquor for an underage person, or shall furnish it to, an underage person, unless given by a physician in the regular line of his the physician's practice or given for established religious purposes, or unless the underage person is supervised by a parent, spouse who is not an underage person, or legal guardian.

In proceedings before the Liquor Control Commission, no permit holder, or no employee or agent of a permit holder, charged with a violation of this subsection shall be charged, for the same offense, with a violation of O.R.C. § 4301.22(A)(1).

- (b) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming beer or intoxicating liquor, unless the intoxicating liquor or beer is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian and the parent, spouse who is not an underage person, or legal guardian is present at the time of the person's possession or consumption of the beer or intoxicating liquor.

An owner of a public or private place is not liable for acts or omissions in violation of this subsection that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

- (c) No person shall engage or use accommodations at a hotel, inn, cabin, campground, or restaurant when he knows or has reason to know either of the following:
 - (1) That beer or intoxicating liquor will be consumed by an underage person on the premises of the accommodations that the person engages or uses, unless the person engaging or using the accommodations is the spouse of the underage person and is not an underage person, or is the parent or legal guardian of all of the underage persons, who consume beer or intoxicating liquor on the premises and that

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- person is on the premises at all times when beer or intoxicating liquor is being consumed by an underage person;
- (2) That a drug of abuse will be consumed on the premises of the accommodations by any person, except a person who obtained the drug of abuse pursuant to a prescription issued by a ~~practitioner~~ licensed health professional authorized to prescribe drugs and has the drug of abuse in the original container in which it was dispensed to the person.
- (d) (1) No person is required to permit the engagement of accommodations at any hotel, inn, cabin, or campground by an underage person or for an underage person, if the person engaging the accommodations knows or has reason to know that the underage person is intoxicated, or that the underage person possesses any beer or intoxicating liquor and is not supervised by a parent, spouse who is not an underage person, or legal guardian who is or will be present at all times when the beer or intoxicating liquor is being consumed by the underage person.
- (2) No underage person shall knowingly engage or attempt to engage accommodations at any hotel, inn, cabin, or campground by presenting identification that falsely indicates that the underage person is 21 years of age or older for the purpose of violating this section.
- (e) No underage person shall knowingly order, pay for, share the cost of, attempt to purchase, possess, or consume any beer or intoxicating liquor, in any public or private place. No underage person shall knowingly be under the influence of any beer or intoxicating liquor in any public place. The prohibitions set forth in this subsection (e) hereof against an underage person knowingly possessing, consuming, or being under the influence of any beer or intoxicating liquor shall not apply if the underage person is supervised by a parent, spouse who is not an underage person, or legal guardian, or the beer or intoxicating liquor is given by a physician in the regular line of the physician's practice or given for established religious purposes.
- (f) No parent, spouse who is not an underage person, or legal guardian of a minor shall knowingly permit the minor to violate this section or Section 529.021(a) to (c).
- (g) The operator of any hotel, inn, cabin, or campground shall make the provisions of this section available in writing to any person engaging or using accommodations at the hotel, inn, cabin, or campground.
- (h) As used in this section:
- (1) *Drug of abuse* has the same meaning as in O.R.C. § 3719.011.
 - (2) *Hotel* has the same meaning as in O.R.C. § 3731.01.
 - (3) *Licensed health professional authorized to prescribe drugs* and *prescription* have the same meanings as in O.R.C. § 4729.01.
 - (4) *Minor* means a person under the age of 18 years.
 - (5) *Underage person* means a person under the age of 21 years.

State Law reference— (O.R.C. § 4301.69)

- (i) Whoever violates this section is guilty of a misdemeanor of the first degree. In addition, whoever violates subsection (a) hereof shall be fined not less than \$500.00 and not more than \$1,000.00, and, in addition to the fine, may be imprisoned for a definite term of not more than six months.

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If an offender who violates O.R.C. § 4301.69(e) was under the age of 18 years at the time of the offense and the offense occurred while the offender was the operator of or a passenger in a motor vehicle, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit or probationary driver's license for a period of not less than six months and not more than one year. If the offender is 15 years and six months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of six months. If the offender has not attained the age of fifteen years and six months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of 16 years.

State Law reference— (O.R.C. § 4301.99)

529.021 PURCHASE BY MINOR; MISREPRESENTATION.

- (a) Except as otherwise provided in this chapter or O.R.C. Ch. 4301, no person under the age of 21 years shall purchase beer or intoxicating liquor.

State Law reference— (O.R.C. § 4301.63)

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

State Law reference— (O.R.C. § 4301.633)

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

State Law reference— (O.R.C. § 4301.634)

- (d) ~~(1) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the first degree.~~

~~(2) (1) Whoever violates subsection (a) hereof, shall be fined not less than \$25.00 nor more than \$100.00. The court imposing a fine for a violation of subsection (a) hereof may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed.~~

(2) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree.

- (3) A. Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. If, in committing a first violation of that subsection, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree

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and shall be fined not less than \$250.00 and not more than \$1,000.00 and may be sentenced to a term of imprisonment of not more than six months.

- B. On a second violation in which, for the second time, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than \$500.00 nor more than \$1,000.00, and may be sentenced to a term of imprisonment of not more than six months. The court also may impose a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in O.R.C. § 4510.02(A)(7).
- C. On a third or subsequent violation in which, for the third or subsequent time, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than \$500.00 nor more than \$1,000.00, and may be sentenced to a term of imprisonment of not more than six months. Except as provided in this subsection, the court also may impose a class six suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in O.R.C. § 4510.02(A)(6), and the court may order that the suspension or denial remain in effect until the offender attains the age of 21 years. The court, in lieu of suspending the offenders temporary instruction permit, probationary driver's license, or driver's license, instead may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform.

State Law reference— (O.R.C. § 4301.99)

529.06 LOW-ALCOHOL BEVERAGES; SALE TO AND PURCHASE BY UNDERAGE PERSONS PROHIBITED.

- (a) As used in this section, "underage person" means a person under 18 years of age.
- (b) No underage person shall purchase any low-alcohol beverage.
- (c) No underage person shall order, pay for, share the cost of, or attempt to purchase any low-alcohol beverage.
- (d) No person shall knowingly furnish any false information as to the name, age, or other identification of any underage person for the purpose of obtaining or with the intent to obtain any low-alcohol beverage for an underage person, by purchase or as a gift.
- (e) No underage person shall knowingly show or give false information concerning the person's name, age, or other identification for the purpose of purchasing or otherwise obtaining any low-alcohol beverage in any place in this Municipality.
- (f) No person shall sell or furnish any low-alcohol beverage to, or buy any low-alcohol beverage for, an underage person, unless given by a physician in the regular line of his practice or

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given for established religious purposes, or unless the underage person is accompanied by a parent, spouse who is not an underage person, or legal guardian.

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

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

- (h) No underage person shall knowingly possess or consume any low-alcohol beverage in any public or private place, unless accompanied by a parent, spouse who is not an underage person, or legal guardian, or unless the low-alcohol beverage is given by a physician in the regular line of the physician's practice or given for established religious purposes.
- (i) No parent, spouse who is not an underage person, or legal guardian of an underage person shall knowingly permit the underage person to violate this section.

State Law reference— (O.R.C. § 4301.631)

- (j) Whoever violates any provision of this section ~~for which no other penalty is provided~~ is guilty of a misdemeanor of the fourth degree.
- (k) Whoever violates subsection (b) hereof shall be fined not less than \$25.00 nor more than \$100.00. The court imposing a fine for a violation of subsection (b) hereof may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed.

State Law reference— (O.R.C. § 4301.99)

529.07 OPEN CONTAINER PROHIBITED.

- (a) As used in this section:
- (1) *Chauffeured limousine* means a vehicle registered under O.R.C. § 4503.24.
 - (2) *Street, highway, and motor vehicle* have the same meanings as in O.R.C. § 4511.01.
- (b) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:
- (1) ~~In a state liquor~~ Except as provided in(c)(1)E. of this section, in an agency store;
 - (2) Except as provided in subsection (c) or (i) hereof, on the premises of the holder of any permit issued by the Division of Liquor Control;
 - (3) In any other public place;
 - (4) Except as provided in subsection (d) or (e) hereof, while operating or being a passenger in or on a motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking;

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- (5) Except as provided in subsection (d) or (e) hereof, while being in or on a stationary motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking.
- (c) (1) A person may have in the person's possession an opened container of any of the following:
- A. Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D- 5l, D-5m, D-5n, D-5o, D-7, D8, E, F, F-2, F-5, F-7, or F-8 permit;
 - B. Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit, or wine served as a tasting sample by an A-2, S-1, or S-2 permit holder for consumption on the premises of a farmers market for which an F-10 permit has been issued, or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;
 - C. Beer or intoxicating liquor consumed on the premises of a convention facility as provided in O.R.C. § 4303.201;
 - D. Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Liquor Control Commission;
 - E. Spirituous liquor to be consumed for purposes of a tasting sample, as defined in O.R.C. § 4301.171.
- (2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this section, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least 40 acres.
- (3) A. A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.
- B. As used in subsection (c)(3)A. of this section:
1. *Orchestral performance* means a concert comprised of a group of not fewer than 40 musicians playing various musical instruments.
 2. *Outdoor performing arts center* means an outdoor performing arts center that is located on not less than 150 acres of land and that is open for performances from the first day of April to the last day of October of each year.
- (4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in subsection (c)(3)B.1. hereof if the person with

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supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.

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

As used in subsection (c)(5) hereof, "orchestral performance" has the same meaning as in subsection (c)(3)B. of this section.

- (6) A. A person may have in the person's possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor that was not purchased from the owner of the facility if both of the following apply:

1. The person is attending a racing event at the facility; and
2. The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility;

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

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

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

1. The permit holder's premises is located within the outdoor refreshment area.
2. The permit held by the permit holder has an outdoor refreshment area designation.

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

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

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2. Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area, unless the motor vehicle is stationary and is not being operated in a lane of vehicular travel or unless the possession is otherwise authorized under subsection (d) or (e) of this section.

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

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

1. The market grants permission for the possession and consumption of beer and intoxicating liquor within the defined F-8 permit premises;
2. The market is hosting an event pursuant to an F-8 permit and the market has notified the Division of Liquor Control about the event in accordance with O.R.C. § 4303.208(A)(3).

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

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

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- B. The commercial quadricycle is being operated on a street, highway or other public or private property open to the public for purposes of vehicular travel or parking.
 - C. The person has in their possession on the commercial quadricycle as opened container of beer or wine.
 - D. The person has in their possession on the commercial quadricycle not more than either 36 ounces of beer or 18 ounces of wine.
- (2) The legislative authority of a municipal corporation or township may enact an ordinance or adopt a resolution, as applicable, that prohibits a passenger riding on a commercial quadricycle from possessing an opened container or beer or wine.
- (3) As used in this section, "commercial quadricycle" means a vehicle that has fully-operative pedals for propulsion entirely by human power and that meets all of the following requirements:
- A. It has four wheels and is operated in a manner similar to a bicycle.
 - B. It has at least five seats for passengers.
 - C. It is designed to be powered by the pedaling of the operator and the passengers.
 - D. It is used for commercial purposes.
 - E. It is operated by the vehicle owner or an employee of the owner.

(g) This section does not apply to a person that has in the person's possession an opened container of beer or intoxicating liquor on the premises of a market if the beer or intoxicating liquor has been purchased from a D liquor permit holder that is located in the market.

As used in subsection (g) of this section, *market* means an establishment that:

- (1) Leases space in the market to individual vendors, not less than 50 percent of which are retail food establishments or food service operations licensed under O.R.C. Chapter 3717;
 - (2) Has an indoor sales floor area of not less than 22,000 square feet;
 - (3) Hosts a farmer's market on each Saturday from April through December.
- (h) (1) As used in this section, "alcoholic beverage" has the same meaning as in O.R.C. § 4303.185.
- (2) An alcoholic beverage in a closed container being transported under O.R.C. § 4303.185 to its final destination is not an opened container for the purposes of this section if the closed container is securely sealed in such a manner that it is visibly apparent if the closed container has been subsequently opened or tampered with after sealing.
- (i) This section does not apply to a person that has in the person's possession an opened container of homemade beer or wine that is served in accordance with O.R.C. § 4301.201(E).

