

DATE:	<u>December 4, 2023</u>	1 ST READING:	<u>December 4, 2023</u>
INTRODUCED BY:	<u>Mayor Corcoran</u>	2 ND READING:	<u>Dispensed</u>
REFERRED BY:	<u></u>	3 RD READING:	<u>Dispensed</u>
TEMPORARY NO:	<u>T 133-2023</u>	ADOPTED:	<u>December 4, 2023</u>
		EMERGENCY:	<u>December 4, 2023</u>
		EFFECTIVE:	<u>December 4, 2023</u>

ORDINANCE NO. 6118-2023

AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF NORTH RIDGEVILLE TO ENTER INTO AN AMENDED AGREEMENT WITH THE CITY OF AVON REGARDING SANITARY SEWER USE AND TAP-IN FEES FOR COUNTRYSIDE ESTATES #1 (FORMERLY KNOWN AS WYANDOTT SUBDIVISION #2) OF J & R LAND COMPANY, AND DECLARING AN EMERGENCY.

WHEREAS, the City of North Ridgeville and the City of Avon entered into an agreement via written and signed letter on June 27, 1990, regarding sanitary sewer use and tap-in fees for Countryside Estates #1 (formerly known as Wyandott Subdivision #2) of J & R Land Company; and

WHEREAS, the City of North Ridgeville and the City of Avon wish to amend the 1990 Agreement, a copy of said Agreement is attached hereto as Exhibit B; and

WHEREAS, Paragraph 2 of the 1990 Agreement, which will be amended, currently states the following:

2. The City of Avon will remit to North Ridgeville its applicable tap fee as soon as practicable after collection.; and

WHEREAS, a new Paragraph 6 will be added.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH RIDGEVILLE, LORAIN COUNTY, OHIO, THAT:

SECTION 1. The Mayor of the City of North Ridgeville is hereby authorized to enter into an agreement (Exhibit A) with the City of Avon which will amend the 1990 Agreement between the two cities for sanitary sewer use and tap-in fees for Countryside Estates #1 (formerly known as Wyandott Subdivision #2) of J & R Land Company.

SECTION 2. Paragraph 2 of the 1990 Agreement is hereby amended to state the following:

2. The City of Avon has remitted to North Ridgeville all the applicable tap fees pertinent to the above-referenced subdivision.

SECTION 3. The 1990 Agreement will also be amended by adding a new Paragraph 6 which states the following:

6. Effective January 1, 2024, the City of Avon will pay One Dollar (\$1.00) per One Thousand (1,000) gallons of water consumption for all service connections discharging from a City of Avon owned sewer from Countryside Estates #1 into the Mills Road twelve-inch (12”) sanitary sewer line located in, owned and operated by the City of North Ridgeville, unless specified otherwise in a separate agreement between both cities. Sanitary sewer services connected directly to the North Ridgeville sanitary sewer will continue to be billed directly by North Ridgeville.

SECTION 4. All other paragraphs of the 1990 Agreement not specifically amended by this amending ordinance will remain in full force and effect.

SECTION 5. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were conducted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in accordance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 6. This Ordinance is hereby declared to be an emergency measure, the emergency being in order to start collecting the fee. Wherefore, this Ordinance shall take effect and be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: December 4, 2023



Jason R. Jacobs
PRESIDENT OF COUNCIL

ATTEST :



Nicholas Ciofani
CLERK OF COUNCIL

APPROVED: Dec 07, 2023



Kevin Corcoran
MAYOR

EXHIBIT A



CITY OF AVON

36080 CHESTER ROAD • AVON, OHIO 44011-1099 • (440) 937-7800 • FAX (440) 937-7824

November 7, 2023

Kevin Corcoran, Mayor
City of North Ridgeville
7307 Avon Belden Road
North Ridgeville, Ohio 44039

RE: Countryside Estates #1
(formerly known as Wyandott Subdivision #2)
J & R Land Co.

Dear Mayor Corcoran:

On or about June 27, 1990, the cities of North Ridgeville and Avon entered into an agreement to address sanitary sewer user and tap-in fees for the above-referenced subdivision. As a result of that agreement, Countryside Estates #1, located within Avon on the northside of Mills Road in the City of Avon, was developed with connection to the North Ridgeville Interceptor sewer on the southside of Mills Road. Countryside Estates #1 is fully built-out and that connection remains in place to this day.

It is now the desire of the two cities to amend that June 27, 1990 agreement as set forth herein. To that end, it is now the understanding of the parties that:

Paragraph 2, which currently reads as follows:

2. The City of Avon will remit to North Ridgeville its applicable tap fee as soon as practicable after collection;

Shall be amended to read as follow:

2. The City of Avon **has remitted** to North Ridgeville **all** the applicable tap fees **pertinent to the above-referenced subdivision.**

Add new Paragraph 6, which will read as follows:

- 6. Effective January 1, 2024, the City of Avon will pay One Dollar (\$1.00) per One Thousand (1,000) gallons of water consumption for all service connections discharging from a City of Avon owned sewer from Countryside Estates #1 into the Mills Road twelve inch (12") sanitary sewer line located in, owned and operated by the City of North Ridgeville, unless specified otherwise in a separate agreement between both cities. Sanitary sewer services connected directly to the North Ridgeville sanitary sewer will continue to be billed directly by North Ridgeville.**

By executing this letter agreement on the signature lines set forth below, each Mayor, on behalf of their respective political subdivision, acknowledges that this agreement will supersede the agreement of June 27, 1990 but only to the extent set forth herein. All other paragraphs of that June 27, 1990 agreement remain in full force and effect.

Bryan K. Jensen, Mayor
City of Avon, Ohio

Kevin Corcoran, Mayor
City of North Ridgeville, Ohio

JAG/ch

Exhibit B*CITY OF NORTH RIDGEVILLE*

JEFFRY J. ARMBRUSTER, MAYOR



June 27, 1990

Avon City Hall
36775 Detroit Road
Avon, Ohio 44011

ATTENTION: PEARL OLEARCIK, MAYOR

Re: Countryside Estates #1
f. n. a. Wyandott Subdivision #2
of J & R Land Co.

Dear Mayor Olearcik:

In accordance with our discussion on Tuesday, June 25, 1990, relating to the above captioned development proposal within the City of Avon, it is the intent of the City of North Ridgeville to administer the existing contracts between our two cities which address sanitary sewer user and tap-in fees.

To that end, it is my understanding that:

1. The City of Avon will permit taps into the sanitary sewer on a subplot by subplot basis only after having first collected a tap fee which is not less than that fee currently provided for by North Ridgeville Ordinance at the time of the proposed tap;
2. The City of Avon will remit to North Ridgeville its applicable tap fee as soon as practicable after collection;
3. North Ridgeville shall be entitled to have an inspector present during all sanitary sewer taps to insure proper tap-in. The City of Avon shall give North Ridgeville adequate advance notification before each tap is to be made so that North Ridgeville may schedule its inspector to be present in advance of the tap.
4. In keeping with the spirit of cooperation presently being enjoyed by our two communities, North Ridgeville will notify Avon of any proposed or anticipated increase in North Ridgeville's sanitary tap fees.

CITY HALL 7307 AVON BELDEN ROAD NORTH RIDGEVILLE, OHIO 44039 PHONE: 327-6811

PEARL OLEARCIK, MAYOR

June 27, 1990

Page Two

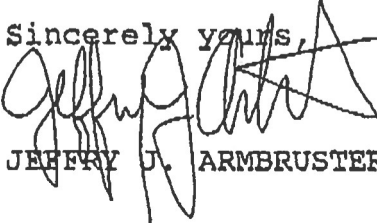
- 5. The 12" sanitary sewer line located within the City of North Ridgeville which will service this proposed development will continue to be North Ridgeville's maintenance obligation and, likewise, the local sewers located within the City of Avon which will service this proposed development will be the sole and separate maintenance obligation of the City of Avon,

I am happy we are able to discuss and resolve matters of common concern to our cities in this fashion.

I anticipate that this letter fully and fairly memorializes our discussions. If so, please acknowledge so by endorsing the legend at the bottom of this correspondence and returning a copy for my files.

Thank you for your continued cooperation.

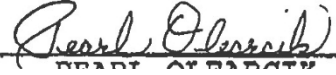
Sincerely yours,



JEFFERY J. ARMBRUSTER, MAYOR

Received, Read and Approved:

The City of Avon



PEARL OLEARCIK, Mayor

JJA/cjb

DATE:	<u>December 4, 2023</u>	1 ST READING:	<u>December 4, 2023</u>
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ORDINANCE NO. 6119-2023

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH WILLIAM D. FARVER AND CHERYL A. FARVER FOR THE PURCHASE OF REAL PROPERTY, AND DECLARING AN EMERGENCY.

WHEREAS, the City of North Ridgeville has funds available for the purchase of an approximate 46.13-acre parcel of real property located at 8371 Avon Belden Road; and

WHEREAS, the real property is being purchased for municipal purposes.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH RIDGEVILLE, LORAIN COUNTY, OHIO, THAT:

SECTION 1. The Mayor is hereby authorized to enter into a contract with William D. Farver and Cheryl A. Farver for the purchase of 46.13-acres of real property located at 8371 Avon Belden Road in the amount of \$1,200,000.00; said property is comprised of a single parcel that is identified in the Lorain County Records as Permanent Parcel No. 07-00-023-101-074.

SECTION 2. This purchase shall be consummated in such manner and on such terms as the Director of Law may approve.

SECTION 3. The purchase price, together with any costs and expenses incurred by the City in connection with this acquisition shall be paid from the appropriate fund.

SECTION 4. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were conducted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in accordance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 5. This Ordinance is hereby declared to be an emergency measure, the emergency being in order to obtain possession of land for the safety and welfare of the Citizens of the City of North Ridgeville. Wherefore, this Ordinance shall take effect and be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: December 4, 2023



Jason R. Jacobs
PRESIDENT OF COUNCIL

ATTEST :



Nicholas Ciofani
CLERK OF COUNCIL

APPROVED: Dec 07, 2023



Kevin Corcoran
MAYOR

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		EMERGENCY:	<u>December 4, 2023</u>
		EFFECTIVE:	<u>December 4, 2023</u>

ORDINANCE NO. 6120-2023

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH THE CITY OF ELYRIA FOR SANITARY SEWER SERVICE AT TAYLOR STREET AND DECLARING AN EMERGENCY.

WHEREAS, Elyria owns and operates its own sanitary sewerage system; and

WHEREAS, a sanitary trunk sewer belonging to Elyria extends from its sewage treatment plant and is adjacent to North Ridgeville at Taylor Street; and

WHEREAS, North Ridgeville is desirous of contracting with Elyria for the purchase of sanitary sewer service to enable North Ridgeville to furnish sanitary sewer service to its consumers; and

WHEREAS, Elyria is desirous of accepting and selling sanitary sewer service on a master meter basis at Taylor Street.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH RIDGEVILLE, LORAIN COUNTY, OHIO, THAT:

SECTION 1. The Mayor of the City of North Ridgeville, Ohio, is hereby authorized and directed to enter into an agreement with the City of Elyria, Ohio, to provide sanitary sewer service for the City of North Ridgeville, Ohio, at Taylor Street.