State Law reference— (O.R.C. § 4301.62)

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

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State Law reference— (O.R.C. § 4301.99(A))

CHAPTER 533. OBSCENITY AND SEX OFFENSES

533.02 PRESUMPTION OF KNOWLEDGE; ACTUAL NOTICE AND DEFENSE.

- (a) An owner or manager, or agent or employee of an owner or manager, of a bookstore, newsstand, theater, or other commercial establishment engaged in selling materials or exhibiting performances, who, in the course of business;
- (1) Possesses five or more identical or substantially similar obscene articles, having knowledge of their character, is presumed to possess them in violation of O.R.C. § 2907.32(A)(5):
 - (2) does Does any of the acts prohibited by Section 533.11, or O.R.C. §§ 2907.31 or 2907.32, is presumed to have knowledge of the character of the material or performance involved, if the owner, manager, or agent or employee of the owner or manager has actual notice of the nature of such material or performance, whether or not the owner, manager, or agent or employee of the owner or manager has precise knowledge of its contents.
- (b) Without limitation on the manner in which such notice may be given, actual notice of the character of material or a performance may be given in writing by the chief legal officer of the jurisdiction in which the person to whom the notice is directed does business. Such notice, regardless of the manner in which it is given, shall identify the sender, identify the material or performance involved, state whether it is obscene or harmful to juveniles, and bear the date of such notice.
- (c) Section 533.11 does not apply to a motion picture operator or projectionist acting within the scope of employment as an employee of the owner or manager of a theater or other place for the showing of motion pictures to the general public, and having no managerial responsibility or financial interest in the operator's or projectionist's place of employment, other than wages.
- (d)
 - (1) Sections 533.11, 533.12(a) and 533.13 do not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection.
 - (2) Subsection (d)(1) of this section does not apply to a person who conspires with an entity actively involved in the creation or knowing distribution of material in violation of Section 533.11, 533.12 or 533.13, or who knowingly advertises the availability of material of that nature.
 - (3) Subsection (d)(1) of this section does not apply to a person who provides access or connection to an electronic method of remotely transferring information that is engaged in the violation of Section 533.11, 533.12 or 533.13, and that contains content that person has selected and introduced into the electronic method of remotely transferring information or content over which that person exercises editorial control.
- (e) An employer is not guilty of a violation of Section 533.11, 533.12, or 533.13 based on the actions of an employee or agent of the employer unless the employee's or agent's conduct

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is within the scope of employee's or agent's employment or agency, and the employer does either of the following:

- (1) With knowledge of the employee's or agent's conduct, the employer authorizes or ratifies the conduct.
 - (2) The employer recklessly disregards the employee's or agent's conduct.
- (f) It is an affirmative defense to a charge under Section 533.11 or 533.13 as the section applies to an image transmitted through the internet or another electronic method of remotely transmitting information that the person charged with violating the section has taken, in good faith, reasonable, effective, and appropriate actions under the circumstances to restrict or prevent access by juveniles to material that is harmful to juveniles, including any method that is feasible under available technology.
- (g) If any provision of this section, or the application of any provision of this section to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this section or related sections that can be given effect without the invalid provision or application. To this end, the provisions are severable.

State Law reference— (O.R.C. § 2907.35)

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 persons to have sexual contact when any of the following applies:
- (1) The offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard.
 - (2) The offender knows that the other person's or one of the other person's ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired.
 - (3) The offender knows that the other person, or one of the other persons, submits because of being unaware of the sexual contact.
 - (4) The other person, or one of the other persons, is 13 years of age or older but less than 16 years of age, whether or not the offender knows the age of such person, and the offender is at least 18 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 O.R.C. § 2907.02, 2907.03, 2907.04, 2907.05, or 2907.06, or former O.R.C. § 2907.12, or a substantially similar municipal ordinance, a violation of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of this section or O.R.C. § 2907.02, 2907.03,

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2907.04, 2907.05, or 2907.06, or former O.R.C. § 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 O.R.C. § 2929.24, the court may impose on the offender a definite jail term of not more than one year.

State Law reference— (O.R.C. § 2907.06)

533.07 PUBLIC INDECENCY.

- (a) No person shall recklessly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront others, who are in the person's physical proximity and who are not members of the person's household:
- (1) Expose the person's private parts;
 - (2) Engage in sexual conduct or masturbation;
 - (3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation.
- (b) No person shall knowingly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront another person who is in the person's physical proximity, who is a minor, and who is not the spouse of the offender, ~~and who resides in the person's household:~~
- (1) Engage in masturbation;
 - (2) Engage in sexual conduct;
 - (3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation;
 - (4) Expose the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity.
- (c) (1) Whoever violates this section is guilty of public indecency and shall be punished as provided in subsections (c)(2), (3), (4), and (5) of this section.
- (2) Except as otherwise provided in subsection (c)(2) of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the third degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to two violations of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony which shall be prosecuted under appropriate state law.
- (3) Except as otherwise provided in subsection (c)(3) of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the

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second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony which shall be prosecuted under appropriate state law.

- (4) Except as otherwise provided in subsection (c)(4) of this section, a violation of subsection (b)(1), (2), or (3) of this section is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (b)(1), (2), or (3) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of subsection (b)(1), (2), or (3) of this section is a felony and shall be prosecuted under appropriate state law.
- (5) A violation of subsection (b)(4) of this section is a misdemeanor of the first degree unless the offender previously has been convicted of or pleaded guilty to any violation of this section in which case the violation is a felony and shall be prosecuted under appropriate state law.

(d) (1) If either of the following applies, the court may determine at the time of sentencing whether to classify the offender as a tier I sex offender/child-victim offender for a violation of subsection (b)(4) of this section:

a. The offender is less than ten years older than the other person.

b. The offender is ten or more years older than the other person and the offender has not previously been convicted of or pleaded guilty to any violation of this section.

(2) If the offender is convicted of or pleads guilty to a violation of subsection (b)(4) of this section, is ten or more years older than the other person, and previously has been convicted of or pleaded guilty to any violation of this section, the court shall issue an order at the time of sentencing that classifies the offender as a tier I sex offender/child-victim offender subject to registration under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code.

State Law reference— (O.R.C. § 2907.09)

533.09 SOLICITING.

- (a) No person shall knowingly solicit another who is 18 years of age or older to engage with such other person in sexual activity for hire in exchange for the person receiving anything of value from the other person.
- (b) Whoever violates this section is guilty of soliciting, a misdemeanor of the third degree.
- ~~(c) If a person is convicted of or pleads guilty to a violation of any provision of this section or an attempt to commit a violation of any provision of this section, and if the person, in committing or attempting to commit the violation, was in, was on, or used a motor vehicle, the court, in addition to or independent of all other penalties imposed for the violation, shall impose upon the offender a class six suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of O.R.C. §~~

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~~4510.02. In lieu of imposing upon the offender the class six suspension, the court instead may require the offender to perform community service for a number of hours determined by the court.~~

- ~~(d)~~ (c) As used in this section, *sexual activity for hire* means an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person.

State Law reference— (O.R.C. § 2907.24(A)(1), (C)(1), (E)(2))

533.14 UNLAWFUL ADVERTISING OF MASSAGE.

- (a) No person, by means of a statement, solicitation, or offer in a print or electronic publication, sign, placard, storefront display, or other medium, shall advertise massage, relaxation massage, any other massage technique or method, or any related service, with the suggestion or promise of sexual activity.
- (b) Whoever violates this section is guilty of unlawful advertising of massage, a misdemeanor of the first degree.
- (c) Nothing in this section prevents the legislative authority of a municipal corporation or township from enacting any regulation of the advertising of massage further than and in addition to the provisions of subsections (a) and (b) of this section.
- (d) As used in this section, "sexual activity" has the same meaning as in O.R.C. § 2907.01.

State Law reference— (O.R.C. § 2927.17)

CHAPTER 537. OFFENSES AGAINST PERSONS

537.02 VEHICULAR HOMICIDE AND MANSLAUGHTER.

- (a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause the death of another or the unlawful termination of another's pregnancy in any of the following ways:
- (1) A. Negligently;
- B. As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense, provided that this subsection 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 subsection (d) of this section.
- (2) As the proximate result of committing a violation of any provision of any section contained in Title XLV of the Ohio Revised Code 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 Title XLV of the Ohio Revised Code that is a minor misdemeanor.
- (b) (1) Whoever violates subsection (a)(1) of this section is guilty of vehicular homicide. Except as otherwise provided in this subsection, vehicular homicide is a misdemeanor of the first degree. Vehicular homicide is a felony and shall be

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prosecuted under appropriate State law if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under O.R.C. Ch. 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 O.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 O.R.C. § 2903.06(E).

In addition to any other sanctions imposed pursuant to this subsection, 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 O.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 O.R.C. § 4510.02(A)(3), or, if the offender previously has 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 O.R.C. § 4510.02(A)(2).

- (2) Whoever violates subsection (a)(2) of this section is guilty of vehicular manslaughter. Except as otherwise provided in this subsection, 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 O.R.C. Ch. 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 O.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.

In addition to any other sanctions imposed pursuant to this subsection, 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 O.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 O.R.C. § 4510.02(A)(4).

- (c) 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 violation of subsection (a)(1)B. of this section and may impose upon the offender a longer jail term as authorized pursuant to Section 501.99. The

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court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)A. hereof if either of the following applies:

- (1) The offender previously has been convicted of or pleaded guilty to a violation of this section or O.R.C. § 2903.06 or 2903.08.
 - (2) At the time of the offense, the offender was driving under suspension or cancellation under O.R.C. Ch. 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 O.R.C. § 4507.10.
- (d) Subsection (a)(1)B. does not apply in a particular construction zone unless signs of the type described in O.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 O.R.C. § 5501.27. The failure to erect signs of the type described in O.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 subsections (a)(1)A. or (a)(2) of this section in that construction zone or the prosecution of any person who violates any of those subsections in that construction zone.
- (e) As used in this section:
- (1) *Mandatory prison term* and *mandatory jail term* have the same meanings as in O.R.C. § 2929.01.
 - (2) *Traffic-related homicide, manslaughter or assault offense* means a violation of O.R.C. § 2903.04 in circumstances in which division (D) of that section applies, a violation of O.R.C. § 2903.06 or 2903.08, or a violation of O.R.C. §§ 2903.06, 2903.07 or 2903.08 as they existed prior to March 23, 2000.
 - (3) *Construction zone* has the same meaning as in O.R.C. § 5501.27.
 - (4) *Speeding offense* means a violation of O.R.C. § 4511.21 or a municipal ordinance pertaining to speed.
 - (5) *Traffic-related murder, felonious assault, or attempted murder offense* means a violation of O.R.C. § 2903.01 or 2903.02 in circumstances in which the offender used a motor vehicle as the means to commit the violation, a violation of O.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 O.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.
 - (6) *Motor vehicle* has the same meaning as in O.R.C. § 4501.01.
- (f) 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 another state or the United States.

State Law reference— (O.R.C. § 2903.06(A)(3), (A)(4), (C), (E), (G))

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- (g) The court imposing a sentence upon an offender for any violation of this section also shall impose a 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 division (B) of O.R.C. § 4510.02 that is equivalent in length to the suspension required for a violation of O.R.C. § 2903.06 or 4511.19(A) or (B) under similar circumstances.

State Law reference— (O.R.C. § 4510.07)

537.021 VEHICULAR ASSAULT IN A CONSTRUCTION ZONE.

- (a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause serious physical harm to another person or another's unborn as the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense. This subsection applies only if the person to whom the serious physical harm is caused or to whose unborn the serious physical harm is caused 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 subsection (d) hereof.
- (b) Whoever violates this section is guilty of vehicular assault. Except as provided in this subsection, vehicular assault is a misdemeanor of the first degree. Vehicular assault is a felony if, at the time of the offense, the offender was driving under a suspension imposed under O.R.C. Chapter 4510, or any other provision of the Ohio Revised Code or if the offender previously has been convicted of or pleaded guilty to a violation of this section or O.R.C. § 2903.08 or any traffic-related homicide, manslaughter, or assault offense, and shall be prosecuted under appropriate state law.

In addition to any other sanctions imposed, 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 division (A)(4) of O.R.C. § 4510.02 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 any traffic-related murder, felonious assault, or attempted murder 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 O.R.C. § 4510.02 (A)(3).

- (c) The court shall impose a mandatory jail term of at least seven days on an offender who is convicted of or pleads guilty to a misdemeanor violation of this section and may impose upon the offender a longer jail term as authorized pursuant to Section 501.99.
- (d) This section does not apply in a particular construction zone unless signs of the type described in O.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 O.R.C. § 5501.27.
- (e) As used in this section:
- (1) *Mandatory jail term* has the same meaning as in O.R.C. § 2929.01.
 - (2) *Traffic-related homicide, manslaughter or assault offense* has the same meaning as in O.R.C. § 2903.06.
 - (3) *Construction zone* has the same meaning as in O.R.C. § 5501.27.

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- (4) *Speeding offense* has the same meaning as in O.R.C. § 2903.06.
- (f) 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 another state or the United States.

State Law reference— (O.R.C. § 2903.08)

537.10 TELECOMMUNICATION HARASSMENT.

- (a) No person shall knowingly make or cause to be made a telecommunication, or knowingly permit telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:
- (1) Makes the telecommunication with purpose to harass, intimidate, or abuse, any person at the premises to which the telecommunication is made, whether or not actual communication takes place between the caller and a recipient;
 - (2) Describes, suggests, requests, or proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made;
 - (3) During the telecommunication, violates O.R.C. § 2903.21;
 - (4) Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged;
 - (5) Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication to those premises or to any person at those premises.
 - (6) Knowingly makes any comment, request, suggestion, or proposal to the recipient of the telecommunication that is threatening, intimidating, menacing, coercive, or obscene with the intent to abuse, threaten, or harass the recipient;
 - (7) Without a lawful business purpose, knowingly interrupts the telecommunication service of any person;
 - (8) Without a lawful business purpose, knowingly transmits to any person, regardless of whether the telecommunication is heard in its entirety, any file, document, or other communication that prevents that person from using the person's telephone service or electronic communication device;
 - (9) Knowingly makes any false statement concerning the death, injury, illness, disfigurement, reputation, indecent conduct, or criminal conduct of the recipient of

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- the telecommunication or family or household member of the recipient with purpose to abuse, threaten, intimidate, or harass the recipient;
- (10) Knowingly incites another person through a telecommunication or other means to harass or participate in the harassment of a person;
- (11) Knowingly alarms the recipient by making a telecommunication without a lawful purpose at an hour or hours known to be inconvenient to the recipient and in an offensive or repetitive manner.
- (b) (1) No person shall make or cause to be made a telecommunication, or permit a telecommunication to be made from a telecommunications device under the person's control, with purpose to abuse, threaten, or harass another person.
- (2) No person shall knowingly post a text or audio statement or an image on an internet web site or web page for the purpose of abusing, threatening, or harassing another person.
- (c) (1) Whoever violates this section is guilty of telecommunication harassment.
- (2) A violation of subsections (a)(1), (2), (3), or (5), (6), (7), (8), (9), (10), or (11) or (b) hereof is a misdemeanor of the first degree on a first offense. Each subsequent offense is a felony and shall be prosecuted under appropriate state law.
- (3) Whoever violates subsection (a)(4) hereof is guilty of a misdemeanor of the first degree for a first offense. For each subsequent offense or if a violation of subsection (a)(4) hereof results in economic harm of \$1,000.00 or more, a violation of subsection (a)(4) hereof is a felony and shall be prosecuted under appropriate state law.
- (d) No cause of action may be asserted in any court of this state against any provider of a telecommunications service, interactive computer service as defined in section 230 of Title 47 of the United States Code, or information service, or against any officer, employee, or agent of a telecommunication service, interactive computer service as defined in section 230 of Title 47 of the United States Code, or information service, for any injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section. A provider of a telecommunications service, interactive computer service as defined in section 230 of Title 47 of the United States Code, or information service, or an officer, employee, or agent of a telecommunications service, interactive computer service as defined in section 230 of Title 47 of the United States Code, or information service, is immune from any civil or criminal liability for injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section.
- (e) (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its

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service of any information that the person believes is, or will be sent, in violation of this section.

- (2) Subsection (e)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.
 - (3) Subsection (e)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature.
 - (4) A provider or user of an interactive computer service, as defined in section 230 of Title 47 of the United States Code, shall neither be treated as the publisher or speaker of any information provided by another information content provider, as defined in section 230 of Title 47 of the United States Code, nor held civilly or criminally liable for the creation or development of information provided by another information content provider, as defined in section 230 of Title 47 of the United States Code. Nothing in this division shall be construed to protect a person from liability to the extent that the person developed or created any content in violation of this section.
- (f) Subsections (a)(5) to (11) and (b)(2) of this section do not apply to a person who, while employed or contracted by a newspaper, magazine, press association, news agency, news wire service, cable channel or cable operator, or radio or television station, is gathering, processing, transmitting, compiling, editing, or disseminating information for the general public within the scope of the person's employment in that capacity or the person's contractual authority in that capacity.
- (g) As used in this section:
- (1) *Economic harm* means all direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" includes, but is not limited to, all of the following:
 - A. All wages, salaries, or other compensation lost as a result of the criminal conduct;
 - B. The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
 - C. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
 - D. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.
 - (2) *Caller* means the person described in subsection (a) hereof who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person's control.
 - (3) *Telecommunication* and *telecommunications device* have the same meanings as in O.R.C. § 2913.01.
 - (4) *Sexual activity* has the same meaning as in O.R.C. § 2907.01.
 - (5) *Family or household member* means any of the following:

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- A. Any of the following who is residing or has resided with the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed:
 - 1. A spouse, a person living as a spouse, or a former spouse of the recipient;
 - 2. A parent, a foster parent, or a child of the recipient, or another person related by consanguinity or affinity to the recipient;
 - 3. A parent or a child of a spouse, person living as a spouse, or former spouse of the recipient, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the recipient.
- B. The natural parent of any child of whom the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed is the other natural parent or is the putative other natural parent.

(6) *Person living as a spouse* means a person who is living or has lived with the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed in a common law marital relationship, who otherwise is cohabiting with the recipient, or who otherwise has cohabited with the recipient within five years prior to the date of the alleged commission of the act in question.

(7) *Cable operator* has the same meaning as in O.R.C. § 1332.21.

(h) Nothing in this section prohibits a person from making a telecommunication call to a debtor that is in compliance with the "Fair Debt Collection Practices Act," 91 Stat. 874 (1977), 15 U.S.C. 1692, as amended, or the "Telephone Consumer Protection Act," 105 Stat. 2395 (1991), 47 U.S.C. 227, as amended.

State Law reference— (O.R.C. § 2917.21)

537.16 ILLEGAL DISTRIBUTION OF CIGARETTES, OTHER TOBACCO PRODUCTS OR ALTERNATE NICOTINE PRODUCTS.

(a) As used in this section:

(1) *Age verification* means a service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes) that compares information available from a commercially available database, or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is 21 years of age or older.

(2) A. *Alternative nicotine product* means, subject to subsection (a)(2)B. of this section, an electronic ~~cigarette~~ smoking device, vapor product, or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving, or inhaling.

B. *Alternative nicotine product* does not include any of the following:

- 1. Any cigarette or other tobacco product;

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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).

~~(3) Child has the same meaning as in O.R.C. § 2151.011.~~

~~(4) (3) Cigarette includes clove cigarettes and hand-rolled cigarettes.~~

~~(5) (4) 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.~~

~~(6)A. (5) Electronic cigarette smoking device means, subject to subsection (a)(6)B. of this section, any electronic product or device that produces a vapor that delivers any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device to simulate smoking and that is likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarette 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).~~

~~B. Electronic cigarette does not include any item, product or device described in subsections (a)(2)B.1. to 4. of this section.~~

~~(7) Person under 21 means, for purposes of this section, a person who has reached the age of 18 years but has not yet reached the age of 21 years.~~

~~(8) (6) 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 O.R.C. §§ 4507.50 to 4507.52 that shows that a person is 18 years of age or older.~~

~~(9) (7) 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, or 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).~~

~~(8) Vapor product means a product, other than a cigarette or other tobacco product as defined in O.R.C. Ch. 5743, that contains or is made or derived from nicotine and that is intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. "Vapor product" includes any component, part, or~~

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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.

~~(4)~~ (9) *Vending machine* has the same meaning as "coin machine" in O.R.C. § 2913.01.

- (b) 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:
- (1) Give, sell, or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any ~~child~~ person under 21 years of age;
 - (2) Give away, sell, or distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a legibly printed sign in letters at least one-half inch high stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under 21 years of age is prohibited by law;
 - (3) Knowingly furnish any false information regarding the name, age, or other identification of any ~~child or~~ person under 21 years of age with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that ~~child or~~ person under 21;
 - (4) Manufacture, sell, or distribute in this state any pack or other container of cigarettes containing fewer than 20 cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco;
 - (5) Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;
 - (6) 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.
 - ~~(7) Give, sell or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any person under 21.~~
- (c) 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:
- (1) An area within a factory, business, office, or other place not open to the general public;
 - (2) An area to which ~~children~~ persons under 21 years of age are not generally permitted access;
 - (3) Any other place not identified in subsection (c)(1) or (2) of this section, upon all of the following conditions:
 - A. 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

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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.

B. The vending machine is inaccessible to the public when the place is closed.

C. 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."

- (d) The following are affirmative defenses to a charge under subsection (b)(1) ~~or (b)(7)~~ of this section:
- (1) The ~~child or~~ person under 21 years of age was accompanied by a parent, spouse who is ~~48~~ 21 years of age or older, or legal guardian of the ~~child~~ person under 21 years of age.
 - (2) The person who gave, sold or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a child or to a person under 21 years of age under ~~division (b)(7) of this section~~ under subsection (b)(1) of this section is a parent, spouse who is ~~48~~ 21 years of age or older, or legal guardian of the ~~child or~~ person under 21 years of age.
- (e) It is not a violation of subsection (b)(1), ~~or (b)(2), or (b)(7)~~ of this section for a person to give or otherwise distribute to a ~~child or~~ person under 21 years of age cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes while the ~~child or~~ person under 21 years of age is participating in a research protocol if all of the following apply:
- (1) The parent, guardian, or legal custodian of the ~~child~~ person under 21 of age has consented in writing to the ~~child~~ person under 21 of age participating in the research protocol, ~~or the person under 21 has consented in writing on his or her own behalf;~~
 - (2) An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol;
 - (3) The ~~child or~~ person under 21 years of age is participating in the research protocol at the facility or location specified in the research protocol.
- ~~(f) It is not a violation of (b)(7) of this section to give a person under 21 cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes if the transfer is done in the course of the person under 21 employment and the person under 21 is not the end consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.~~
- ~~(g)~~ (f) (1) Whoever violates subsection (b)(1), (2), (4), (5) or (6) or (c) of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this subsection, 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 subsection (b)(1), (2), (4), (5) or (6) or (c) of this section, illegal distribution of

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

(2) Whoever violates subsection (b)(3) of this section is guilty of permitting ~~children~~ a person under 21 years of age to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this subsection, permitting ~~children~~ a person under 21 years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (b)(3) of this section, permitting ~~children~~ a person under 21 years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

~~(3) Whoever violates division (b)(7) of this section is guilty of illegal distribution of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under 21. Except as otherwise provided in this division, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products to a person under 21 shall be an unclassified misdemeanor, punishable by a fine up to \$500.00. If the offender previously has been convicted of a violation of any division of this section, or a substantially equivalent offense, then violation of division (b)(7) of this section shall be an unclassified misdemeanor punishable by a fine of no less than \$300.00, which shall not be suspended, and up to \$750.00. If the offender has two or more previous convictions under this section, or for any substantially equivalent offense, then a violation of division (b)(7) shall be an unclassified misdemeanor punishable by a fine of no less than \$750.00, which shall not be suspended, and up to \$1,000.00.~~

~~(4) It is the purpose of this section to impose organizational liability for violation of division (b)(7) of this section. Such liability shall apply to the corporation, limited liability company, partnership, sole proprietorship, or other entity or natural person acting as the principal or employer to the agent or employee who actually sells, gives, or otherwise distributes cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under 21. It shall be the policy of the City of Powell to prefer citation of the organization selling, distributing, or otherwise giving cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under 21. Provided, however, that this shall not preclude citation of an individual agent or employee for violation of division (b)(7).~~

~~(h)~~ (g) Any cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a child person under 21 years of age in violation of this section and that are used, possessed, purchased, or received by a child person under 21 years of age in violation of O.R.C. § 2151.87 are subject to seizure and forfeiture as contraband under O.R.C. Ch. 2981.

(Ord. No. 2017-24, § 1, 6-20-2017)

State Law reference— (O.R.C. § 2927.02)

537.17 CRIMINAL CHILD ENTICEMENT.

~~(a) No person, by any means and without privilege to do so, shall knowingly solicit, coax, entice, or lure any child under 14 years of age to accompany the person in any manner, including entering into any vehicle or onto any vessel, whether or not the offender knows the age of the child, if both of the following apply:~~

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- ~~(1) The actor does not have the express or implied permission of the parent, guardian, or other legal custodian of the child in undertaking the activity.~~
- ~~(2) The actor is not a law enforcement officer, medic, firefighter, or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer acting under the direction of, any board of education, or the actor is any of such persons, but, at the time the actor undertakes the activity, the actor is not acting within the scope of the actor's lawful duties in that capacity.~~
- ~~(b) No person, with a sexual motivation, shall violate subsection (a) of this section.~~
- ~~(c) No person, for any unlawful purpose other than, or in addition to, that proscribed by subsection (a) of this section, shall engage in any activity described in subsection (a) of this section.~~
- ~~(d) It is an affirmative defense to a charge under subsection (a) of this section that the actor undertook the activity in response to a bona fide emergency situation or that the actor undertook the activity in a reasonable belief that it was necessary to preserve the health, safety, or welfare of the child.~~
- ~~(e) Whoever violates subsections (a), (b), or (c) of this section is guilty of criminal child enticement, a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, O.R.C. § 2907.02 or 2907.03 or former O.R.C. § 2907.12, or O.R.C. § 2905.01 or 2907.05 when the victim of that prior offense was under 17 years of age at the time of the offense, criminal child enticement is a felony of the fifth degree.~~
- ~~(f) As used in this section:
 - ~~(1) Sexual motivation has the same meaning as in O.R.C. § 2971.01.~~
 - ~~(2) Vehicle has the same meaning as in O.R.C. § 4501.01.~~
 - ~~(3) Vessel has the same meaning as in O.R.C. § 1546.01.~~~~

~~State Law reference (O.R.C. § 2905.05)~~

537.19 EXPUNGEMENT OF RECORDS OF HUMAN TRAFFICKING VICTIM FOUND NOT GUILTY OR AGAINST WHOM CHARGES ARE DISMISSED.

- (a) As used in this section, "expunge" has the same meaning as in section 2953.38 of the Revised Code.
- (b) Any person who is found not guilty of an offense by a jury or a court or who is the defendant named in a dismissed complaint, indictment, or information may apply to the court for an order to expunge the person's official records in the case if the complaint, indictment, information, or finding of not guilty that is the subject of the application was the result of the applicant having been a victim of human trafficking. The application may be filed at any time after the finding of not guilty or the dismissal of the complaint, indictment, or information is entered upon the minutes of the court or the journal, whichever entry occurs first. The application may request an order to expunge official records for more than one offense, but if it does, the court shall consider the request for each offense separately as if a separate application had been made for each offense and all references in divisions (b) to (h) of this section to "the offense" or "that offense" mean each of those offenses that are the subject of the application.
- (c) The court may deny an application made under division (b) of this section if it finds that the application fails to assert grounds on which relief may be granted.