SECTION 2. That a copy of said Agreement is attached hereto and made a part hereof as if fully rewritten and designated as **Exhibit "A"**.

SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4. This Ordinance is hereby declared to be an emergency measure, the emergency being in order to secure the contract prior to the end of the year. Wherefore, this Ordinance shall take effect and be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: December 4, 2023



Jason R. Jacobs
PRESIDENT OF COUNCIL

ATTEST :



Nicholas Ciofani
CLERK OF COUNCIL

APPROVED: Dec 07, 2023



Kevin Corcoran
MAYOR

EXHIBIT "A"

This agreement is made and entered into this _____ day of _____, 2023, by and between the City of Elyria, Ohio, a Municipal Corporation, hereinafter called "Elyria"; and the City of North Ridgeville, Ohio, a Municipal Corporation, hereinafter called "North Ridgeville";

WHEREAS, Elyria owns and operates its own sanitary sewerage system and wastewater treatment works;

WHEREAS, Elyria owns and operates a sanitary trunk sewer that abuts North Ridgeville at Taylor Street;

WHEREAS, North Ridgeville desires to utilize Elyria's sanitary trunk sewer to transport sewage from North Ridgeville to Elyria's wastewater pollution control plant (WWPCP);

WHEREAS, Elyria is desirous of accepting sewage from North Ridgeville at Elyria's Taylor Street sanitary sewer and treating same at its WWPCP;

NOW, THEREFORE, the parties hereby agree as follows:

1. Elyria will accept, transport, and treat sanitary sewage from an area along Taylor Parkway physically situated within North Ridgeville but currently located within the City of Elyria Facility Planning Area as designated by the Northeast Ohio Areawide Coordinating Agency 208 Plan (the "Service Area"), all within the City of North Ridgeville, as hereinafter provided.
2. North Ridgeville shall be responsible for the purchase, installation, and/or maintenance of individual meters and appurtenances.
3. Elyria shall accept flow volumes without restriction in quantity, provided that, in the sole and absolute discretion of the Elyria City Engineer, sufficient capacity is available at the WWPCP, and in its existing sanitary sewer collection system. If the Elyria City Engineer, in his or her sole and absolute discretion, determines that Elyria's WWPCP and/or sewer collection system has reached or exceeded its designed capacity, Elyria may notify North Ridgeville that the maximum flow from that time on shall not exceed the average daily flow for the month immediately preceding the month in which said notice is given.
4. North Ridgeville shall read all meters in the Service Area and provide Elyria with the meter reads not less often than monthly. North Ridgeville shall pay the user rates and service charges as defined in Elyria Codified Ordinances Section 937.12 (as it may be

amended from time to time) for users inside City limits, plus 10 percent (10%), and all Industrial Pretreatment fees detailed in Chapter 937 – Sewer Charges, as amended.

5. Elyria shall prepare and furnish to North Ridgeville, a monthly invoice/report stating in reasonable detail the total charges per HCF and all subsequent industrial pretreatment charges which are determined through Elyria's Pretreatment Program for surcharges and monitoring fees. Within thirty (30) days thereafter, North Ridgeville shall pay to Elyria the amount due and owing by North Ridgeville to Elyria for its acceptance of sanitary sewage.
6. It is agreed by the parties that North Ridgeville shall sell or furnish sanitary sewer service only for use by occupants of North Ridgeville. Elyria agrees to accept sewage generated from the structures located within the Service Area. Elyria specifically does not agree to accept any other sewage, whether trucked, carried, or transferred by any other means or in any other manner to or from the properties located within the Service Area. North Ridgeville shall not allow any storm, footer tile, cooling or other clean water to be discharged into the sanitary sewer discharging into Elyria's sewer collection system.
7. North Ridgeville shall keep and maintain records showing which properties within North Ridgeville are connected by building lateral to the sanitary sewer system being served by the Elyria Taylor Street sewer. For each building lateral connection made in North Ridgeville on said system, said business shall pay the sewer connection fee directly to the City of Elyria, in addition to North Ridgeville tap fees.
8. Each party shall own and maintain (including, without limitation, cleaning, repair, rehabilitation, and reconstruction of) the sanitary sewer lines within its respective city limits.
9. North Ridgeville agrees that the Elyria Sewer Use Ordinance, Chapter 932 of the codified ordinances of Elyria, Ohio, as amended, the rules and regulations of the Elyria Water Pollution Control Board, and the rules and regulations of the Elyria Industrial Pretreatment Program shall be in effect and enforceable upon any and all users, customers, and residents of North Ridgeville pursuant to this Agreement. North Ridgeville shall not suffer or permit any Users as defined in said Chapter 932 to violate said codified ordinances, or any other applicable federal, state or local laws or regulations pertaining to the operation and use of a sanitary sewer system, and shall reasonably cooperate with Elyria in enforcement against any violation thereof.
10. This agreement may be terminated by either party provided six (6) months written notice is given.
11. This agreement shall be retroactive to January 1, 2023.

IN WITNESS WHEREOF, the City of Elyria, Ohio, and the City of North Ridgeville, Ohio, have signed this Agreement, this _____ day of _____, 2023.

APPROVED AS TO FORM:

CITY OF ELYRIA, OHIO

CITY OF ELYRIA, OHIO

Amanda R. Deery, Law Director

Frank Whitfield, Mayor

APPROVED AS TO FORM:

CITY OF NORTH RIDGEVILLE, OHIO

CITY OF NORTH RIDGEVILLE, OHIO

Brian Moriarty, Law Director

Kevin Corcoran, Mayor

DATE:	<u>December 4, 2023</u>	1 ST READING:	<u>December 4, 2023</u>
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		EMERGENCY:	<u>December 4, 2023</u>
		EFFECTIVE:	<u>December 4, 2023</u>

ORDINANCE NO. 6121-2023

AN ORDINANCE PROVIDING APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF NORTH RIDGEVILLE, OHIO, FOR THE PERIOD COMMENCING JANUARY 1, 2024 AND ENDING DECEMBER 31, 2024, AND DECLARING AN EMERGENCY.

WHEREAS, it is necessary to pass an annual appropriation Ordinance providing for the current expenses and other expenditures of the City of North Ridgeville, Ohio.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH RIDGEVILLE, LORAIN COUNTY, OHIO:

SECTION 1. That to provide for current and other expenditures for the City of North Ridgeville, Ohio for the period commencing January 1, 2024 and ending December 31, 2024, the sums presented in **Exhibit “A”** are hereby set aside and appropriated.

SECTION 2. That the Director of Finance of the City of North Ridgeville is hereby authorized to draw warrants, Automated Clearing House transactions or Wire Transfers on the Treasury of the City of North Ridgeville for payments on any of the foregoing appropriations, upon receiving proper certification and vouchers therefore, approved by officers authorized by law to approve the same or by an ordinance or resolution of Council to make the expenditure and provide that no warrants may be drawn or paid for salaries or wages, except to persons employed by authority of or in accordance with law or Ordinance.

SECTION 3. The Director of Finance is hereby authorized to allocate or reallocate funds to accounts that are within the fund, department, and major objects of expenditure established by the appropriations approved in this Ordinance or in any other Ordinance approved by Council.

SECTION 4. This Ordinance is hereby declared to be an emergency measure, the emergency being in order to provide the Department of Finance with the necessary financial resources for the year 2024. Wherefore, this Ordinance shall take effect and be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: December 4, 2023



Jason R. Jacobs
PRESIDENT OF COUNCIL

ATTEST :



Nicholas Ciofani
CLERK OF COUNCIL

APPROVED: Dec 07, 2023



Kevin Corcoran
MAYOR

Exhibit A

**ANNUAL APPROPRIATION
FOR THE PERIOD COMMENCING JANUARY 1, 2024 AND ENDING DECEMBER 31, 2024**

<u>Fund Number</u>	<u>Fund Name/Department</u>	<u>Personal Services</u>	<u>Other Expenses</u>	<u>Transfers and Advances</u>	<u>Total Appropriations</u>
General Fund					
111	City Council	\$ 84,800	\$ 29,900	\$ -	\$ 114,700
112	Council Clerk	137,600	115,600	-	253,200
115	Mayor's Court	165,500	80,100	-	245,600
117	Mayor	343,100	214,500	-	557,600
121	Finance	512,200	510,700	-	1,022,900
125	Law Director	389,200	382,400	-	771,600
127	Human Resources	-	328,000	-	328,000
130	Computer Services	-	648,700	-	648,700
137	Civil Service	-	7,800	-	7,800
140	Misc General Government	53,200	361,200	-	414,400
141	Planning Commission	-	2,150	-	2,150
142	Board of Zoning Appeals	-	2,150	-	2,150
150	Public Buildings	-	524,800	-	524,800
152	Grounds Maintenance	285,100	291,900	-	577,000
160	Police Administration	539,800	235,900	-	775,700
161	Police	2,378,000	2,405,000	-	4,783,000
163	Dispatchers	356,100	207,900	-	564,000
165	Fire	790,000	785,300	-	1,575,300
166	Police Crossing Guard	55,600	11,300	-	66,900
170	Building	792,000	594,900	-	1,386,900
172	Engineer	713,200	576,300	-	1,289,500
175	Street Lighting	-	267,000	-	267,000
180	Health District	-	175,000	-	175,000
182	Senior Citizens	250,700	180,200	-	430,900
185	Park and Recreation	185,100	322,200	-	507,300
205	Income Tax	-	579,000	-	579,000
412	Community Development	130,300	337,800	-	468,100
900	Other Financing Uses	-	-	300,000	300,000
Total General Fund		\$ 8,161,500	\$ 10,177,700	\$ 300,000	\$ 18,639,200
Special Revenue Funds					
207	Payroll Reserve	-	300,000	-	300,000
210	Street Construction M and R	735,900	1,639,100	-	2,375,000
215	State Highway	-	220,000	-	220,000
220	Motor Vehicle License Tax	345,100	403,700	-	748,800
225	Street Levy	-	2,881,300	-	2,881,300
240	ARP Local Fiscal Recovery	-	3,724,400	-	3,724,400
245	Police Levy	1,559,300	338,000	-	1,897,300
246	Police Pension	-	375,600	-	375,600
247	Safetyville	5,900	2,100	-	8,000
250	Law Enforcement Trust	-	14,000	-	14,000
255	Drug Law Enforcement	-	8,800	-	8,800
257	DUI Enforcement and Education	-	6,800	-	6,800
258	Clerk of Court Computer Services	-	36,700	-	36,700
259	Court Computerization	-	8,000	-	8,000
260	Fire Levy	1,114,800	665,200	-	1,780,000
261	Fire Pension	-	407,200	-	407,200

Exhibit A

**ANNUAL APPROPRIATION
FOR THE PERIOD COMMENCING JANUARY 1, 2024 AND ENDING DECEMBER 31, 2024
(Continued)**

<u>Fund Number</u>	<u>Fund Name/Department</u>	<u>Personal Services</u>	<u>Other Expenses</u>	<u>Transfers and Advances</u>	<u>Total Appropriations</u>
263	Paramedic Levy	1,562,900	977,100	-	2,540,000
265	Ambulance	452,700	699,100	350,000	1,501,800
266	Ambulance Replacement	-	-	-	-
267	State Grants	-	622,800	-	622,800
268	Federal Grants	-	500	-	500
270	Cemetery	4,000	74,000	-	78,000
275	Parks and Recreation Trust	65,700	327,100	-	392,800
280	Park and Recreation Improvement	-	136,500	-	136,500
291	DUI Task Force Grant	-	200,000	-	200,000
292	NOPEC Grant	-	22,000	-	22,000
293	One Ohio Opioid	-	47,800	-	47,800
295	Solid Waste Management	58,200	3,670,000	-	3,728,200
298	Hotel Tax	-	20,000	-	20,000
299	Library Levy	-	1,650,000	-	1,650,000
Total Special Revenue Funds		\$ 5,904,500	\$ 19,477,800	\$ 350,000	\$ 25,732,300
<u>Debt Service Funds</u>					
309	Income Tax Debt Service	-	530,800	-	530,800
311	D/S BR Central Fire Station	-	566,600	-	566,600
314	D/S BR Police Station Construction	-	944,500	-	944,500
361	Center Ridge Debt Service	-	177,700	-	177,700
Subtotal-General Bond Retirement		-	2,219,600	-	2,219,600
353	S/A Westerlies	-	177,400	-	177,400
354	S/A Victory Lane	-	70,400	-	70,400
Subtotal-Special Assessments		-	247,800	-	247,800
333	Performance Ln TIF	-	458,000	-	458,000
Subtotal-TIF Funds		-	458,000	-	458,000
Total Debt Service Funds		\$ -	\$ 2,925,400	\$ -	\$ 2,925,400
<u>Capital Projects Funds</u>					
410	Capital Projects	-	3,062,300	-	3,062,300
431	Center Ridge Construction	-	1,500,000	-	1,500,000
434	ODNR Flood Control	-	320,000	-	320,000
445	Police Station Construction	-	411,500	-	411,500
480	TIF Improvement #1 ORD 5206	-	4,200	-	4,200
481	TIF Improvement #2 ORD 5207	-	48,200	-	48,200
482	TIF Improvement #3 ORD 5208	-	1,694,500	-	1,694,500
483	TIF Improvement #4 ORD 5209	-	40,500	-	40,500
484	TIF Improvement #5 ORD 5210	-	52,800	-	52,800
485	TIF Improvement #6 ORD 5211	-	336,000	-	336,000
486	TIF Improvement #7 ORD 5251	-	12,500	-	12,500
487	TIF Improvement #8 ORD 5252	-	88,000	-	88,000
488	TIF Improvement #9 ORD 5286	-	600	-	600
490	TIF Improvement #10 ORD 5287	-	4,800	-	4,800
491	TIF Improvement #11 ORD 5288	-	16,800	-	16,800
492	TIF Improvement #12 ORD 5289	-	600	-	600
493	TIF Improvement #13 ORD 5311	-	56,100	-	56,100
Total Capital Projects		\$ -	\$ 7,649,400	\$ -	\$ 7,649,400

Exhibit A

**ANNUAL APPROPRIATION
FOR THE PERIOD COMMENCING JANUARY 1, 2024 AND ENDING DECEMBER 31, 2024
(Continued)**

<u>Fund Number</u>	<u>Fund Name/Department</u>	<u>Personal Services</u>	<u>Other Expenses</u>	<u>Transfers and Advances</u>	<u>Total Appropriations</u>
Enterprise Funds					
610	<u>Water</u>				
	Collections	96,400	258,500	-	354,900
	Operations	924,800	3,933,600	-	4,858,400
Total Water Fund		1,021,200	4,192,100	-	5,213,300
640	<u>Sewer</u>				
	Collections	120,600	255,400	-	376,000
	Operations	636,000	5,031,800	1,422,000	7,089,800
Total Sewer Fund		756,600	5,287,200	1,422,000	7,465,800
691	<u>Storm Water</u>				
	Collections	-	8,400	-	8,400
	Operations	265,000	1,013,100	-	1,278,100
Total Storm Water		265,000	1,021,500	-	1,286,500
624	Water G.O. Bond Retirement	-	242,400	-	242,400
632	Water Improvement	-	1,310,000	-	1,310,000
645	Sewer G.O. Bond Retirement	-	981,300	-	981,300
660	Sanitary Sewer Improvement	-	668,500	-	668,500
670	French Creek WWTP	1,274,650	3,452,070	1,138,100	5,864,820
675	French Creek B.R.	-	818,800	-	818,800
680	French Creek Improvement	-	4,080,000	-	4,080,000
Total Enterprise Funds		\$ 3,317,450	\$ 22,053,870	\$ 2,560,100	\$ 27,931,420
Internal Service Funds					
710	Self Insurance Benefits	-	5,653,900	-	5,653,900
720	Flexible Spending Account	-	78,500	-	78,500
730	City Garage	436,300	565,300	-	1,001,600
Total Internal Service		\$ 436,300	\$ 6,297,700	\$ -	\$ 6,734,000
Custodial Funds					
825	Board of Building Standards	-	20,000	-	20,000
840	Senior Citizens Multi Trust	-	61,300	-	61,300
880	Unclaimed Monies	-	50,000	-	50,000
890	Trust Miscellaneous	-	800,000	-	800,000
Total Custodial Funds		\$ -	\$ 931,300	\$ -	\$ 931,300
Total All Funds		\$ 17,819,750	\$ 69,513,170	\$ 3,210,100	\$ 90,543,020

DATE:	<u>December 4, 2023</u>	1 ST READING:	<u>December 4, 2023</u>
INTRODUCED BY:	<u>Mayor Corcoran</u>	2 ND READING:	<u>Dispensed</u>
REFERRED BY:	<u></u>	3 RD READING:	<u>Dispensed</u>
TEMPORARY NO:	<u>T 139-2023</u>	ADOPTED:	<u>December 4, 2023</u>
		EMERGENCY:	<u>December 4, 2023</u>
		EFFECTIVE:	<u>December 4, 2023</u>

ORDINANCE NO. 6122-2023

AN ORDINANCE AMENDING ORDINANCE NUMBER 6031-2022 OF THE CITY OF NORTH RIDGEVILLE, OHIO, PROVIDING APPROPRIATIONS FOR THE PERIOD COMMENCING JANUARY 1, 2023, AND ENDING DECEMBER 31, 2023, AND DECLARING AN EMERGENCY.

WHEREAS, it is necessary to amend the appropriations for certain funds and appropriate other amounts for the operations of the City of North Ridgeville, Ohio.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH RIDGEVILLE, LORAIN COUNTY, OHIO:

SECTION 1. That to provide for current and other expenditures for the City of North Ridgeville, Ohio for the period commencing January 1, 2023 and ending December 31, 2023, Ordinance No. 6031-2022 be and the same are hereby supplemented in the following amounts so that from and after the effective date of the Ordinance, the appropriation Ordinance shall include the following, being adjusted for the similar terms in the preceding appropriation Ordinance.

SECTION 2. That there be appropriated from the respective funds listed below, the amounts as follows:

<u>Fund Number</u>	<u>Fund</u>	<u>Personal Services</u>	<u>Other</u>	<u>Transfers and Advances</u>	<u>Total</u>
<u>General Fund</u>					
101	General Government	65,000	50,000	-	115,000
Total General Fund		65,000	50,000	-	115,000
<u>Special Revenue Funds</u>					
265	Ambulance	30,000	-	-	30,000
Total Special Revenue Funds		30,000	-	-	30,000
<u>Capital Project Funds</u>					
410	Capital Project Funds	-	1,200,000	-	1,200,000
Total Capital Project Funds		-	1,200,000	-	1,200,000
<u>Internal Service Funds</u>					
710	Self Insurance Benefit Trust	-	300,000	-	300,000
730	City Garage	9,000	-	-	9,000
Total Internal Service Funds		9,000	300,000	-	309,000
Total All Funds		104,000	1,550,000	-	1,654,000

SECTION 3. That the Director of Finance of the City of North Ridgeville is hereby authorized to draw warrants on the treasury of the City of North Ridgeville for payments on any

of the foregoing appropriations, upon receiving proper certification and vouchers therefore, approved by officers authorized by law to approve the same or by an ordinance or resolution of Council to make the expenditure and provide that no warrants may be drawn or paid for salaries or wages, except to persons employed by authority of or in accordance with law or Ordinance.

SECTION 4. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in accordance with all legal requirements.

SECTION 5. This Ordinance is hereby declared to be an emergency measure, the emergency being in order to provide the Department of Finance with the necessary financial resources for paying outstanding invoices. Wherefore, this Ordinance shall take effect and be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: December 4, 2023



Jason R. Jacobs
PRESIDENT OF COUNCIL

ATTEST :



Nicholas Ciofani
CLERK OF COUNCIL

APPROVED: Dec 07, 2023



Kevin Corcoran
MAYOR

DATE:	<u>November 20, 2023</u>	1 ST READING:	<u>November 20, 2023</u>
INTRODUCED BY:	<u>Mayor Corcoran</u>	2 ND READING:	<u>December 04, 2023</u>
REFERRED BY:	<u></u>	3 RD READING:	<u>Dispensed</u>
TEMPORARY NO:	<u>T 125-2023</u>	ADOPTED:	<u>December 4, 2023</u>
		EMERGENCY:	<u>December 4, 2023</u>
		EFFECTIVE:	<u>December 4, 2023</u>

ORDINANCE NO. 6123-2023

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF NORTH RIDGEVILLE, OHIO TO PROVIDE AMENDMENTS TO GENERAL OFFENSES NORTH RIDGEVILLE CITY CODE SECTIONS 606.01, 606.10, 606.12, 606.15, 606.17, 606.19, 606.21, 606.29, 618.20, 624.01, 624.025, 624.03, 624.04, 624.05, 628.10, 630.10, 636.00, 636.02, 636.05, 636.09, 636.10, 636.11, 636.12, 636.20, 636.23, 642.01, 642.02, 642.035, 642.145, 642.31, 648.05, 648.07, 666.01, 666.05, 666.07, 666.11, 666.99, 672.02, 672.04, 672.15, 672.16, 698.02, 698.03, 698.05; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES, AND DECLARING AN EMERGENCY.

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

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH RIDGEVILLE, LORAIN COUNTY, OHIO:

SECTION 1. That the Code of Ordinances of the City of North Ridgeville, Ohio (meaning City Municipal Code) is hereby amended by adding the provisions as provided under Section 6, below.

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

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

SECTION 4. Supplementation of Code.

(a) In preparing a supplement to the City’s Municipal Code, all portions of this ordinance which have been repealed shall be excluded from the City’s Municipal Code by the omission thereof from reprinted pages.

(b) When preparing a supplement to the City’s Municipal Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in this ordinance and parts of this ordinance included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the City’s Municipal Code printed in the supplement, and make changes in such catchlines, headings, and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the City’s Municipal

Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the City's Municipal Code which embody the substantive sections, or the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the City's Municipal Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the City's Municipal Code.