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- (d) If the court does not deny an application under division (c) of this section, the court shall set a date for a hearing and shall notify the prosecutor for the case of the hearing on the application. The prosecutor may object to the granting of the application by filing an objection with the court prior to the date set for the hearing. The prosecutor shall specify in the objection the reasons for believing a denial of the application is justified.
- (e) At the hearing held under division (d) of this section, the court shall do all of the following:
- (1) If the prosecutor has filed an objection, consider the reasons against granting the application specified by the prosecutor in the objection;
 - (2) Determine whether the applicant has demonstrated by a preponderance of the evidence that the complaint, indictment, information, or finding of not guilty that is the subject of the application was the result of the applicant having been a victim of human trafficking;
 - (3) If the application pertains to a dismissed complaint, indictment, or information, determine whether the dismissal was with prejudice or without prejudice and, if the dismissal was without prejudice, whether the period of limitations applicable to the offense that was the subject of that complaint, indictment, or information has expired;
 - (4) Determine whether any criminal proceedings are pending against the applicant.
- (f) (1) Subject to division (f)(2) of this section, if the court finds that the applicant has demonstrated by a preponderance of the evidence that the complaint, indictment, information, or finding of not guilty that is the subject of the application was the result of the applicant having been a victim of human trafficking, the court shall grant the application and order that the official records be expunged.
- (2) The court shall not grant the application and order that the official records be expunged unless the court determines that the interests of the applicant in having the official records pertaining to the complaint, indictment, or information or finding of not guilty that is the subject of the application expunged are not outweighed by any legitimate needs of the government to maintain those records.
- (g) If an expungement is ordered under division (f) of this section, the court shall send notice of the order of expungement to each public office or agency that the court has reason to believe may have an official record pertaining to the case.
- (h) The proceedings in the case that is the subject of an order issued under division (f) of this section shall be considered not to have occurred and the official records shall be expunged. The official records shall not be used for any purpose, including a criminal records check under section 109.572 of the Revised Code. The applicant may, and the court shall, reply that no record exists with respect to the applicant upon any inquiry into the matter.

State Law reference— (O.R.C. § 2953.521)

CHAPTER 541. PROPERTY OFFENSES

541.02 ARSON.

- (a) No person, by means of fire or explosion, shall knowingly cause or create a substantial risk of physical harm to any property of another without the other person's consent.
- (b) ~~This section does not apply if the violation is done with purpose to defraud or the property involved is a statehouse or a courthouse, school building or other building or structure that~~

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~~is owned or controlled by the state, any political subdivision, or any department, agency or instrumentality of the state or a political subdivision, and that is used for public purposes.~~

(1) No person, by means of fire or explosion, shall knowingly cause or create a substantial risk of physical harm to any structure of another that is not an occupied structure;

(2) It is an affirmative defense to a charge under subsection (b)(1) of this section that the defendant acted with the consent of the other person.

(c) Whoever violates this section is guilty of arson, a misdemeanor of the first degree. If the value of the property or the amount of physical harm involved is \$1,000.00 or more, arson is a felony and shall be prosecuted under appropriate state law.

State Law reference— (O.R.C. § 2909.03)

541.04 CRIMINAL MISCHIEF.

(a) No person shall:

- (1) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with either of the following:
 - A. The property of another;
 - B. One's own residential real property with the purpose to decrease the value of or enjoyment of the residential real property, if both of the following apply:
 1. The residential real property is subject to a mortgage.
 2. The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that real property. As used in this division, "pending" includes the time between judgment entry and confirmation of sale.
- (2) With purpose to interfere with the use or enjoyment of property of another employ a tear gas device, stink bomb, smoke generator, or other device releasing a substance that is harmful or offensive to persons exposed, or that tends to cause public alarm;
- (3) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with a bench mark, triangulation station, boundary marker, or other survey station, monument, or marker.
- (4) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;
- (5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure, or personal property that is on that land.
- (6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, all as defined in O.R.C. § ~~2909.04~~ 2913.01, knowingly do any of the following:

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- A. In any manner or by any means, including, but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program;
- B. Introduce a computer contaminant into a computer, computer system, computer network, computer software, or computer program.

(b) As used in this section:

(1) "safety Safety device" means any fire extinguisher, fire hose or fire axe, or any fire escape, emergency exit or emergency escape equipment, or any life line, life-saving ring, life preserver or life boat or raft, or any alarm, light, flare, signal, sign or notice intended to warn of danger, or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal, or gate, or any first aid or survival equipment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property.

(2) "Improperly tamper" means to change the physical location or the physical condition of the property.

- (c) (1) Whoever violates this section is guilty of criminal mischief, and shall be punished as provided in subsection (c)(2) or (3) of this section.
- (2) Except as otherwise provided in this subsection, criminal mischief committed in violation of subsection (a)(1), (2), (3), (4), or (5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this subsection, if the violation of subsection (a)(1), (2), (3), (4), or (5) of this section creates a risk of physical harm to any person, criminal mischief committed in violation of subsection (a)(1), (2), (3), (4), or (5) of this section is a misdemeanor of the first degree. If the property involved in the violation of subsection (a)(1), (2), (3), (4), or (5) of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft, criminal mischief committed in violation of subsection (a)(1), (2), (3), (4), or (5) of this section is a felony and shall be prosecuted under appropriate state law.
- (3) Except as otherwise provided in this subsection, criminal mischief committed in violation of subsection (a)(6) of this section is a misdemeanor of the first degree. If the value of the computer, computer system, computer network, computer software, computer program, or data involved in the violation of subsection (a)(6) of this section or the loss to the victim resulting from the violation is \$1,000.00 or more, or if the computer, computer system, computer network, computer software, computer program, or data involved in the violation of subsection (a)(6) of this section is used or intended to be used in the operation of an aircraft and the violation creates a risk of physical harm to any person, criminal mischief committed in violation of subsection (a)(6) of this section is a felony and shall be prosecuted under appropriate state law.

State Law reference— (O.R.C. § 2909.07)(2)

541.05 CRIMINAL TRESPASS.

- (a) No person, without privilege to do so, shall do any of the following:

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- (1) Knowingly enter or remain on the land or premises of another;
 - (2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes, or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;
 - (3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;
 - (4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either.
 - (5) Knowingly enter or remain on a critical infrastructure facility.
- (b) It is no defense to a charge under this section that the land or premises involved was owned, controlled, or in custody of a public agency.
- (c) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved, when such authorization was secured by deception.
- (d) (1) Whoever violates this section is guilty of criminal trespass, and **Criminal trespass in violation of subsection (a)(1), (2), (3), or (4) of this section is a misdemeanor of the fourth degree. Criminal trespass in violation of subsection (a)(5) of this section is a misdemeanor of the first degree.**
- (2) Notwithstanding Section 501.99, if the person, in committing the violation of this section, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court shall impose a fine of two times the usual amount imposed for the violation.
- (3) If an offender previously has been convicted of or pleaded guilty to two or more violations of this section, O.R.C. § 2911.21, or a substantially equivalent municipal ordinance, ~~or state law~~, and the offender, in committing each violation, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration of that snowmobile or off-highway motorcycle or the certificate of registration and license plate of that all-purpose vehicle for not less than 60 days. In such a case, O.R.C. § 4519.47 applies.
- (e) Notwithstanding any provision of the Revised Code, if the offender, in committing the violation of this section, used an all-purpose vehicle, the clerk of the court shall pay the fine imposed pursuant to this section to the state recreational vehicle fund created by O.R.C. § 4519.11.
- ~~(e)~~ (f) As used in this section:
- (1) *All-purpose vehicle, off-highway motorcycle and snowmobile* have the same meaning as in Section 375.01 of the Traffic Code.
 - (2) *Land or premises* includes any land, building, structure, or place belonging to, controlled by, or in custody of another, and any separate enclosure or room, or portion thereof.
 - (3) *Production operation, well, and well pad* have the same meanings as in O.R.C. § 1509.01.

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(4) Critical infrastructure facility means:

- A. One of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with signs that are reasonably likely to come to the attention of potential intruders and that indicate entry is forbidden without site authorization:
1. A petroleum or alumina refinery;
 2. An electric generating facility, substation, switching station, electrical control center, or electric transmission and distribution lines and associated equipment;
 3. A chemical, polymer, or rubber manufacturing facility;
 4. A water intake structure, water treatment facility, waste water facility, drainage facility, water management facility, or any similar water or sewage treatment system and its water and sewage piping;
 5. A natural gas company facility or interstate natural gas pipeline, including a pipeline interconnection, a natural gas compressor station and associated facilities, city gate or town border station, metering station, above-ground piping, regulator station, valve site, delivery station, fabricated assembly, or any other part of a natural gas storage facility involved in the gathering, storage, transmission, or distribution of gas;
 6. A telecommunications central switching office or remote switching facility or an equivalent network facility that serves a similar purpose;
 7. Wireline or wireless telecommunications infrastructure, including telecommunications towers and telephone poles and lines, including fiber optic lines;
 8. A port, trucking terminal, or other freight transportation facility;
 9. A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;
 10. A transmission facility used by a federally licensed radio or television station;
 11. A steel-making facility that uses an electric arc furnace to make steel;
 12. A facility identified and regulated by the United States department of homeland security's chemical facility anti-terrorism standards program under 6 C.F.R. part 27;
 13. A dam that is regulated by the state or federal government;
 14. A crude oil or refined products storage and distribution facility, including valve sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline, or piping and truck loading or off-loading facility;

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15. A video service network and broadband infrastructure, including associated buildings and facilities, video service headends, towers, utility poles, and utility lines such as fiber optic lines. As used in this division, "video service network" has the same meaning as in O.R.C. § 1332.21.

16. Any above-ground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, or other storage facility;

17. Any above-ground portion of a well, well pad, or production operation;

18. A laydown area or construction site for pipe and other equipment intended for use on an interstate or intrastate natural gas or crude oil pipeline;

19. Any mining operation, including any processing equipment, batching operation, or support facility for that mining operation.

B. With respect to a video service network or broadband or wireless telecommunications infrastructure, the above-ground portion of a facility installed in a public right-of-way on a utility pole or in a conduit;

C. Any railroad property;

D. An electronic asset of any of the following:

1. An electric light company that is a public utility under O.R.C. § 4905.02;

2. An electric cooperative, as defined in O.R.C. § 4928.01;

3. A municipal electric utility, as defined in O.R.C. § 4928.01;

4. A natural gas company that is a public utility under O.R.C. § 4905.02;

5. A telephone company that is a public utility under O.R.C. § 4905.02;

6. A video service provider, including a cable operator, as those terms are defined in O.R.C. § 1332.21.

(5) "Electronic asset" includes, but is not limited to, the hardware, software, and data of a programmable electronic device; all communications, operations, and customer data networks; and the contents of those data networks.

State Law reference— (O.R.C. § 2911.21)

541.051 AGGRAVATED TRESPASS.

(a) (1) No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to him that person.

(2) No person shall enter or remain on a critical infrastructure facility with purpose to destroy or tamper with the facility.

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(b) Whoever violates this section is guilty of aggravated trespass; Aggravated trespass in violation of subsection (a)(1) of this section is a misdemeanor of the first degree. Aggravated trespass in violation of (a)(2) of this section is a felony and shall be prosecuted under appropriate state law

(c) As used in this section, "critical infrastructure facility" has the same meaning as in O.R.C. § 2911.21.

State Law reference— (O.R.C. § 2911.211)

CHAPTER 545. THEFT AND FRAUD

545.01 DEFINITIONS.

As used in this chapter, unless the context requires that a term be given a different meaning:

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

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

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

Cable television service means any services provided by or through the facilities of any cable television system or other similar closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.