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

SECTION 5. Provisions of 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. The following sections and of the Municipal Code are new or have been amended with new matter in the Municipal Code, and are hereby approved, adopted, and enacted:

606.01 DEFINITIONS

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

- (a) "Campaign committee," "contribution," "legislative campaign fund," "political action committee," "political contributing entity," ~~and~~ "political party," and "political contributing entity" Have the same meanings as in Ohio R.C. 3517.01.
- (b) "Contraband" means any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. "Contraband" includes, but is not limited to, all of the following:
 - (1) Any controlled substance, as defined in Ohio R.C. 3719.01, or any device, or paraphernalia;
 - (2) Any unlawful gambling device, or paraphernalia;
 - (3) Any dangerous ordnance or obscene material.
- (c) "Deadly force." Any force that carries a substantial risk that it will proximately result in the death of any person.
- (d) "Detention." Arrest; confinement in any vehicle subsequent to an arrest; confinement in any public or private facility for custody of persons charged with or convicted of crime in this State or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this State or another state or under the laws of the United States; hospitalization, institutionalization, or confinement in any public or private facility that is ordered pursuant to or

Codifier: Added material is underlined, deleted material is struck through.

under the authority of Ohio R.C. 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401 or 2945.402; confinement in any vehicle for transportation to or from any facility of any of those natures; detention for extradition or deportation; except as provided in this division, supervision by any employee of any facility of any of those natures that is incidental to hospitalization, institutionalization, or confinement in the facility but that occurs outside the facility; supervision by an employee of the Department of Rehabilitation and Correction of a person on any type of release from a state correctional institution; or confinement in any vehicle, airplane, or place while being returned from outside of this State into this State by a private person or entity pursuant to a contract entered into under Ohio R.C. 311.29(E) or Ohio R.C. 5149.03(B). For a person confined in a county jail who participates in a county jail industry program pursuant to Ohio R.C. 5147.30, "detention" includes time spent at an assigned work site and going to and from the work site.

- (e) "Detention facility." Any public or private place used for the confinement of a person charged with or convicted of any crime in this State or another state or under the laws of the United States or alleged or found to be a delinquent child or an unruly child in this State or another state or under the laws of the United States.
- (f) "Force." Any violence, compulsion, or constraint physically exerted by any means upon or against a person or thing.
- (g) "Law enforcement officer." Any of the following:
 - (1) A sheriff, deputy sheriff, constable, police officer of a township or joint ~~township~~ police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D) or State highway patrol trooper.
 - (2) An officer, agent, or employee of the State or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of such statutory duty and authority.
 - (3) The Mayor, in a capacity as chief conservator of the peace within the Municipality.
 - (4) A member of an auxiliary police force organized by the county, township, or municipal law enforcement authorities, within the scope of the member's appointment or commission.
 - (5) A person lawfully called pursuant to Ohio R.C. 311.07 to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called.
 - (6) A person appointed by a Mayor pursuant to Ohio R.C. ~~737.04~~10 as a special patrolling officer during a riot or emergency, for the purposes and during the time when the person is appointed.
 - (7) A member of the organized militia of this State or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence.
 - (8) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor.
 - (9) A veterans' home police officer appointed under Ohio R.C. 5907.02.
 - (10) A member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y).

- (11) A special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28.
- (12) The House Sergeant at Arms if the House Sergeant at Arms has arrest authority pursuant to Ohio R.C. 101.311(E)(1) and an Assistant House Sergeant at Arms.
- (13) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the Transportation Security Administration of the United States Department of Transportation as provided in 49 C.F.R. Parts 1542 and 1544, as amended.
- (h) "Not guilty by reason of insanity." A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in Ohio R.C. 2901.05, that at the time of the commission of the offense, he or she did not know, as a result of a severe mental disease or defect, the wrongfulness of his or her acts.
- (i) "Offense of violence."
- (1) A violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.18, 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, 2917.321, 2919.25, 2921.03, 2921.04, 2921.34, 2923.161, of division (A)(1) of section 2903.34, 2903.04(A)(1), 2911.12(A)(1) to (3) or 2919.22(B)(1) to (4), or felonious sexual penetration in violation of former Ohio R.C. 2907.12;
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or of the United States, substantially equivalent to any section, division or offense listed in division (1) of this definition;
 - (3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or of the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;
 - (4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (1), (2), or (3) of this definition.
 - (5) A violation of division (C) of Ohio R.C. 959.131
- (j) "Official proceeding." Any proceeding before a legislative, judicial, administrative, or other governmental agency or official authorized to take evidence under oath, and includes any proceeding before a referee, hearing examiner, commissioner, notary, or other person taking testimony or a disposition in connection with an official proceeding.
- (k) "Party official." Any person who holds an elective or appointive post in a political party in the United States or this State, by virtue of which he or she directs, conducts, or participates in directing or conducting party affairs at any level of responsibility.
- (l) "Person."
- (1)

- A. Subject to division (2) of this definition, as used in any section contained in this General Offenses Code that sets forth a criminal offense, "person" includes all of the following:
 - i. An individual, corporation, business trust, estate, trust, partnership and association.
 - ii. An unborn human who is viable.
- B. As used in any section contained in this General Offenses Code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, partnership and association.
- C. As used in division (1)A.2. of this definition, "unborn human" means an individual organism of the species *Homo sapiens* from fertilization until live birth. "Viable" means the stage of development of a human fetus at which there is a realistic probability of maintaining and nourishing of a life outside the

womb with or without temporary artificial life-sustaining support.

(2) Notwithstanding division (1)A. of this definition, in no case shall the portion of the definition of the term "person" that is set forth in division

(1)A.2. of this definition be applied or construed in any section contained in this General Offenses Code that sets forth a criminal offense in any of the following manners:

- A. Except as otherwise provided in division (2)A. of this definition, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2919.15, 2903.14, 2903.21 or 2903.22, or any substantially similar municipal ordinance, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence but that does violate Ohio R.C. 2919.12, 2919.13(B), 2919.15, 2919.151, 2919.17 or 2919.18, or any substantially similar municipal ordinance, may be punished as a violation of such section, as applicable. Consent is sufficient under this division if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with Ohio R.C. 2919.12.
- B. In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:
- i. Her delivery of a stillborn baby.
 - ii. Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying.
 - iii. Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human.
 - iv. Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human.
 - v. Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness, or other

psychological illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

- (m) "Physical harm to persons." Any injury, illness, or other physiological impairment, regardless of its gravity or duration.
- (n) "Physical harm to property." Any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.
- (o) "Privilege." An immunity, license, or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office, or relationship, or growing out of necessity.
- (p) "Property."
- (1) Any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human-readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright or patent. "Financial instruments associated with computers" include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.
 - (2) As used in this definition, "trade secret" has the same meaning as in Ohio R.C. 1333.61, and "telecommunications service" and "information service" have the same meanings as in Ohio R.C. 2913.01.
 - (3) As used in this definition and in the definition of "contraband" in this section, "cable television service," "computer," "computer network," "computer software," "computer system," "data," and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.
- (q) "Provider agreement" ~~and "medical assistance program."~~ Have has the same meanings as in Ohio R.C. ~~2913.40~~ 5164.01.
- (r) "Public official" means any elected or appointed officer, or employee, or agent of the State or any political subdivision thereof, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges and law enforcement officers. "Public official" does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.
- (s) "Public servant" means any of the following:
- (1) Any public official;
 - (2) Any person performing ad hoc a governmental function, including, but not limited to, a juror, member of a temporary commission, master, arbitrator, advisor or consultant;
 - (3) A person who is a candidate for public office, whether or not the person is elected or appointed to the office for which the person is a candidate. A person is a candidate for

purposes of this subsection if the person has been nominated according to law for election or appointment to public office, or if the person has filed a petition or petitions as required by law to have the person's name placed on the ballot in a primary, general or special election, or if the person campaigns as a write-in candidate in any primary, general or special election. "Public servant" does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.

- (t) "Risk." A significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.
- (u) "School," "school building," and "school premises." Have the same meanings as in Ohio R.C. 2925.01.
- (v) "School activity." Any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Ohio R.C. Chapter 3314; a governing board of an educational service center; or the governing body of a nonpublic school for which the State Board Director of Education And Workforce prescribes minimum standards under Ohio R.C. 3301.07.
- (w) "School bus." Has the same meaning as in Ohio R.C. 4511.01.
- (x) "School safety zone." Consists of a school, school building, school premises, school activity, and school bus.
- (y) "Serious physical harm to persons." Any of the following:
 - (1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
 - (2) Any physical harm that carries a substantial risk of death;
 - (3) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;
 - (4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;
 - (5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.
- (z) "Serious physical harm to property." Any physical harm to property that does either of the following:
 - (1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort, or money to repair or replace;
 - (2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use or enjoyment for an extended period of time.
- (aa) "Substantial risk." A strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.
- (ab) "Valuable thing" or "valuable benefit." Includes, but is not limited to, a contribution. This inclusion does not indicate or imply that a contribution was not included in those terms before September 17, 1986.

(ORC 2901.01, 2921.01)

606.10 FALSIFICATION

- (a) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:
- (1) The statement is made in any official proceeding.
 - (2) The statement is made with purpose to incriminate another.
 - (3) The statement is made with purpose to mislead a public official in performing the public official's official function.
 - (4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention and contingency benefits and services; disability financial assistance; retirement benefits or health care coverage from a state retirement system; economic development assistance as defined in Ohio R.C. 9.66; or other benefits administered by a governmental agency or paid out of a public treasury.
 - (5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release or provider agreement.
 - (6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.
 - (7) The statement is in writing on or in connection with a report or return that is required or authorized by law.
 - (8) The statement is in writing, and is made with purpose to induce another to extend credit to or employ the offender, or to confer any degree, diploma, certificate of attainment, award of excellence or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to that person's detriment.
 - (9) The statement is made with purpose to commit or facilitate the commission of a theft offense.
 - (10) The statement is knowingly made to a probate court in connection with any action, proceeding or other matter within its jurisdiction, either orally or in a written document, including, but not limited to, an application, petition, complaint or other pleading, or an inventory, account or report.
 - (11) The statement is made on an account, form, record, stamp, label or other writing that is required by law.
 - (12) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the Secretary of State, a county recorder, or the clerk of a court of record.
 - (13) The statement is required under Ohio R.C. 5743.71 in connection with the person's purchase of cigarettes or tobacco products in a delivery sale.

- (b) It is no defense to a charge under subsection (a)(6) hereof that the oath or affirmation was administered or taken in an irregular manner.
- (c) If contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false, but only that one or the other was false.
- (d)
 - (1) Whoever violates any provision of subsection (a)(1) to (8) or (10) to (13) hereof is guilty of falsification, Except as otherwise provided in this division, falsification is a misdemeanor of the first degree.
 - (2) Whoever violates subsection (a)(9) hereof is guilty of falsification in a theft offense, a misdemeanor of the first degree. If the value of the property or services stolen is one thousand dollars (\$1,000) or more, falsification in a theft offense is a felony and shall be prosecuted under appropriate State law.
- (e) Whoever violates division (A) of this section in removal proceedings under section 319.26, 321.37, 507.13, or 733.78 of the Revised Code is guilty of falsification regarding a removal proceeding, a felony of the third degree. A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this section. A civil action under this section is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section.

(ORC 2921.13)

606.12 FAILURE TO REPORT A CRIME OR 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 Ohio 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) of this section, no person giving aid to a sick or injured person shall negligently fail to report to law enforcement authorities any gunshot or stab wound treated or observed by the person, or any serious physical harm to persons that the person knows or has reasonable cause to believe resulted from an offense of violence.
- (c) No person who discovers the body or acquires the first knowledge of the death of a person shall fail to report the death immediately to a physician or advanced practice registered nurse whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, an ambulance service, an emergency squad, or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained. For purposes of this subsection (c), "advanced practice registered nurse" does not include a certified registered nurse anesthetist.

(d) No person shall fail to provide upon request of the person to whom a report required by subsection (c) of this section was made, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death.

(e)

(1) As used in this subsection, "burn injury" means any of the following:

- A. Second or third degree burns;
- B. Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of superheated air;
- C. Any burn injury or wound that may result in death;
- D. Any physical harm to persons caused by or as the result of the use of fireworks, novelties and trick noisemakers, and wire sparklers, as each is defined by Ohio R.C. 3743.01.

(2) No physician, nurse, physician assistant, or limited practitioner who, outside a hospital, sanitarium, or other medical facility, attends or treats a person who has sustained a burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

(3) No manager, superintendent or other person in charge of a hospital, sanitarium or other medical facility in which a person is attended or treated for any burn injury 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 a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

(4) No person who is required to report any burn injury under subsection (e) (2) or (3) of this section shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the office of the State Fire Marshal. The report shall comply with the uniform standard developed by the State Fire Marshal pursuant to Ohio R.C. 3737.22(A)(15).

(5) Anyone participating in the making of reports under subsection (e) of this section or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding Ohio R.C. 4731.22, the physician-patient relationship or advanced practice registered nurse-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted under subsection (e) of this section.

(f)

(1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, nurse, psychologist, social worker, independent social worker, social work assistant, licensed

professional clinical counselor, licensed professional counselor, independent marriage and family therapist or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in Ohio R.C. 3113.31, shall note that knowledge or belief and the basis for it in the patient's or client's records.

- (2) Notwithstanding Ohio R.C. 4731.22, the 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; physician and patient; advanced practice registered nurse and patient; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.
 - (2) The information would tend to incriminate a member of the actor's immediate family.
 - (3) Disclosure of the information would amount to revealing a news source, privileged under Ohio R.C. 2739.04 or 2739.12.
 - (4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as 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 with drug dependencies 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 Ohio R.C. 5119.36.
 - (6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of Ohio R.C. 2907.02 or 2907.05 or to victims of felonious sexual penetration in violation of former Ohio R.C. 2907.12. As used in this subsection, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide those services.
- (h) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.

- (i) Whoever violates 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) of this section is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.
- (k)
 - (1) Whoever negligently violates subsection (e) of this section is guilty of a minor misdemeanor.
 - (2) Whoever knowingly violates subsection (e) of this section is guilty of a misdemeanor of the second degree.
- (l) As used in this section, "nurse" includes an advanced practice registered nurse, registered nurse, and licensed practical nurse. (ORC 2921.22)

606.15 OBSTRUCTING JUSTICE

- (a) No person, with purpose to hinder the discovery, apprehension, prosecution, conviction, or punishment of another for crime, or to assist another to benefit from the commission of a crime, and no person, with purpose to hinder the discovery, apprehension, prosecution, adjudication as a delinquent child, or disposition of a child for an act that if committed by an adult would be a crime or to assist a child to benefit from the commission of an act that if committed by an adult would be a crime, shall do any of the following:
 - (1) Harbor or conceal the other person or child.
 - (2) Provide the other person or child with money, transportation, a weapon, a disguise, or other means of avoiding discovery or apprehension.
 - (3) Warn the other person or child of impending discovery or apprehension.
 - (4) Destroy or conceal physical evidence of the crime or act, or induce any person to withhold testimony or information or to elude legal process summoning him or her to testify or supply evidence.
 - (5) Communicate false information to any person.
 - (6) Prevent or obstruct any person, by means of force, intimidation, or deception, from performing any act to aid in the discovery, apprehension, or prosecution of the other person or child.
- (b) A person may be prosecuted for, and may be convicted of or adjudicated a delinquent child for committing, a violation of division (a) of this section regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed. The crime or act the person or child aided committed shall be used under division (c) of this section in determining the penalty for violation of division (a) of this section, regardless of whether the person or child aided ultimately is apprehended for, is charge with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed.

(c) Whoever violates this section is guilty of obstructing justice.

- (1) If the crime committed by the person aided is a misdemeanor or if the act committed by the child aided would be a misdemeanor if committed by an adult, obstructing justice is a misdemeanor of the same degree as the crime committed by the person aided or a misdemeanor of the same degree that the act committed by the child aided would be if committed by an adult.
- (2) If the crime committed by the person aided is a felony or if the act committed by the child aided would be a felony if committed by an adult, or if the crime or act committed by the person or child aided is an act of terrorism, obstructing justice is a felony to be prosecuted under appropriate State law.
- (3) If the crime committed by the person is trafficking in persons or if the act committed by the child aided would be trafficking in persons if committed by an adult, obstructing justice is a felony of the second degree.

(d) As used in this section:

- (1) "Act of terrorism" has the same meaning as in Ohio R.C. 2909.21.
- (2) "Adult" and "child" have the same meaning as in Ohio R.C. 2151.011.
- (3) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02.

(ORC 2921.32)

606.17 HAVING AN UNLAWFUL INTEREST IN A PUBLIC CONTRACT

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

- (1) During the public official's term of office or within one year thereafter, occupy any position of profit in the prosecution of a public contract authorized by the public official or by a legislative body, commission or board of which the public official was a member at the time of authorization unless the contract was let by competitive bidding, to the lowest and best bidder;
- (2) Have an interest in the profits or benefits of a public contract entered into by or for the use of the Municipality or governmental agency or instrumentality with which the public official is connected;
- (3) Have an interest in the profits or benefits of a public contract that is not let by competitive bidding if required by law, and that involves more than one hundred fifty dollars (\$150.00).

(b) In the absence of bribery or a purpose to defraud, a public official, member of a public official's family or any of a public official's business associates shall not be considered as having an interest in a public contract if all of the following apply:

- (1) The interest of that person is limited to owning or controlling shares of the corporation, or being a creditor of the corporation or other organization that is the contractor on the public contract involved, or that is the issuer of the security in which public funds are invested;
- (2) The shares owned or controlled by that person do not exceed five percent (5%) of the outstanding shares of the corporation, and the amount due that person as creditor does not

exceed five percent (5%) of the total indebtedness of the corporation or other organization;

- (3) That person, prior to the time the public contract is entered into, files with the Municipality or governmental agency or instrumentality involved, an affidavit giving that person's exact status in connection with the corporation or other organization.
- (c) This section does not apply to a public contract in which a public official, member of a public official's family, or one of a public official's business associates, has an interest, when all of the following apply:
- (1) The subject of the public contract is necessary supplies or services for the Municipality or governmental agency or instrumentality involved;
 - (2) The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the Municipality or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public official's becoming associated with the Municipality or governmental agency or instrumentality involved;
 - (3) The treatment accorded the Municipality or governmental agency or instrumentality is either preferential to or the same as that accorded other customers or clients in similar transactions;
 - (4) The entire transaction is conducted at arm's length, with full knowledge by the Municipality or governmental agency or instrumentality involved, of the interest of the public official, member of the public official's family or business associate, and the public official takes no part in the deliberations or decisions of the Municipality or governmental agency or instrumentality with respect to the public contract.
- (d) Subsection (a)(4) does not prohibit participation by a public employee in any housing program funded by public moneys if the public employee otherwise qualifies for the program and does not use the authority or influence of the public employee's office or employment to secure benefits from the program and if the moneys are to be used on the primary residence of the public employee. Such participation does not constitute an unlawful interest in a public contract in violation of this section.
- (e) Whoever violates this section is guilty of having an unlawful interest in a public contract. Violation of this section is a misdemeanor of the first degree.
- (f) It is not a violation of this section for a prosecuting attorney to appoint assistants and employees in accordance with Ohio R.C. 309.06 and 2921.421, or for a chief legal officer of a municipal corporation or an official designated as prosecutor in a municipal corporation to appoint assistants and employees in accordance with Ohio R.C. 733.621 and 2921.421.
- (g) Any public contract in which a public official, a member of the public official's family, or any of the public official's business associates has an interest in violation of this section is void and unenforceable. Any contract securing the investment of public funds in which a public official, a member of the public official's family, or any of the public official's business associates has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees and that was entered into in violation of this section is void and unenforceable.
- (h) As used in this section:
- (1) "Public contract" means any of the following:

- A. The purchase or acquisition, or a contract for the purchase or acquisition of property or services by or for the use of the State, any of its political subdivisions, or any agency or instrumentality of either, including the employment of an individual by the State, any of its political subdivisions, or any agency or instrumentality of either.
- B. A contract for the design, construction, alteration, repair or maintenance of any public property.

(2) "Chief legal officer" has the same meaning as in Ohio R.C. 733.621.

(ORC 2921.42)

606.19 DERELICTION OF DUTY

- (a) No law enforcement officer shall negligently do any of the following:
 - (1) Fail to serve a lawful warrant without delay.
 - (2) Fail to prevent or halt the commission of an offense or to apprehend an offender, when it is in the law enforcement officer's power to do so alone or with available assistance.
- (b) No law enforcement, ministerial, or judicial officer shall negligently fail to perform a lawful duty in a criminal case or proceeding.
- (c) No officer, having charge of a detention facility, shall negligently do any of the following:
 - (1) Allow the detention facility to become littered or unsanitary.
 - (2) Fail to provide persons confined in the detention facility with adequate food, clothing, bedding, shelter, and medical attention.
 - (3) Fail to control an unruly prisoner, or to prevent intimidation of or physical harm to a prisoner by another.
 - (4) Allow a prisoner to escape.
 - (5) Fail to observe any lawful and reasonable regulation for the management of the detention facility.
- (d) No public official shall recklessly create a deficiency, incur a liability, or expend a greater sum than is appropriated by the Council for the use in any one year of the department, agency, or institution with which the public official is connected.
- (e) No public servant shall recklessly fail to perform a duty expressly imposed by law with respect to the public servant's office, or recklessly do any act expressly forbidden by law with respect to the public servant's office.
- (f) Whoever violates this section is guilty of dereliction of duty, a misdemeanor of the second degree.
- (g) Except as otherwise provided by law, a public servant who is a county treasurer; county auditor; township fiscal officer; city auditor; city treasurer; village fiscal officer; village clerk-treasurer; village clerk; in the case of a municipal corporation having a charter that designates an officer who, by virtue of the charter, has duties and functions similar to those of the city or village officers referred to in this section, the officer so designated by the

charter; school district treasurer; fiscal officer of a community school established under Chapter 3314. of the Revised Code; treasurer of a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code; or fiscal officer of a college-preparatory boarding school established under Chapter 3328. of the Revised Code and is convicted of or pleads guilty to dereliction of duty is disqualified from holding any public office, employment, or position of trust in this state for four years following the date of conviction or of entry of the plea, and is not entitled to hold any public office until any repayment or restitution required by the court is satisfied.As used in this section, "public servant" includes ~~an~~ the following:

- (1) An officer or employee of a contractor as defined in Ohio R.C. 9.08.;
- (2) A fiscal officer employed by the operator of a community school established under Ohio R.C. Chapter 3314 or by the operator of a college-preparatory boarding school established under Ohio R.C. Chapter 3328.