Coin machine means any mechanical or electronic device designed to do both of the following:

- (1) Receive a coin, bill, or token made for that purpose;
- (2) In return for the insertion or deposit of a coin, bill or token, automatically dispense property, provide a service or grant a license.

Computer means an electronic device that performs logical, arithmetic and memory functions by the manipulation of electronic or magnetic impulses. "Computer" includes, but is not limited to, all input, output, processing, storage, computer program or communication facilities that are connected or related, in a computer system or network to an electronic device of that nature.

Computer network means a set of related and remotely connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.

Computer program means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.

Computer services includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use or data that is contained within a computer system or computer network.

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

Computer system means a computer and related devices, whether connected or unconnected, including, but not limited to, data input, output and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.

Counterfeit telecommunications device means a telecommunications device that, alone or with another telecommunications device, has been altered, constructed, manufactured, or programmed to acquire, intercept, receive, or otherwise facilitate the use of a telecommunications service or information service without the authority or consent of the provider of the telecommunications service or information service. "Counterfeit telecommunications device" includes, but is not limited to, a clone telephone, clone microchip, tumbler telephone, or tumbler microchip; a wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use of telecommunications service or information service without immediate detection; or a device, equipment, hardware, or software designed for, or capable of, altering or changing the electronic serial number in a wireless telephone.

Credit card includes, but is not limited to, a card, code, device or other means of access to a customer's account for the purpose of obtaining money, property, labor or services on credit, or for initiating an electronic fund transfer at a point-of-sale terminal, an automated teller machine or a cash dispensing machine.

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

Data means a representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system or computer network. For purposes of Section 545.07, "data" has the additional meaning set forth in subsection (a) of that section.

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

Deception means knowingly deceiving another or causing another to be deceived, by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act or omission that creates, confirms or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.

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

Deprive means to do any of the following:

- (1) Withhold property of another permanently, or for such period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;
- (2) Dispose of property so as to make it unlikely that the owner will recover it;
- (3) Accept, use or appropriate money, property or services, with purpose not to give proper consideration in return for the money, property or services, and without reasonable justification or excuse for not giving proper consideration.

Disabled adult means a person who is 18 years of age or older and has some impairment of body or mind that makes the person unfit to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least twelve months without any present

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indication of recovery from the impairment, or who is 18 years of age or older and has been certified as permanently and totally disabled by an agency of this state or the United States that has the function of so classifying persons.

Drug abuse offense has the same meaning as in O.R.C. § 2925.01.

Electronic fund transfer has the same meaning as in 92 Stat. 3728, 15 U.S.C.A. 1693a, as amended.

Elderly person means a person who is 65 years of age or older.

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

Forge means to fabricate or create, in whole or in part and by any means any spurious writing, or to make, execute, alter, complete, reproduce or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.

Gain access means to approach, instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or computer network.

Information service means: ~~subject~~

(1) Subject to subsection ~~(4)~~ (2) hereof, the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, including, but not limited to, electronic publishing.

~~(4)~~ (2) *Information service* does not include any use of a capability of a type described in this subsection (1) hereof for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

Motor vehicle has the same meaning as in O.R.C. § 4501.01.

Owner means, unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license or interest is unlawful.

Police dog or horse has the same meaning as in O.R.C. § 2921.321.

Rented property means personal property in which the right of possession and use of the property is for a short and possibly indeterminate term in return for consideration; the rentee generally controls the duration of possession of the property, within any applicable minimum or maximum term; and the amount of consideration generally is determined by the duration of possession of the property.

Services include labor, personal services, professional services, rental services, public utility services, including wireless service as defined in O.R.C. § 4934.40(F)(1) ~~128.01(F)(1)~~, common carrier services, and food, drink, transportation, entertainment and cable television services.

Slug means an object that, by virtue of its size, shape, composition or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill or token made for that purpose.

Telecommunication means the origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence of intelligence or any nature over any communications system by any method, including, but not limited to, a fiber optic, electronic, magnetic, optical, digital, or analog method.

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Telecommunications device means any instrument, equipment, machine, or other device that facilitates telecommunication, including, but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.

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

Theft offense means any of the following:

- (1) A violation of O.R.C. §§ 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42—~~2913.45, 2913.43, 2913.44, 2913.45~~, 2913.47, 2913.48, former 2913.47 or 2913.48, or 2913.51, 2915.05, 2915.06, or 2921.41.
- (2) A violation of an existing or former municipal ordinance or law of this or any other state, or of the United States, substantially equivalent to any section listed in subsection (1) hereof or a violation of O.R.C. §§ 2913.41, 2913.81 or 2915.06 as it existed prior to July 1, 1996;
- (3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States, involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit, or fraud;
- (4) A conspiracy or attempt to commit, or complicity in committing, any offense under subsection (1), (2), or (3) hereof.

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

Writing means any computer software, document, letter, memorandum, note, paper, plate, data, film or other thing having in or upon it any written, typewritten or printed matter, and any token, stamp, seal, credit card, badge, trademark, label or other symbol of value, right, privilege, license or identification.

State Law reference— (O.R.C. § 2913.01)

545.02 DETERMINING PROPERTY VALUE IN THEFT OFFENSE.

- (a) If more than one item of property or ~~service~~ services is involved in a theft offense or in a violation of O.R.C. § 1716.14(A)(1) involving a victim who is an elderly person or disabled adult, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property or services involved in the offense.
- (b) (1) When a series of offenses under Section 545.05, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05, 545.06, or 545.08, 545.10(b)(1) or (2), or Section 545.15 or 545.20 involving a victim who is an elderly person or disabled adult, is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses shall be tried as a single offense. When a series of offenses under Section 545.05, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Sections 545.05 or 545.15 involving a victim who is an active duty service member or spouse of an active duty service member is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses shall be tried as a single offense. The

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value of the property or services involved in the series of offenses for the purpose of determining the value is the aggregate value of all property and services involved in all offenses in the series.

- (2) If an offender commits a series of offenses under Section 545.05 that involves a common course of conduct to defraud multiple victims, all of the offenses may be tried as a single offense. If an offender is being tried for the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05, 545.06 or 545.08, Section 545.10(b)(1) or (2), or Section 545.15 or 545.20, whether committed against one victim or more than one victim, involving a victim who is an elderly person or disabled adult, pursuant to a scheme or course of conduct, all of those offenses may be tried as a single offense. If the offender is being tried for the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05 or 545.15, whether committed against one victim or more than one victim, involving a victim who is an active duty service member or spouse of an active duty service member pursuant to a scheme or course of conduct, all of those offenses may be tried as a single offense. If the offenses are tried as a single offense, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property and services involved in all of the offenses in the course of conduct.
- (3) When a series of two or more offenses under O.R.C. § 2913.40, 2913.48, or 2921.41 is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses may be tried as a single offense. If the offenses are tried as a single offense, the value of the property or services involved for the purpose of determining the value as required by O.R.C. § 2913.61(A) is the aggregate value of all property and services involved in all of the offenses in the series of two or more offenses.
- (4) In prosecuting a single offense under subsection (b)(1), or (2), or (3), it is not necessary to separately allege and prove each offense in the series. Rather, it is sufficient to allege and prove that the offender, within a given span of time, committed one or more theft offenses or violations of O.R.C. § 2913.40, 2913.48, or 2921.41 in the offender's same employment, capacity, or relationship to another as described in subsection (b)(1) or (3) of this section, or committed one or more theft offenses that involve a common course of conduct to defraud multiple victims or a scheme or course of conduct as described in subsection (b)(2) of this section. While it is not necessary to separately allege and prove each offense in the series in order to prosecute a single offense under subsection (b)(1), or (2), or (3) hereof, it remains necessary in prosecuting them as a single offense to prove the aggregate value of the property or services in order to meet the requisite statutory offense level sought by the prosecution.
- (c) The following criteria shall be used in determining the value of property or services involved in a theft offense:
- (1) The value of an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record, or other thing that has intrinsic worth to its owner and that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort, or money, is the amount that would compensate the owner for its loss.
 - (2) The value of personal effects and household goods, and of materials, supplies, equipment, and fixtures used in the profession, business, trade, occupation, or avocation of its owner, which property is not covered under subsection (c)(1) hereof,

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and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing the property with new property of like kind and quality.

- (3) The value of any real or personal property that is not covered under subsections (c)(1) or (2) hereof, and the value of services, is the fair market value of the property or services. As used in this section, "fair market value" is the money consideration that a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.
- (d) Without limitation on the evidence that may be used to establish the value of property or services involved in a theft offense:
- (1) When the property involved is personal property held for sale at wholesale or retail, the price at which the property was held for sale is prima-facie evidence of its value.
 - (2) When the property involved is a security or commodity traded on an exchange, the closing price or, if there is no closing price, the asked price, given in the latest market quotation prior to the offense, is prima-facie evidence of the value of the security or commodity.
 - (3) When the property involved is livestock, poultry, or raw agricultural products for which a local market price is available, the latest local market price prior to the offense is prima-facie evidence of the value of the livestock, poultry, or products.
 - (4) When the property involved is a negotiable instrument, the face value is prima-facie evidence of the value of the instrument.
 - (5) When the property involved is a warehouse receipt, bill of lading, pawn ticket, claim check, or other instrument entitling the holder or bearer to receive property, the face value or, if there is no face value, the value of the property covered by the instrument less any payment necessary to receive the property, is prima-facie evidence of the value of the instrument.
 - (6) When the property involved is a ticket of admission, ticket for transportation, coupon, token, or other instrument entitling the holder or bearer to receive property or services, the face value or, if there is no face value, the value of the property or services that may be received by the instrument, is prima-facie evidence of the value of the instrument.
 - (7) When the services involved are gas, electricity, water, telephone, transportation, shipping, or other services for which the rate is established by law, the duly established rate is prima-facie evidence of the value of the services.
 - (8) When the services involved are services for which the rate is not established by law, and the offender has been notified prior to the offense of the rate for the services, either in writing or orally, or by posting in a manner reasonably calculated to come to the attention of potential offenders, the rate contained in the notice is prima-facie evidence of the value of the services.

State Law reference— (O.R.C. § 2913.61)

545.03 PROPERTY EXCEPTIONS AS FELONY OFFENSE.

Regardless of the value of the property involved, and regardless of whether the offender has previously been convicted of a theft offense, ~~the provisions~~ a violation of Section 545.05 or 545.18

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or O.R.C. § 2913.02 or 2913.51 do not apply is a felony and will be prosecuted under state law if the property involved is any of the following:

- (a) A credit card;
- (b) A printed form for a check or other negotiable instrument, that on its face identifies the drawer or maker for whose use it is designed or identifies the account on which it is to be drawn, and that has not been executed by the drawer or maker or on which the amount is blank;
- ~~(e) A firearm or dangerous ordnance as defined in O.R.C. § 2923.11;~~
- ~~(d) (c) A motor vehicle identification license plate as prescribed by O.R.C. § 4503.22, a temporary motor vehicle license placard or windshield sticker registration as prescribed by O.R.C. § 4503.182, or any comparable license plate, placard or sticker temporary motor vehicle license registration as prescribed by the applicable law of another state or the United States;~~
- ~~(e) (d) A blank form for a certificate of title or a manufacturer's or importer's certificate to a motor vehicle, as prescribed by O.R.C. § 4505.07;~~
- ~~(f) (e) A blank form for any license listed in O.R.C. § 4507.01(A).~~

State Law reference— (O.R.C. § 2913.71)

545.05 PETTY THEFT.

- (a) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:
 - (1) Without the consent of the owner or person authorized to give consent;
 - (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
 - (3) By deception;
 - (4) By threat;
 - (5) By intimidation.
- (b) Whoever violates this section is guilty of petty theft, a misdemeanor of the first degree. Petty theft is a felony and shall be prosecuted under appropriate state law if:
 - (1) The value of the property or services stolen is \$1,000.00 or more or if the property stolen is any of the property listed in O.R.C. § 2913.71; or
 - (2) The victim of the offense is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member, or
 - (3) The property stolen is a firearm or dangerous ordnance, or
 - (4) The property stolen is a motor vehicle, or
 - (5) The property stolen is any dangerous drug, or
 - (6) The property stolen is a police dog or horse or an assistance dog and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog, or
 - (7) The property stolen is anhydrous ammonia, or

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- (8) The property stolen is a special purpose article as defined in O.R.C. § 4737.04 or a bulk merchandise container as defined in O.R.C. § 4737.012.
- (c) In addition to the penalties described in subsection (b) of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:
- (1) Unless subsection (c)(2) of this section applies, suspend for not more than six months the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;
 - (2) If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to subsection (c)(1) of this section, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in O.R.C. § 4510.02(A)(7), provided that the suspension shall be for at least six months.
 - (3) The court, in lieu of suspending the offender's driver's or commercial driver's license, probationary driver's license, temporary instruction permit, or nonresident operating privilege pursuant to subsections (c)(1) or (2) of this section, instead may require the offender to perform community service for a number of hours determined by the court.
- (d) In addition to the penalties described in subsection (b) hereof, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to O.R.C. § 2929.18 or 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of O.R.C. § 2913.72.
- (e) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under subsection (c) of this section may grant the offender limited driving privileges during the period of the suspension in accordance with O.R.C. Ch. 4510.