(ORC 2921.44)

606.21 ATTEMPTS

- (a) No person, purposely or knowingly, and when purpose or knowledge is sufficient culpability for the commission of an offense, shall engage in conduct that, if successful, would constitute or result in the offense.
- (b) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the attempt was either factually or legally impossible under the attendant circumstances, if that offense could have been committed had the attendant circumstances been as the actor believed them to be.
- (c) No person who is convicted of committing a specific offense, of complicity in the commission of an offense, or of conspiracy to commit an offense, shall be convicted of an attempt to commit the same offense in violation of this section.
- (d) It is an affirmative defense to a charge under this section that the actor abandoned his or her effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose.
- (e)
 - (1) Whoever violates this section is guilty of an attempt to commit an offense. An attempt to commit aggravated murder, murder, or an offense for which the maximum penalty is imprisonment for life is a felony of the first degree, to be prosecuted under appropriate State law. An attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense is an offense of the same degree as the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt. An attempt to commit any other offense is an offense of the next lesser degree than the offense attempted. In the case of an attempt to commit an offense other than a violation of Ohio R.C. Chapter 3734 that is not specifically classified, an attempt is a misdemeanor of the first degree if the offense attempted is a felony, and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. In the case of an attempt to commit a violation of any provision of Ohio R.C. Chapter 3734, other than Ohio R.C. 3734.18, that relates to hazardous wastes, an attempt is a felony to be prosecuted under appropriate State law. An attempt to commit a

Codifier: Added material is underlined, deleted material is struck through.

minor misdemeanor, or to engage in conspiracy, is not an offense under this section.

- (2) In addition to any other sanctions imposed pursuant to division (E)(1) of this section for an attempt to commit aggravated murder or murder in violation of division (A) of this section, if the offender used a motor vehicle as the means to attempt to commit the offense, the court shall impose upon the offender a class two suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege as specified in Ohio R.C. division (A)(2) of section 4510.02.
- (3) If a person is convicted of or found guilty of an attempt to commit aggravated murder of the type described in division (E) or (F) of section 2903.01 of the Revised Code, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) As used in this section:

(1) "Drug abuse offense" has the same meaning as in Ohio R.C. 2925.01.

(2) "Motor vehicle" has the same meaning as in section 4501.01 of the Revised Code.

(ORC 2923.02)

606.29 CONSPIRACY

- (a) No person, with purpose to commit or to promote or facilitate the commission of aggravated murder, murder, kidnapping, abduction, compelling prostitution, promoting prostitution, trafficking in persons, aggravated arson, arson, aggravated robbery, robbery, aggravated burglary, burglary, trespassing in a habitation when a person is present or likely to be present, engaging in a pattern of corrupt activity, corrupting another with drugs, a felony drug trafficking, manufacturing, processing or possession offense, theft of drugs, or illegal processing of drug documents, the commission of a felony offense of unauthorized use of a vehicle, illegally transmitting multiple commercial electronic mail messages or unauthorized access of a computer in violation of Ohio R.C. 2923.421 or the commission of a violation of any provision of Ohio R.C. Chapter 3734, other than Ohio R.C. 3734.18, that relates to hazardous wastes, shall do either of the following:
- (1) With another person or persons, plan or aid in planning the commission of any of the specified offenses;
- (2) Agree with another person or persons that one or more of them will engage in conduct that facilitates the commission of any of the specified offenses.
- (b) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the accused or a person with whom the accused conspired, subsequent to the accused's entrance into the conspiracy. For purposes of this section, an overt act is substantial when it is of a character that manifests a purpose on the part of the actor that the object of the conspiracy should be completed.
- (c) When the offender knows or has reasonable cause to believe that a person with whom the offender conspires also has conspired or is conspiring with another to commit the same offense, the offender is guilty of conspiring with that other person, even though the other person's identity may
- Codifier: Added material is underlined, deleted material is struck through.

be unknown to the offender.

- (d) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the conspiracy was impossible under the circumstances.
- (e) A conspiracy terminates when the offense or offenses that are its objects are committed or when it is abandoned by all conspirators. In the absence of abandonment, it is no defense to a charge under this section that no offense that was the object of the conspiracy was committed.
- (f) A person who conspires to commit more than one offense is guilty of only one conspiracy, when the offenses are the object of the same agreement or continuous conspiratorial relationship.
- (g) When a person is convicted of committing or attempting to commit a specific offense or of complicity in the commission of or attempt to commit the specific offense, the person shall not be convicted of conspiracy involving the same offense.
- (h)
 - (1) No person shall be convicted of conspiracy upon the testimony of a person with whom the defendant conspired, unsupported by other evidence.
 - (2) If a person with whom the defendant allegedly has conspired testifies against the defendant in a case in which the defendant is charged with conspiracy and if the testimony is supported by other evidence, the court, when it charges the jury, shall state substantially the following:
 "The testimony of an accomplice that is supported by other evidence does not become inadmissible because of the accomplice's complicity, moral turpitude, or self-interest, but the admitted or claimed complicity of a witness may affect the witness' credibility and make the witness' testimony subject to grave suspicion, and requires that it be weighed with great caution.

 It is for you, as jurors, in light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth".
 - (3) "Conspiracy", as used in subsection (h)(1) of this section, does not include any conspiracy that results in an attempt to commit an offense or in the commission of an offense.
- (i) The following are affirmative defenses to a charge of conspiracy:
 - (1) After conspiring to commit an offense, the actor thwarted the success of the conspiracy under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.
 - (2) After conspiring to commit an offense, the actor abandoned the conspiracy prior to the commission of or attempt to commit any offense that was the object of the conspiracy, either by advising all other conspirators of the actor's abandonment, or by informing any law enforcement authority of the existence of the conspiracy and of the actor's participation in the conspiracy.
- (j) Whoever violates this section is guilty of conspiracy, which is a misdemeanor of the first degree, when the most serious offense that is the object of the conspiracy is a felony of the fifth degree.

- (k) this section does not define a separate conspiracy offense or penalty where conspiracy is defined as an offense by one or more sections of this Code, other than this section. In such a case, however:
- (1) With respect to the offense specified as the object of the conspiracy in the other section or sections, subsection (a) hereof defines the voluntary act or acts and culpable mental state necessary to constitute the conspiracy;
 - (2) Subsections (b) to (i) hereof are incorporated by reference in the conspiracy offense defined by the other section or sections of this Code.
- (l)
- (1) In addition to the penalties that otherwise are imposed for conspiracy, a person who is found guilty of conspiracy to engage in a pattern of corrupt activity is subject to divisions (B)(2) and (3) of Ohio R.C. 2923.32, division (A) of Ohio R.C. 2981.04 and division (D) of Ohio R.C. 2981.06.
 - (2) If a person is convicted of or pleads guilty to conspiracy and if the most serious offense that is the object of the conspiracy is a felony drug trafficking, manufacturing, processing or possession offense, in addition to the penalties or sanctions that may be imposed for the conspiracy under subsection (j) hereof and Ohio R.C. Chapter 2929, both of the following apply:
 - A. The provisions of divisions (D), (F) and (G) of Ohio R.C. 2925.03, division (D) of Ohio R.C. 2925.04, division (D) of Ohio R.C. 2925.05, division (D) of Ohio R.C. 2925.06 and division (E) of Ohio R.C. 2925.11 that pertain to mandatory and additional fines, driver's or commercial driver's license or permit suspensions, and professionally licensed persons and that would apply under the appropriate provisions of those divisions to a person who is convicted of or pleads guilty to the felony drug trafficking, manufacturing, processing, or possession offense that is the most serious offense that is the basis of the conspiracy shall apply to the person who is convicted of or pleads guilty to the conspiracy as if the person had been convicted or pleaded guilty to the felony drug trafficking, manufacturing, processing or possession offense that is the most serious offense that is the basis of the conspiracy.
 - B. The court that imposes sentence upon the person who is convicted of or pleads guilty to the conspiracy shall comply with the provisions identified as being applicable under subsection (1) (2) of this section, in addition to any other penalty or sanction that it imposes for the conspiracy under subsection (j) of this section and Ohio R.C. Chapter 2929.
- (m) As used in this section:
- (1) "Felony drug trafficking, manufacturing, processing or possession offense" means any of the following that is a felony:
 - A. A violation of Ohio R.C. 2925.03, 2925.04, 2925.05, or 2925.06;
 - B. A violation of Ohio R.C. 2925.11 that is not a minor drug possession offense.
 - (2) "Minor drug possession offense" has the same meaning as in Ohio R.C. 2925.01. (ORC Codifier: Added material is underlined, deleted material is struck through.)

2923.01)

618.20 ASSAULTING POLICE DOG OR HORSE OR AN ASSISTANCE DOG

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

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

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

- (1) Taunt, torment, or strike a police dog or horse;
- (2) Throw an object or substance at a police dog or horse;
- (3) Interfere with or obstruct a police dog or horse, or interfere with or obstruct a law enforcement officer who is being assisted by a police dog or horse, in a manner that does any of the following:
 - A. Inhibits or restricts the law enforcement officer's control of the police dog or horse;
 - B. Deprives the law enforcement officer of control of the police dog or horse;
 - C. Releases the police dog or horse from its area of control;
 - D. Enters the area of control of the police dog or horse without the consent of the law enforcement officer, including placing food or any other object or substance into that area;
 - E. Inhibits or restricts the ability of the police dog or horse to assist a law enforcement officer.

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

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

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

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

(2) The dog, at the time the physical harm is caused or attempted, is not assisting or

servicing a person who is blind, deaf or hearing impaired, or a person who is mobility impaired ~~person at the time the physical harm is caused or attempted~~ impairment, but the offender has actual knowledge that the dog is an assistance dog.

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

- (1) Taunt, torment, or strike an assistance dog;
- (2) Throw an object or substance at an assistance dog;
- (3) Interfere with or obstruct an assistance dog, or interfere with or obstruct a person who is blind, deaf, or hearing impaired, or a person with a mobility impaired person impairment who is being assisted or served by an assistance dog, in a manner that does any of the following:
 - A. Inhibits or restricts the assisted or served person's control of the dog;
 - B. Deprives the assisted or served person of control of the dog;
 - C. Releases the dog from its area of control;
 - D. Enters the area of control of the dog without the consent of the assisted or served person, including placing food or any other object or substance into that area;
 - E. Inhibits or restricts the ability of the dog to assist the assisted or served person.
- (4) Engage in any conduct that is likely to cause serious physical injury or death to an assistance dog;
- (5) If the person is the owner, keeper or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger an assistance dog that at the time of the conduct is assisting or servicing a person who is blind, deaf, or hearing impaired, or a person with a mobility impaired person impairment or that the person knows is an assistance dog.

(e)

- (1) Whoever violates subsection (a) hereof is guilty of assaulting a police dog or horse. If the violation results in physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the police dog or horse, such violation is a felony and shall be prosecuted under appropriate State law.
- (2) Whoever violates subsection (b) hereof is guilty of harassing a police dog or horse. Except as otherwise provided in this subsection, harassing a police dog or horse is a misdemeanor of the second degree. If the violation results in the death of the police dog or horse or if the violation results in serious physical harm to the police dog or horse but does not result in its death, harassing a police dog or horse is a felony and shall be prosecuted under appropriate State law. If the violation results in physical harm to the police dog or horse but does not result in its death or in serious physical harm to it, harassing a police dog or horse is a misdemeanor of the first degree.

- (3) Whoever violates subsection (c) hereof is guilty of assaulting an assistance dog. If the violation results in physical harm to the dog other than death or serious physical harm, assaulting an assistance dog is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the dog, assaulting an assistance dog is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the dog, such violation is a felony and shall be prosecuted under appropriate State law.
- (4) Whoever violates subsection (d) of this section is guilty of harassing an assistance dog. Except as otherwise provided in this subsection, harassing an assistance dog is a misdemeanor of the second degree. If the violation results in the death of or serious physical harm to the assistance dog but does not result in its death, harassing an assistance dog is a felony and shall be prosecuted under appropriate State law. If the violation results in physical harm to the assistance dog but does not result in its death or in serious physical harm to it, harassing an assistance dog is a misdemeanor of the first degree.
- (5) In addition to any other sanction or penalty imposed for the offense under this section, whoever violates subsection (a), (b), (c) or (d) of this section is responsible for the payment of all of the following:
- A. Any veterinary bill or bill for medication incurred as a result of the violation by the Police Department regarding a violation of subsection (a) or (b) of this section or by the person who is blind, deaf, or hearing impaired, or the person with a mobility ~~impaired person~~ impairment assisted or served by the assistance dog regarding a violation of subsection (c) or (d) of this section;
 - B. The cost of any damaged equipment that results from the violation;
 - C. If the violation did not result in the death of the police dog or horse or the assistance dog that was the subject of the violation and if, as a result of that dog or horse being the subject of the violation, the dog or horse needs further training or retraining to be able to continue in the capacity of a police dog or horse or an assistance dog, the cost of any further training or retraining of that dog or horse by a law enforcement officer or by the person who is blind, deaf, or hearing impaired, or the person with a mobility ~~impaired person~~ impairment assisted or served by the assistance dog;
 - D. If the violation resulted in the death of the assistance dog that was the subject of the violation or resulted in serious physical harm to the police dog or horse or the assistance dog or horse that was the subject of the violation to the extent that the dog or horse needs to be replaced on either a temporary or a permanent basis, the cost of replacing that dog or horse and of any further training of a new police dog or horse or a new assistance dog by a law enforcement officer or by the person who is blind, deaf, or hearing impaired, or the person with a mobility ~~impaired person~~ impairment assisted or served by the assistance dog, which replacement or training is required because of the death of or the serious physical harm to the dog or horse that was the subject of the violation.
- (f) This section does not apply to a licensed veterinarian whose conduct is in accordance with Ohio R.C. Chapter 4741.
- (g) This section only applies to an offender who knows or should know at the time of the violation that the police dog or horse or assistance dog that is the subject of a violation under this section is a

police dog or horse or assistance dog.

(h) As used in this section:

- (1) "Physical harm" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.
- (2) "Police dog or horse" means a dog or horse that has been trained, and may be used, to assist law enforcement officers in the performance of their official duties.
- (3) "Serious physical harm" means any of the following:
 - A. Any physical harm that carries a substantial risk of death;
 - B. Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming;
 - C. Any physical harm that causes acute pain of a duration that results in substantial suffering.
- (4) "Assistance dog", "blind", and "~~mobility impaired person~~ person with a mobility impairment" have the same meanings as in Ohio R.C. 955.011.

(ORC 2921.321)

624.01 DEFINITIONS

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

- (a) "Administer." Has the same meaning as in R.C. § 3719.01.
- (b) "Adulterate." To cause a drug to be adulterated as described in R.C. § 3715.63.
- (c) "Alcohol and drug addiction services." Has the same meaning as in R.C. § 5119.01.
- (d) "Bulk amount." Of a controlled substance, means any of the following:
 - (1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II, or Schedule III, with the exception of any controlled substance analog, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in division (2), (5), or (6) of this definition, whichever of the following is applicable:
 - A. An amount equal to or exceeding ten grams or 25 unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I opiate or opium derivative;
 - B. An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;
 - C. An amount equal to or exceeding 30 grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a Schedule I stimulant or depressant;
 - D. An amount equal to or exceeding 20 grams or five times the maximum daily dose

Codifier: Added material is underlined, deleted material is struck through.

in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II opiate or opium derivative;

- E. An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of phencyclidine;
- F. An amount equal to or exceeding 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug and Cosmetic Act (21 U.S.C. §§ 301 et seq., as amended) and the federal drug abuse control laws, as defined in this section, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;
- G. An amount equal to or exceeding three grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug and Cosmetic Act (21 U.S.C. §§ 301 et seq., as amended) and the federal drug abuse control laws;

- (2) An amount equal to or exceeding 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;
- (3) An amount equal to or exceeding 20 grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III opiate or opium derivative;
- (4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance;
- (5) An amount equal to or exceeding 200 solid dosage units, 16 grams, or 16 milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid;
- (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 R.C. § 2925.11 and the sentencing provisions set forth in R.C. § 2925.11(C)(10) (b) and (C)(11) will not apply regarding the defendant and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in division (1), (2), (3), (4), or (5) of this definition for the other Schedule III, Schedule IV, or Schedule V controlled substance that is combined with the fentanyl-related compound.

(e) “Certified grievance committee.” A duly constituted and organized committee of the Ohio State Codifier: Added material is underlined, deleted material is struck through.

Bar Association or of one or more local bar associations of the state that complies with the criteria set forth in Rule V, Section 6 of the Rules for the Government of the Bar of Ohio.

(f) “Cocaine.” Any of the following:

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

(g) “Committed in the vicinity of a juvenile.” An offense is “committed in the vicinity of a juvenile” if the offender commits the offense within 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.

(h) “Committed in the vicinity of a school.” An offense is “committed in the vicinity of a school” if the offender commits the offense on school premises, in a school building, or within 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.

(i) “Committed in the vicinity of a substance addiction services provider or a recovering addict.” An offense is “committed in the vicinity of a substance addiction services provider or a recovering addict” if either of the following apply:

- (1) The offender commits the offense on the premises of a substance addiction services provider’s facility, including a facility licensed prior to June 29, 2019, under R.C. § 5119.391 to provide methadone treatment or an opioid treatment program licensed on or after that date under R.C. § 5119.37, or within 500 feet of the premises of a substance addiction services provider’s facility and the offender knows or should know that the offense is being committed within the vicinity of the substance addiction services provider’s facility.
- (2) The offender sells, offers to sell, delivers, or distributes the controlled substance or controlled substance analog to a person who is receiving treatment at the time of the commission of the offense, or received treatment within 30 days prior to the commission of the offense, from a substance addiction services provider and the offender knows that the person is receiving or received that treatment.

(j) “Controlled substance.” Has the same meaning as in R.C. § 3719.01.

(k) “Controlled substance analog.” Has the same meaning as in R.C. § 3719.01.

(l) “Counterfeit controlled substance.” Any of the following:

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

name or identifying mark.

- (2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it.
 - (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance.
 - (4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its markings, labeling, packaging, distribution or the price for which it is sold or offered for sale.
- (m) "Cultivate." Includes planting, watering, fertilizing or tilling.
- (n) "Dangerous drug." Has the same meaning as in R.C. § 4729.01.
- (o) "Deception." Has the same meaning as in R.C. § 2913.01.
- (p) "Disciplinary counsel." The disciplinary counsel appointed by the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court under the Rules for the Government of the Bar of Ohio.
- (q) "Dispense." Has the same meaning as in R.C. § 3719.01.
- (r) "Distribute." Has the same meaning as in R.C. § 3719.01.
- (s) "Drug." Has the same meaning as in R.C. § 4729.01.
- (t) "Drug abuse offense." Any of the following:
- (1) A violation of R.C. § 2913.02(A) that constitutes theft of drugs, or any violation of R.C. § 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37.
 - (2) A violation of an existing or former law of any municipality, state or of the United States, that is substantially equivalent to any section listed in division (1) of this definition.
 - (3) An offense under an existing or former law of any municipality, state or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element.
 - (4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit, any offense under division (1), (2) or (3) of this definition.
- (u) "~~Drug dependent person~~ Person with a drug dependency." Has the same meaning as in R.C. § 3719.011.
- (v) "Drug of abuse." Has the same meaning as in R.C. § 3719.011.
- (w) "Felony drug abuse offense." Any drug abuse offense that would constitute a felony under the laws of this state, any other state or the United States.

(x) “Fentanyl-related compound.” Any of the following:

- (1) Fentanyl;
- (2) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- (3) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidiny]l)-N-phenylpropanamide);
- (4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl-4-piperidiny]l)-N-phenylpropanamide);
- (5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidiny]l)-phenylpropanamide);
- (6) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-phenylpropanamide);
- (7) 3-methylthiofentanyl (N-[3-methyl-1-[2-(thienyl)ethyl]-4-piperidiny]l)-phenylpropanamide);
- (8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny]l)propanamide);
- (9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]l)-propanamide);
- (10) Alfentanil;
- (11) Carfentanil;
- (12) Remifentanil;
- (13) Sufentanil;
- (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidiny]l)-N-phenylacetamide); and
- (15) Any compound that meets all of the following fentanyl pharmacophore requirements to bind at the mu receptor, as identified by a report from an established forensic laboratory, including acetylfentanyl, furanylfentanyl, valerylfentanyl, butyrylfentanyl, isobutyrylfentanyl, 4-methoxybutyrylfentanyl, para-fluorobutyrylfentanyl, acrylfentanyl, and ortho-fluorofentanyl:
 - A. A chemical scaffold consisting of both of the following:
 - i. A five, six, or seven member ring structure containing a nitrogen, whether or not further substituted;
 - ii. An attached nitrogen to the ring, whether or not that nitrogen is enclosed in a ring structure, including an attached aromatic ring or other lipophilic group to that nitrogen.
 - B. A polar functional group attached to the chemical scaffold, including but not limited to a hydroxyl, ketone, amide, or ester;
 - C. An alkyl or aryl substitution off the ring nitrogen of the chemical scaffold; and

D. The compound has not been approved for medical use by the United States food and drug administration.

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

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

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

B. Any aerosol propellant.

C. Any fluorocarbon refrigerant.

D. Any anesthetic gas.

(2) Gamma Butyrolactone;

(3) 1, 4 Butanediol.