State Law reference— (O.R.C. § 2913.02)

545.09 PASSING BAD CHECKS.

- (a) As used in this section:
- (1) *Check* includes any form of debit from a demand deposit account, including, but not limited to any of the following:
 - A. A check, bill of exchange, draft, order of withdrawal, or similar negotiable or nonnegotiable instrument;
 - B. An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check, or any form of automated clearing house transaction.
 - (2) *Issue a check* means causing any form of debit from a demand deposit account.

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- (b) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored or knowing that a person has ordered or will order stop payment on the check or other negotiable instrument.
- (c) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored, if either of the following occurs:
- (1) The drawer had no account with the drawee at the time of issue or the stated date, whichever is later.
 - (2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within 30 days after issue or the stated date, whichever is later, and the liability of the drawer, indorser, or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.
- ~~(d) For purposes of this section, a person who issues or transfers a check, bill of exchange or other draft is presumed to have the purpose to defraud if the drawer fails to comply with O.R.C. § 1349.16 by doing any of the following when opening a checking account intended for personal, family or household purposes at a financial institution:~~
- ~~(1) Falsely stating that the drawer has not been issued a valid driver's or commercial driver's license or identification card issued under O.R.C. § 4507.50;~~
 - ~~(2) Furnishing such license or card, or another identification document that contains false information;~~
 - ~~(3) Making a false statement with respect to the drawer's current address or any additional relevant information reasonably required by the financial institution.~~
- (e) ~~(d)~~ In determining the value of the payment for purposes of subsection ~~(f)~~ (e) of this section, the court may aggregate all checks and other negotiable instruments that the offender issued or transferred or caused to be issued or transferred in violation of subsection (a) of this section within a period of 180 consecutive days.
- ~~(f)~~ (e) Whoever violates this section is guilty of passing bad checks. Except as otherwise provided in this subsection, passing bad checks is a misdemeanor of the first degree. If the check or checks or other negotiable instrument or instruments are issued or transferred to a single vendor or single other person for the payment of \$1,000.00 or more or if the check or checks or other negotiable instrument or instruments are issued or transferred to multiple vendors or persons for the payment of \$1,500.00 or more, passing bad checks is a felony and shall be prosecuted under appropriate state law.

State Law reference— (O.R.C. § 2913.11)

545.12 TAMPERING WITH COIN MACHINES.

- (a) No person, with purpose to commit theft or to defraud, shall knowingly enter, force an entrance into, tamper with, or insert any part of an instrument into any coin machine.
- (b) Whoever violates this section is guilty of tampering with coin machines, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of O.R.C. § 2911.32 or of any theft offense as defined in O.R.C. § 2913.01, tampering with coin machines is a felony and shall be prosecuted under appropriate state law.

State Law reference— (O.R.C. § 2911.32)

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545.14 TAMPERING WITH RECORDS.

- (a) No person, knowing the person has no privilege to do so, and with purpose to defraud or knowing that the person is facilitating a fraud, shall do any of the following:
- (1) Falsify, destroy, remove, conceal, alter, deface, or mutilate any writing, computer software, data, or record;
 - (2) Utter any writing or record, knowing it to have been tampered with as provided in subsection (a)(1) hereof.
- (b) ~~Whoever~~ Except as provided in this subsection, whoever violates this section is guilty of tampering with records, a misdemeanor of the first degree. If the violation involves data or computer software the value of which or loss to the victim is \$1,000.00 or more; or if the writing or record is a will unrevoked at the time of the offense; or if the offense is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services and the value of the property or services or the loss to the victim is \$7,500 or more; or if the writing, data, computer software, or record is kept by or belongs to a local, state, or federal governmental entity; tampering with records is a felony and shall be prosecuted under appropriate state law.

State Law reference— (O.R.C. § 2913.42)

545.18 RECEIVING STOLEN PROPERTY.

- (a) No person shall receive, retain, or dispose of property of another, knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense.
- (b) It is not a defense to a charge of receiving stolen property in violation of this section that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being obtained through the commission of a theft offense.
- (c) Whoever violates this section is guilty of receiving stolen property, a misdemeanor of the first degree. Receiving stolen property is a felony and shall be prosecuted under appropriate state law if:
- (1) The value of the property involved is \$1,000.00 or more; or
 - (2) The property involved is:
 - A. Listed in ~~Section 545.03~~ O.R.C. § 2913.71; or
 - B. A motor vehicle, as defined in O.R.C. § 4501.01; or
 - C. A dangerous drug, as defined in O.R.C. § 4729.01; or
 - D. A firearm or dangerous ordnance, as defined in O.R.C. § 2923.11; or
 - E. A special purchase article as defined in O.R.C. § 4737.04 or a bulk merchandise container as defined in O.R.C. § 4737.012.

State Law reference— (O.R.C. § 2913.51)

545.20 FORGERY OF IDENTIFICATION CARDS.

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

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- (1) Forge an identification card;
 - (2) Sell or otherwise distribute a card that purports to be an identification card, knowing it to have been forged.
 - (3) As used in this section, *identification card* means a card that includes personal information or characteristics of an individual, a purpose of which is to establish the identity of the bearer described on the card, whether the words "identity," "identification," "identification card," or other similar words appear on the card.
- (b) Whoever violates subsection (a) hereof is guilty of forging identification cards or selling or distributing forged identification cards. Except as otherwise provided in this subsection, forging or selling or distributing forged identification cards is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section or O.R.C. § 2913.31(B), forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree and, in addition, the court shall impose upon the offender a fine of not less than \$250.00.

If the victim of a violation of subsection (a) hereof is an elderly person, O.R.C. § 2913.31(C)(2)(b) applies to the offense.

State Law reference— (O.R.C. § 2913.31)

CHAPTER 549. WEAPONS AND EXPLOSIVES

549.01 DEFINITIONS.

As used in this chapter:

- (a) *Deadly weapon* means any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.
- (b) (1) *Firearm* means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.
- (2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.
- (c) *Handgun* means any of the following:
 - (1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;
 - (2) Any combination of parts from which a firearm of a type described in subsection (c)(1) of this section can be assembled.
- (d) *Semi-automatic firearm* means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.
- (e) *Automatic firearm* means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.

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- (f) *Sawed-off firearm* means a shotgun with a barrel less than 18 inches long, or a rifle with a barrel less than 16 inches long, or a shotgun or rifle less than 26 inches long overall. "Sawed-off firearm" does not include any firearm with an overall length of at least 26 inches that is approved for sale by the federal bureau of alcohol, tobacco, firearms, and explosives under the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the bureau not to be regulated under the "National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a).
- (g) *Zip-gun* means any of the following:
- (1) Any firearm of crude and extemporized manufacture;
 - (2) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
 - (3) Any industrial tool, signalling device, or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried, or used as a firearm.
- (h) *Explosive device* means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.
- (i) *Incendiary device* means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.
- (j) *Ballistic knife* means a knife with a detachable blade that is propelled by a spring-operated mechanism.
- (k) *Dangerous ordnance* means any of the following, except as provided in subsection (l) hereof:
- (1) Any automatic or sawed-off firearm, zip-gun, or ballistic knife;
 - (2) Any explosive device or incendiary device;
 - (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, cyclitol, and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder, and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions;
 - (4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo, or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;
 - (5) Any firearm muffler or suppressor;
 - (6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.
- (l) *Dangerous ordnance* does not include any of the following:

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- (1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;
- (2) Any pistol, rifle, or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon, unless the firearm is an automatic or sawed-off firearm;
- (3) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic, or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;
- (4) Black powder, priming quills, and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (l)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
- (5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio, or museum piece;
- (6) Any device that is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(4), as amended, and regulations issued under that Act;
- (7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol, tobacco, firearms, and explosives under the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the bureau not to be regulated under the "National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a).

- (m) *Explosive* means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks," as defined in O.R.C. § 3743.01, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored, or used in any activity described in O.R.C. § 3743.80, provided the activity is conducted in accordance with all applicable laws, rules, and regulations, including, but not limited to, the provisions of O.R.C. § 3743.80, and the rules of the Fire Marshal adopted pursuant to O.R.C. § 3737.82.
- (n) (1) *Concealed handgun license* or *license to carry a concealed handgun* means, subject to subsection (n)(2) of this section, a license or temporary emergency license to carry a concealed handgun issued under O.R.C. § 2923.125 or 2923.1213 or a license to carry a concealed handgun issued by another state with which the Attorney General has entered into a reciprocity agreement under O.R.C. § 109.69.
- (2) A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under O.R.C. § 2923.125 or a license to carry a concealed handgun issued under O.R.C. § 2923.125 means only a license of the type that is specified in that section. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under O.R.C. § 2923.1213, a ~~license~~ license to carry a

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concealed handgun issued under O.R.C. § 2923.1213, or a license to carry a concealed handgun on a temporary emergency basis means only a license of the type that is specified in O.R.C. § 2923.1213. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued by another state or a license to carry a concealed handgun issued by another state means only a license issued by another state with which the Attorney General has entered into a reciprocity agreement under O.R.C. § 109.69.

- (o) *Valid concealed handgun license or valid license to carry a concealed handgun* means a concealed handgun license that is currently valid, that is not under a suspension under division (A)(1) of O.R.C. § 2923.128, under O.R.C. § 2923.1213, or under a suspension provision of the state other than this State in which the license was issued, and that has not been revoked under division (B)(1) of O.R.C. § 2923.128, under O.R.C. § 2923.1213, or under a revocation provision of the state other than this State in which the license was issued.
- (p) *Misdemeanor punishable by imprisonment for a term exceeding one year* does not include any of the following:
- (1) Any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices;
 - (2) Any misdemeanor offense punishable by a term of imprisonment of two years or less.
- (q) *Alien registration number* means the number issued by the United States Citizenship and Immigration Services Agency that is located on the alien's permanent resident card and may also be commonly referred to as the "USCIS number" or the "alien number."
- (r) "Active duty" has the same meaning as defined in 10 U.S.C. 101.

State Law reference— (O.R.C. § 2923.11)

549.02 CARRYING CONCEALED WEAPONS.

- (a) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:
- (1) A deadly weapon other than a handgun;
 - (2) A handgun other than a dangerous ordnance;
 - (3) A dangerous ordnance.
- (b) No person who has been issued a concealed handgun license, shall do any of the following:
- (1) If the person is stopped for a law enforcement purpose, and is carrying a concealed handgun, ~~fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license and that the person then is carrying a concealed handgun; before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then is carrying a concealed handgun, provided that it is not a violation of this division if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop;~~
 - (2) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after

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any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;

(3) If the person is stopped for a law enforcement purpose, if the person is carrying a concealed handgun, and if the person is approached by any law enforcement officer while stopped, knowingly remove or attempt to remove the loaded handgun from the holster, pocket, or other place in which the person is carrying it, knowingly grasp or hold the loaded handgun, or knowingly have contact with the loaded handgun by touching it with the person's hands or fingers at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person removes, attempts to remove, grasps, holds, or has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer;

~~(3)~~ (4) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

- (c) (1) This section does not apply to any of the following:
- A. An officer, agent, or employee of this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance, or is authorized to carry handguns and is acting within the scope of the officer's, agent's, or employee's duties;
 - B. Any person who is employed in this state, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, and who is subject to and in compliance with the requirements of O.R.C. § 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. hereof does not apply to the person.
 - C. A person's transportation or storage of a firearm, other than a firearm described in divisions (G) to (M) of O.R.C. § 2923.11, in a motor vehicle for any lawful purpose if the firearm is not on the actor's person;
 - D. A person's storage or possession of a firearm, other than a firearm described in divisions (G) to (M) of O.R.C. § 2923.11, in the actor's own home for any lawful purpose.
- (2) ~~Subsection (a)(2) of this section does not apply to any person who, at the time of the alleged carrying or possession of a handgun, is carrying a valid concealed handgun license, unless the person knowingly is in a place described in division (B) of O.R.C. § 2923.126. has been issued a concealed handgun license that is valid at the time of the alleged carrying or possession of a handgun or who, at the time of the alleged carrying or possession of a handgun, is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in O.R.C. § 2923.125(G)(1), unless the person knowingly is in a place described in O.R.C. § 2923.126(B).~~
- (d) It is an affirmative defense to a charge under subsection (a)(1) of this section of carrying or having control of a weapon other than a handgun and other than a dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following applies:

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- (1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.
- (2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.
- (3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.
- (e) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.
- (f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this subsection or ~~subsection~~ subsections (f)(2), (6), and (7) of this section, carrying concealed weapons in violation of subsection (a) of this section is a misdemeanor of the first degree. Except as otherwise provided in this subsection or ~~subsection~~ subsections (f)(2), (6), and (7) of this section, if the offender previously has been convicted of a violation of this section or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate state law. Except as otherwise provided in ~~subsection~~ subsections (f)(2) and (6) of this section, ~~if the weapon involved is a firearm and the violation of this section is committed at premises for which a D permit has been issued under O.R.C. Ch. 4303 or~~ if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate state law.
- (2) ~~If a person being arrested for a violation of subsection (a)(2) of this section promptly produces a valid concealed handgun license, and if at the time of the violation the person was not knowingly in a place described in division (B) of O.R.C. § 2923.126, the officer shall not arrest the person for a violation of that subsection. If the person is not able to promptly produce any concealed handgun license and if the person is not in a place described in that section, the officer may arrest the person for a violation of that subsection, and the offender shall be punished as follows: A person shall not be arrested for a violation of subsection (a)(2) of this section solely because the person does not promptly produce a valid concealed handgun license. If a person is arrested for a violation of subsection (a)(2) hereof and is convicted of or pleads guilty to the violation, the offender shall be punished as follows:~~
- A. The offender shall be guilty of a minor misdemeanor if both of the following apply:
1. Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest, to the law enforcement agency that employs the arresting officer.
 2. At the time of the arrest, the offender was not knowingly in a place described in division (B) of O.R.C. § 2923.126.
- B. The offender shall be guilty of a misdemeanor and shall be fined \$500.00 if all of the following apply:

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1. The offender previously had been issued a concealed handgun license, and that license expired within the two years immediately preceding the arrest.
 2. Within 45 days after the arrest, the offender presents any type of a concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in O.R.C. § 2945.71.
 3. At the time of the commission of the offense, the offender was not knowingly in a place described in division (B) of O.R.C. § 2923.126.
- C. If neither subsection ~~subsections~~ (f)(2)A. ~~nor~~ and B. and (f)(6) of this section ~~applies~~ do not apply, the offender shall be punished under subsection (f)(1) or ~~(7)~~ of this section.
- (3) ~~Except as otherwise provided in this subsection, carrying~~ Carrying concealed weapons in violation of subsection (b)(1) hereof is a misdemeanor of the first second degree, ~~and, in addition to any other penalty or sanction imposed for a violation of subsection (b)(1) hereof, the offender's concealed handgun license shall be suspended pursuant to O.R.C. § 2923.128(A)(2).~~
- ~~If, at the time of the stop of the offender for a law enforcement purpose that was the basis of the violation, any law enforcement officer involved with the stop had actual knowledge that the offender has been issued a concealed handgun license, carrying concealed weapons in violation of division (b)(1) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of O.R.C. § 2923.128.~~
- (4) ~~Except as otherwise provided herein, carrying~~ Carrying concealed weapons in violation of subsection (b)(2) or ~~(b)(3)~~ (b)(4) hereof is a misdemeanor of the first degree. ~~If or, if the offender has previously has been convicted or pleaded guilty to a violation of O.R.C. § 2923.12(B)(2) or (B)(4), or a substantially equivalent municipal ordinance, carrying concealed weapons is a felony, and shall be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a misdemeanor violation of subsection (b)(2) or (b)(3) (b)(4) hereof, the offender's concealed handgun license shall be suspended pursuant to O.R.C. § 2923.128(A)(2).~~
- (5) Carrying concealed weapons in violation of subsection (b)(3) hereof is a felony, and shall be prosecuted under appropriate state law.
- (6) If a person being arrested for a violation of subsection (a)(2) of this section is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in O.R.C. § 2923.125(G)(1), and if at the time of the violation the person was not knowingly in a place described in division (B) of O.R.C. § 2923.126, the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in O.R.C. § 2923.125(G)(1) and if the person is not in a place described in O.R.C. § 2923.126(B), the officer shall issue a citation and the offender shall be assessed a civil penalty of not more than \$500.00. The citation shall be automatically dismissed and the civil penalty shall not be assessed if both of the following apply:

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A. Within ten days after the issuance of the citation, the offender presents a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in O.R.C. § 2923.125(G)(1), which were both valid at the time of the issuance of the citation to the law enforcement agency that employs the citing officer.

B. At the time of the citation, the offender was not knowingly in a place described in O.R.C. § 2923.126(B).

(7) If a person being arrested for a violation of subsection (a)(2) of this section is knowingly in a place described in O.R.C. § 2923.126(B)(5) and is not authorized to carry a handgun or have a handgun concealed on the person's person or concealed ready at hand under that division, the penalty shall be as follows:

A. Except as otherwise provided in this subsection, if the person produces a valid concealed handgun license within ten days after the arrest and has not previously been convicted or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a minor misdemeanor;

B. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the fourth degree;

C. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to two violations of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the third degree;

D. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to three or more violations of subsection (a)(2) of this section, or convicted of or pleaded guilty to any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is a dangerous ordnance, the person is guilty of a misdemeanor of the second degree.

(g) If a law enforcement officer stops a person to question the person regarding a possible violation of this section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, division (B) of O.R.C. § 2923.163 applies.

(h) For purposes of this section, "deadly weapon" or "weapon" does not include any knife, razor, or cutting instrument if the instrument was not used as a weapon.

State Law reference— (O.R.C. § 2923.12)

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549.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.

- (a) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:
- (1) In a closed package, box, or case;
 - (2) In a compartment which can be reached only by leaving the vehicle;
 - (3) In plain sight and secured in a rack or holder made for the purpose;
 - (4) If the firearm is at least 24 inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least 18 inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.
- (b) No person who has been issued a concealed handgun license or who is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in O.R.C. § 2923.125(G)(1), who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in O.R.C. § 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:
- (1) ~~Fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a concealed handgun license and Before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the motor vehicle; , provided that it is not a violation of this subsection if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop;~~
 - (2) ~~Fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a concealed handgun license and Before or at the time an employee of the motor carrier enforcement unit asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the commercial motor vehicle.- , provided that it is not a violation of this subsection if the person fails to disclose that fact to an employee of the unit during the stop and the person already has notified another employee of the unit of that fact during the same stop;~~
 - (3) Knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer. ;
 - (4) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.
- (c) (1) This section does not apply to any of the following:

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- A. An officer, agent, or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's, or employee's duties;
 - B. Any person who is employed in this state, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of O.R.C. § 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. does not apply to the person.
- (2) Subsection (a) of this section does not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:
- A. The person transporting or possessing the handgun is carrying a valid has been issued a concealed handgun license- that is valid at the time in question or the person is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in O.R.C. § 2923.125(G)(1).
 - B. The person transporting or possessing the handgun is not knowingly in a place described in division (B) of O.R.C. § 2923.126.
- (3) Subsection (a) of this section does not apply to a person if all of the following apply:
- A. The person possesses a valid ~~electric-powered~~ all-purpose vehicle permit issued under O.R.C. § 1533.103 by the Chief of the Division of Wildlife.
 - B. The person is on or in an ~~electric-powered~~ all-purpose vehicle as defined in O.R.C. § 1531.01 or a motor vehicle during the open hunting season for a wild quadruped or game bird.
 - C. The person is on or in an ~~electric-powered~~ all-purpose vehicle as defined in O.R.C. § 1531.01 or on private or publicly owned lands or on or in a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife, provided that the road is identified by an electric-powered all-purpose vehicle sign.
- (d) (1) The affirmative defenses authorized in Section 549.02(d)(1) and (2) are affirmative defenses to a charge under subsection (a) that involves a firearm other than a handgun.
- (2) It is an affirmative defense to a charge under subsection (a) of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that ~~the~~ this affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by subsection (a) while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.
- (e) (1) No person who is charged with a violation of subsection (a) shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.
- (2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (b) of this section as it existed prior to September 30, 2011,

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and if the conduct that was the basis of the violation no longer would be a violation of subsection (b) of this section on or after September 30, 2011, or if a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (b)(1) or (2) of this section as it existed prior to June 13, 2022 [the effective date of the amendment to Ohio R.C. 2923.16(H)(2)(a)], the person may file an application under O.R.C. § 2953.37 requesting the expungement of the record of conviction.

If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (a) of this section as the subsection existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of subsection (a) of this section on or after September 30, 2011, due to the application of subsection ~~(b)(4)~~ (c)(2) of this section as it exists on and after September 30, 2011, the person may file an application under O.R.C. § 2953.37 requesting the expungement of the record of conviction.

- (f) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of subsection (a) of this section is a misdemeanor of the fourth degree. ~~Except as otherwise provided in this subsection, a~~ A violation of subsection (b)(1) or (b)(2) of this section is a misdemeanor of the first second degree, ~~and, in addition to any other penalty or sanction imposed for the violation, the offender's concealed handgun license shall be suspended pursuant to O.R.C. § 2923.128(A)(2). If at the time of the stop of the offender for a traffic stop, for another law enforcement purpose, or for a purpose defined in O.R.C. § 5503.34 that was the basis of the violation any law enforcement officer involved with the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the offender's status as a licensee, a violation of subsection (b)(1) or (b)(2) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of O.R.C. § 2923.128.~~ A violation of subsection (b)(3) or (4) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(3) or (4) of this section, a felony and shall be prosecuted under appropriate State law. In addition to any other penalty or sanction imposed for a misdemeanor violation of subsection (b)(3) or (4) of this section, the offender's concealed handgun license shall be suspended pursuant to O.R.C. § 2923.128(A)(2).
- (g) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, division (B) of O.R.C. § 2923.163 applies.
- (h) As used in this section:
- (1) *Motor vehicle, street and highway* have the same meanings as in O.R.C. § 4511.01.
 - (2) A. *Unloaded* means:
 1. With respect to a firearm other than a firearm described in subsection (h)(2)B. of this section, that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm in question, and one of the following applies:

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- a. There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.
 - b. Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.
2. For the purposes of subsection (h)(2)A.1.b. of this section, a *container that provides complete and separate enclosure* includes, but is not limited to, any of the following:
 - a. A package, box, or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;
 - b. A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.
 3. For the purposes of subsection (h)(2)A. of this section, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.
- B. *Unloaded* means, with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.
- (3) *Commercial motor vehicle* has the same meaning as in O.R.C. § 4506.25(A).
- (4) *Motor carrier enforcement unit* means the motor carrier enforcement unit in the Department of Public Safety, Division of State Highway Patrol, that is created by O.R.C. § 5503.34.
- (i) Subsection (h)(2) of this section does not affect the authority of a person who ~~is carrying a valid concealed handgun license~~ has been issued a concealed handgun license that is valid at the time in question to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in that subsection, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter or O.R.C. Ch. 2923. A person who ~~is carrying~~ has been issued a valid concealed handgun license that is valid at the time in question may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter or O.R.C. Ch. 2923.

State Law reference— (O.R.C. § 2923.16)

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549.06 UNLAWFUL TRANSACTIONS IN WEAPONS.

(a) No person shall:

- ~~(1)~~ Manufacture, possess for sale, sell or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife or similar weapon;
- ~~(2)~~ (1) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing him to be authorized to acquire dangerous ordnance pursuant to O.R.C. § 2923.17, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;
- ~~(3)~~ (2) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in such person's possession or under his control.

(b) Whoever violates this section is guilty of unlawful transactions in weapons. ~~Violation A violation of subsections subsection (a)(1) or (2)~~ hereof is a misdemeanor of the second degree. ~~Violation A violation~~ of subsection ~~(a)(3)~~ (a)(2) hereof is a misdemeanor of the fourth degree.

State Law reference— (O.R.C. § 2923.20)

549.10 POSSESSING REPLICA FIREARM IN SCHOOL.

(a) No person shall knowingly possess an object in a school safety zone if both of the following apply:

- (1) The object is indistinguishable from a firearm, whether or not the object is capable of being fired.
- (2) The person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.

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

- A. An officer, agent, or employee of this or any other state or the United States who is authorized to carry deadly weapons or dangerous ordnance and is acting within the scope of the officer's, agent's, or employee's duties;
- B. A law enforcement officer who is authorized to carry deadly weapons or dangerous ordnance;
- C. A security officer employed by a board of education or governing body of a school during the time that the security officer is on duty pursuant to that contract of employment;
- D. Any person not described in O.R.C. § 2923.122(D)(1)(a) to (c) who has written authorization from the board of education or governing body of a school to convey deadly weapons or dangerous ordnance into a school safety zone or to possess a deadly weapon or dangerous ordnance in a school safety zone

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and who conveys or possesses the deadly weapon or dangerous ordnance in accordance with that authorization, provided both of the following apply:

1. Either the person has successfully completed the curriculum, instruction, and training established under O.R.C. § 5502.703, or the person has received a certificate of having satisfactorily completed an approved basic peace officer training program or is a law enforcement officer;
2. The board or governing body has notified the public, by whatever means the affected school regularly communicates with the public, that the board or governing body has authorized one or more persons to go armed within a school operated by the board or governing authority.

A district board or school governing body that authorizes a person under O.R.C. § 2923.122(D)(1)(d) shall require that person to submit to an annual criminal records check conducted in the same manner as O.R.C. § 3319.39 or 3319.391.

E. Any person who is employed in this state, who is authorized to carry deadly weapons or dangerous ordnance, and who is subject to and in compliance with the requirements of O.R.C. § 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in O.R.C. § 2923.122(D)(1)(e) does not apply to the person.

(2) Subsection (a) hereof does not apply to premises upon which home schooling is conducted. Subsection (a) hereof also does not apply to a school administrator, teacher, or employee who possesses an object that is indistinguishable from a firearm for legitimate school purposes during the course of employment, a student who uses an object that is indistinguishable from a firearm under the direction of a school administrator, teacher, or employee, or any other person who with the express prior approval of a school administrator possesses an object that is indistinguishable from a firearm for a legitimate purpose, including the use of the object in a ceremonial activity, a play, reenactment, or other dramatic presentation, or a ROTC activity or another similar use of the object.

(3) This section does not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if, at the time of that conveyance, attempted conveyance, or possession of the handgun, all of the following apply:

A. The person does not enter into a school building or onto school premises and is not at a school activity.

B. The person has been issued a concealed handgun license that is valid at the time of the conveyance, attempted conveyance, or possession or the person is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in O.R.C. § 2923.125(G)(1).

C. The person is in the school safety zone in accordance with 18 U.S.C. 922(q)(2)(B).

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D. The person is not knowingly in a place described in O.R.C. § 2923.126 (B)(1) or (B)(3) to (8).

(4) This section does not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if at the time of that conveyance, attempted conveyance, or possession of the handgun all of the following apply:

A. The person has been issued a concealed handgun license that is valid at the time of the conveyance, attempted conveyance, or possession or the person is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in O.R.C. § 2923.125(G)(1).

B. The person leaves the handgun in a motor vehicle.

C. The handgun does not leave the motor vehicle.

D. If the person exits the motor vehicle, the person locks the motor vehicle.

(c) Whoever violates subsection (a) hereof is guilty of illegal possession of an object indistinguishable from a firearm in a school safety zone. Except as otherwise provided in this subsection, illegal possession of an object indistinguishable from a firearm in a school safety zone is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of O.R.C. § 2923.122, illegal possession of an object indistinguishable from a firearm in a school safety zone is a felony and shall be prosecuted under appropriate state law.

(d) (1) In addition to any other penalty imposed upon a person who is convicted of or pleads guilty to a violation of this section and subject to subsection (d)(2) of this section, if the offender has not attained 19 years of age, regardless of whether the offender is attending or is enrolled in a school operated by a board of education or for which the State Board of Education prescribes minimum standards under O.R.C. § 3301.07, the court shall impose upon the offender a class four suspension of the offender's probationary driver's license, restricted license, driver's license, commercial driver's license, temporary instruction permit, or probationary commercial driver's license that then is in effect from the range specified in division (A)(4) of O.R.C. § 4510.02 and shall deny the offender the issuance of any permit or license of that type during the period of the suspension.

If the offender is not a resident of this state, the court shall impose a class four suspension of the nonresident operating privilege of the offender from the range specified in division (A)(4) of O.R.C. § 4510.02.

(2) If the offender shows good cause why the court should not suspend one of the types of licenses, permits, or privileges specified in subsection (d)(1) of this section or deny the issuance of one of the temporary instruction permits specified in that subsection, the court in its discretion may choose not to impose the suspension, revocation, or denial required in that subsection, but the court, in its discretion, instead may require the offender to perform community service for a number of hours determined by the court.

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- (e) As used in this section, "object that is indistinguishable from a firearm" means an object made, constructed, or altered so that, to a reasonable person without specialized training in firearms, the object appears to be a firearm.

State Law reference— (O.R.C. § 2923.122)

549.11 DEFACING IDENTIFICATION MARKS OF A FIREARM; POSSESSING A DEFACED FIREARM.

- (a) No person shall do either of the following:
 - (1) Change, alter, remove, or obliterate the name of the manufacturer, model, manufacturer's serial number, or other mark or identification on a firearm.
 - (2) Possess a firearm knowing or having reasonable cause to believe that the name of the manufacturer, model, manufacturer's serial number, or other mark of identification on the firearm has been changed, altered, removed, or obliterated.
- (b)
 - (1) Whoever violates subsection (a)(1) of this section is guilty of defacing identification marks of a firearm. Except as otherwise provided in this subsection, defacing identification marks of a firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(1) of this section, defacing identification marks of a firearm is a felony and shall be prosecuted under appropriate state law.
 - (2) Whoever violates subsection (a)(2) of this section is guilty of possessing a defaced firearm. Except as otherwise provided in this subsection, possessing a defaced firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, possessing a defaced firearm is a felony and shall be prosecuted under appropriate state law.
- (c) Subsection (a) of this section does not apply to any firearm on which no manufacturer's serial number was inscribed at the time of its manufacture.

State Law reference— (O.R.C. § 2923.201)

549.13 UNLAWFUL USE OF A WEAPON BY A VIOLENT CAREER CRIMINAL.

- (a) As used in this section:
 - (1)
 - A. *Violent career criminal* means a person who within the preceding eight years, subject to extension as provided in subsection (a)(1)B. of this section, has been convicted of or pleaded guilty to two or more violent felony offenses that are separated by intervening sentences and are not so closely related to each other and connected in time and place that they constitute a course of criminal conduct.
 - B. Except as provided in subsection (a)(1)C. of this section, the eight-year period described in subsection (a)(1)A. of this section shall be extended by a period of time equal to any period of time during which the person, within that eight-year period, was confined as a result of having been accused of an offense, having been convicted of or pleaded guilty to an offense, or having been

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accused of violating or found to have violated any community control sanction, post-release control sanction, or term or condition of supervised release.

- C. Subsection (a)(1)B. of this section shall not apply to extend the eight-year period described in subsection (a)(1)A. of this section by any period of time during which a person is confined if the person is acquitted of the charges or the charges are dismissed in final disposition of the case or during which a person is confined as a result of having been accused of violating any sanction, term, or condition described in subsection (a)(1)B. of this section if the person subsequently is not found to have violated that sanction, term, or condition.

(2) *Violent felony offense* means any of the following:

- A. A violation of O.R.C. § 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 2909.02, 2909.23, 2911.01, 2911.02, or 2911.11;
- B. A violation of division (a)(1) or (2) of O.R.C. § 2911.12;
- C. A felony violation of O.R.C. § 2907.02, 2907.03, 2907.04, or 2907.05;
- D. A felony violation of O.R.C. § 2909.24 or a violation of O.R.C. § 2919.25 that is a felony of the third degree;
- E. A felony violation of any existing or former ordinance or law of this state, another state, or the United States that is or was substantially equivalent to any offense listed or described in subsections (a)(2)A. to E. of this section;
- F. A conspiracy or attempt to commit, or complicity in committing, any of the offenses listed or described in subsections (a)(2)A. to E. of this section, if the conspiracy, attempt, or complicity is a felony of the first or second degree.

(3) *Dangerous ordnance* and *firearm* have the same meanings as in O.R.C. § 2923.11.

(4) *Community control sanction* has the same meaning as in O.R.C. § 2929.01.

(5) *Post-release control sanction* has the same meaning as in O.R.C. § 2967.01.

(6) *Supervised release* has the same meaning as in O.R.C. § 2950.01.

(b) No violent career criminal shall knowingly use any firearm or dangerous ordnance.

(c) Whoever violates this section is guilty of unlawful use of a weapon by a violent career criminal, a felony of the first degree, ~~and, notwithstanding O.R.C. § 2929.14(A)(1), the court shall impose upon the offender a mandatory prison term of two, three, four, five, six, seven, eight, nine, ten, or 11 years. For an offense committed prior to March 22, 2019 [the effective date of the amendment to O.R.C. § 2923.132(C)], notwithstanding the range of definite prison terms set forth in O.R.C. § 2929.14(A)(1)(b), the court shall impose upon the offender a mandatory prison term that is a definite prison term of two, three, four, five, six, seven, eight, nine, ten, or eleven years. For an offense committed on or after March 22, 2019 [the effective date of the amendment to O.R.C. § 2923.132(C)], notwithstanding the range of minimum prison terms set forth in O.R.C. § 2929.14(A)(1)(a), the court shall impose upon the offender an indefinite prison term pursuant to that division, with a minimum term under that sentence that is a mandatory prison term of two, three, four, five, six, seven, eight, nine, ten, or eleven years.~~

State Law reference— (O.R.C. § 2923.132)

CHAPTER 553. RAILROADS

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553.03 DUTIES OF LOCOMOTIVE ENGINEER.

- (a) No person in charge of a locomotive shall ~~do the following:~~
- ~~(1) Fail fail to bring the locomotive to a full stop at least 200 feet before arriving at a crossing with another track, or proceed through the crossing before signaled to do so or before the way is clear;~~
 - ~~(2) When approaching a grade crossing, fail to sound the locomotive whistle at frequent intervals, beginning not less than 1,320 feet from such crossing and continuing until the locomotive has passed the crossing.~~
- (b) (1) Whoever violates this section or fails to comply with O.R.C. § 4955.32(B)(1) is guilty of a misdemeanor of the fourth degree. If violation of this misdemeanor or failure to comply causes physical harm to any person, whoever violates this section or fails to comply with O.R.C. § 4955.32(B)(1) is guilty of a misdemeanor of the third degree.
- (2) With respect to a charge of violating subsection (b)(1) of this section for a failure to comply with O.R.C. § 4955.32(B)(1), it is an affirmative defense that an alternative audible warning system described in O.R.C. § 4955.32(B)(2) was activated.

State Law reference— (O.R.C. § 4999.04)

553.04 RAILROAD VANDALISM.

- (a) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of, any railroad rail, railroad track, locomotive, engine, railroad car, or other vehicle of a railroad company while such vehicle is on a railroad track.
- (b) No person, without privilege to do so, shall climb upon or into any locomotive, engine, railroad car, or other vehicle of a railroad company when it is on a railroad track.
- (c) No person, without privilege to do so, shall disrupt, delay, or prevent the operation of any train or other vehicle of a railroad company while such vehicle is on a railroad track.
- ~~(d) No person, without privilege to do so, shall knowingly enter or remain on the land or premises of a railroad company.~~
- ~~(e)~~ (d) Whoever violates subsection (a) of this section is guilty of railroad vandalism. Whoever violates subsection (b) of this section is guilty of criminal trespass on a locomotive, engine, railroad car, or other railroad vehicle. Whoever violates subsection (c) of this section is guilty of interference with the operation of a train.

Except as otherwise provided in this subsection, railroad vandalism; criminal trespass on a locomotive, engine, railroad car, or other railroad vehicle; and interference with the operation of a train each is a misdemeanor of the first degree. If the violation of subsection (a), (b), or (c) of this section causes serious physical harm to property, creates a substantial risk of physical harm to any person, causes physical harm to any person, or serious physical harm to any person, the violation is a felony and shall be prosecuted under appropriate state law.

- ~~(f) Whoever violates subsection (d) of this section is guilty of criminal trespass on the land or premises of a railroad company, a misdemeanor of the fourth degree.~~

State Law reference— (O.R.C. § 2909.10)

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Section 7. Penalty. Unless another penalty is expressly provided, in accordance with O.R.C. § 715.67, every person convicted of a violation of any provision of the City Municipal Code or any ordinance, rule, or regulation adopted or issued pursuant or in relation thereto shall be punished by a fine or imprisonment, or both. The fine shall not exceed five hundred dollars (\$500.00) and imprisonment shall not exceed six (6) months.

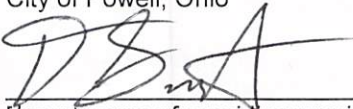
Section 8. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances. The governing authority of the City of Powell, Ohio hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

Section 9. Repealer. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

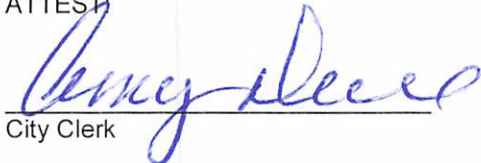
Section 10. Adoption Date and Effective Date. The adoption date of this ordinance is 1-17-23, and the effective date of this ordinance shall be 2-21-23

ORDAINED this 17 day of January, 2023.

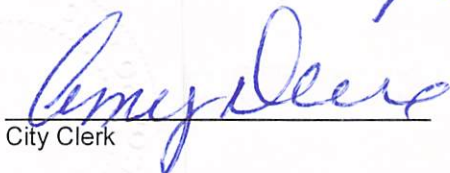
City of Powell, Ohio


[Insert name of presiding municipal official here]

ATTEST


City Clerk

I certify that the foregoing ordinance was duly passed by the governing authority of said City on this 17th day of January 2023

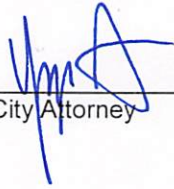

City Clerk

City Council

Daniel Swartwout, Mayor

Ferzan Ahmed Jon C. Bennehoof Tom Counts Christina Drummond Heather Karr Brian Lorenz

APPROVED AS TO FORM:



City Attorney

City Council

Daniel Swartwout, Mayor

Ferzan Ahmed Jon C. Bennehoof Tom Counts Christina Drummond Heather Karr Brian Lorenz