(z) “Hashish.”

(1) A resin or a preparation of a resin to which both of the following apply:

A. It is contained in or derived from any part of the plant of the genus cannabis, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.

B. It has a delta-9 tetrahydrocannabinol concentration of more than 0.3%.

C. “Delta-9 tetrahydrocannabinol” has the same meaning as in section 928.01 of the Revised Code.

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

(aa) “Hypodermic.” Has the same meaning as in R.C. § 3719.01.

(ab) “Juvenile.” A person under 18 years of age.

(ac) “Licensed health professional authorized to prescribe drugs.” Has the same meaning as in R.C. § 4729.01.

(ad) “L.S.D.” Lysergic acid diethylamide.

(ae) “Major drug offender.” Has the same meaning as in R.C. § 2929.01. (af) “Mandatory prison term.” Has the same meaning as in R.C. § 2929.01.

- (ag) “Manufacture.” To plant, cultivate, harvest, process, make, prepare or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical synthesis or compounding, or any combination of the same, and includes packaging, repackaging, labeling and other activities incident to production.
- (ah) “Manufacturer.” Has the same meaning as in R.C. § 3719.01.
- (ai) “Marihuana.” Has the same meaning as in R.C. § 3719.01, except that it does not include hashish.
- (aj) “Methamphetamine.” Methamphetamine, any salt, isomer or salt of an isomer of methamphetamine, or any compound, mixture, preparation or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine.
- (ak) “Minor drug possession offense.” Either of the following:
- (1) A violation of R.C. § 2925.11, as it existed prior to July 1, 1996, or a substantially equivalent municipal ordinance.
 - (2) A violation of R.C. § 2925.11, as it exists on and after July 1, 1996, or a substantially equivalent municipal ordinance, that is a misdemeanor or a felony of the fifth degree.
- (al) “Official written order.” Has the same meaning as in R.C. § 3719.01.
- (am) “Person.” Has the same meaning as in R.C. § 3719.01.
- (an) “Pharmacist.” Has the same meaning as in R.C. § 3719.01.
- (ao) “Pharmacy.” Has the same meaning as in R.C. § 3719.01.
- (ap) “Possess” or “possession.” Having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.
- (aq) “Premises of a substance addiction services provider's facility.” Means the parcel of real property on which any substance addiction service provider's facility is situated.
- (ar) “Prescription.” Has the same meaning as in R.C. § 4729.01.
- (as) “Presumption for a prison term” or “presumption that a prison term shall be imposed.” A presumption as described in R.C. § 2929.13(D) that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under R.C. § 2929.11.
- (at) “Professional license.” Any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate or temporary registration that is described in R.C. § 2925.01(W)(1) to (W)(37) and that qualifies a person as a professionally licensed person.
- (au) “Professionally licensed person.” Any of the following:
- (1) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under R.C. Chapter 4701 and who holds an Ohio permit issued under that chapter;
 - (2) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under R.C. Chapter 4703;
 - (3) A person who is registered as a landscape architect under R.C. Chapter 4703 or who holds a permit as a landscape architect issued under that chapter;

- (4) A person licensed under R.C. Chapter 4707;
- (5) A person who has been issued a certificate of registration as a registered barber under R.C. Chapter 4709;
- (6) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of R.C. Chapter 4710;
- (7) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, advanced cosmetologist's license, advanced hair designer's license, advanced manicurist's license, advanced esthetician's license, advanced natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under R.C. Chapter 4713;
- (8) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license or a dental hygienist's teacher's certificate under R.C. Chapter 4715;
- (9) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under R.C. Chapter 4717;
- (10) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under R.C. Chapter 4723;
- (11) A person who has been licensed to practice optometry or to engage in optical dispensing under R.C. Chapter 4725;
- (12) A person licensed to act as a pawnbroker under R.C. Chapter 4727;
- (13) A person licensed to act as a precious metals dealer under R.C. Chapter 4728;
- (14) A person licensed under R.C. Chapter 4729 as a pharmacist or pharmacy intern or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;
- (15) A person licensed under R.C. Chapter 4729 as a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs;
- (16) A person who is authorized to practice as a physician assistant under R.C. Chapter 4730;
- (17) A person who has been issued a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under R.C. Chapter 4731 or has been issued a certificate to practice a limited branch of medicine under that chapter;
- (18) A person licensed as a psychologist, independent school psychologist, or school psychologist under R.C. Chapter 4732;

- (19) A person registered to practice the profession of engineering or surveying under R.C. Chapter 4733;
 - (20) A person who has been issued a license to practice chiropractic under R.C. Chapter 4734;
 - (21) A person licensed to act as a real estate broker or real estate salesperson under R.C. Chapter 4735;
 - (22) A person registered as a registered environmental health specialist under R.C. Chapter ~~4736~~ 3776;
 - (23) A person licensed to operate or maintain a junkyard under R.C. Chapter 4737;
 - (24) A person who has been issued a motor vehicle salvage dealer's license under R.C. Chapter 4738;
 - (25) A person who has been licensed to act as a steam engineer under R.C. Chapter 4739;
 - (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under R.C. Chapter 4741;
 - (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under R.C. Chapter 4747;
 - (28) A person who has been issued a class A, class B or class C license or who has been registered as an investigator or security guard employee under R.C. Chapter 4749;
 - (29) A person licensed to practice as a nursing home administrator under R.C. Chapter 4751;
 - (30) A person licensed to practice as a speech-language pathologist or audiologist under R.C. Chapter 4753;
 - (31) A person issued a license as an occupational therapist or physical therapist under R.C. Chapter 4755;
 - (32) A person who is licensed as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under R.C. Chapter 4757;
 - (33) A person issued a license to practice dietetics under R.C. Chapter 4759;
 - (34) A person who has been issued a license or limited permit to practice respiratory therapy under R.C. Chapter 4761;
 - (35) A person who has been issued a real estate appraiser certificate under R.C. Chapter 4763;
 - (36) A person who has been issued a home inspector license under R.C. Chapter 4764;
 - (37) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules.
- (av) "Public premises." Any hotel, restaurant, tavern, store, arena, hall or other place of public accommodation, business, amusement or resort.

- (aw) “Sale.” Has the same meaning as in R.C. § 3719.01.
- (ax) “Sample drug.” A drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.
- (ay) “Schedule I”, “Schedule II”, “Schedule III”, “Schedule IV” or “Schedule V.” Have the same meaning as in R.C. § 3719.01.
- (az) “School.” Any school operated by a board of education, any community school established under R.C. Chapter 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under R.C. § 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.
- (ba) “School building.” Any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.
- (bb) “School premises.” Either of the following:
- (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed.
 - (2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under R.C. Chapter 3314, or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under R.C. § 3301.07 and on which some of the instruction, extracurricular activities or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.
- (bc) “Standard Pharmaceutical Reference Manual.” The current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.
- (bd) “Substance addiction services provider.” Means an agency, association, corporation or other legal entity, individual, or program that provides one or more of the following at a facility:
- (1) Either alcohol addiction services, or drug addiction services, or both such services that are certified by the Ohio Director of Mental Health and Addiction Services under R.C. § 5119.36;
 - (2) Recovery supports that are related to either alcohol addiction services, or drug addiction services, or both such services and paid for with federal, state, or local funds administered by the Ohio Department of Mental Health and Addiction Services or a board of alcohol, drug addiction, and mental health services.
- (be) “Unit dose.” An amount or unit or a compound, mixture or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.
- (bf) “Wholesaler.” Has the same meaning as in R.C. § 3719.01. (R.C. § 2925.01)

624.025 CULTIVATION OF MARIHUANA

(a) No person shall knowingly cultivate marihuana.

(b) This section does not apply to any person listed in Ohio R.C. 2925.03(B)(1) to (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.

~~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 the offender's driver's or commercial driver's license or permit in accordance with division (G) of Ohio R.C. 2925.03. 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.~~

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

(e)(1) If the sentencing court suspends the offender's driver's or commercial driver's license or permit under this section in accordance with division (G) of section 2925.03 of the Revised Code, the offender may request termination of, and the court may terminate, the suspension of the offender 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 September 13, 2016 may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code 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 division (H)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

(ORC 2925.04)

624.03 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)

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

- A. Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731 and 4741.
- B. If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;
- C. Any person who sells, offers for sale, prescribes, dispenses or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed or administered for that purpose in accordance with that Act;
- D. Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs if the prescription was issued for a legitimate medical purpose and not altered, forged or obtained through deception or commission of a theft offense.

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

(2)

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

- i. "Community addiction services provider" has the same meaning as in Ohio R.C. 5119.01.
- ii. "Community control sanction" and "~~drug treatment program~~" have has the same meanings as in Ohio R.C. 2929.01.
- iii. "Health care facility" has the same meaning as in Ohio R.C. 2919.16.
- iv. "Minor drug possession offense" means a violation of this section that is a misdemeanor or a felony of the fifth degree.
- v. "Post-release control sanction" has the same meaning as in Ohio R.C. 2967.28.
- vi. "Peace officer" has the same meaning as in Ohio R.C. 2935.01.
- vii. "Public agency" has the same meaning as in Ohio R.C. 2930.01.
- viii. "Qualified individual" means a person who is ~~not on community control or post-release control and is a person~~ acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection

(b)(2)B. of this section.

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

B. Subject to subsection (b)(2)~~FE~~FE. of this section, a qualified individual shall not be arrested, charged, prosecuted, convicted or penalized pursuant to this chapter for a minor drug possession offense or a violation of Ohio R.C. section 2925.12, division (C)(1) of section 2925.14, or section 2925.141 if all of the following apply:

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

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

iii. Subject to subsection (b)(2)~~GF~~GF. of this section, the qualified individual who obtains a screening and receives a referral for treatment under subsection (b)(2)B.1. of this section, upon the request of any prosecuting attorney, submits documentation to the prosecuting attorney that verifies that the qualified individual satisfied the requirements of that subsection. The documentation shall be limited to the date and time of the screening obtained and referral received.

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

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

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

~~D. If a person is found to be in violation of any post-release control sanction and if the violation is a result of either of the following, the court or the parole board shall first consider ordering the person's participation or continued participation~~

~~in a drug treatment program or mitigating the penalty specified in Ohio R.C. 2929.141 or 2967.28, whichever is applicable, after which the court or the parole board has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in either of those applicable sections:~~

- ~~i. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;~~
- ~~ii. Experiencing a drug overdose and seeking medical assistance for that emergency or being the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.~~

C. If a person who is serving a community control sanction or is under a sanction on post-release control acts pursuant to division (B)(2)(b) of this section, then division (B) of section 2929.141, division (B)(2) of section 2929.15, division (D)(3) of section 2929.25, or division (F)(3) of section 2967.28 of the Revised Code applies to the person with respect to any violation of the sanction or post-release control sanction based on a minor drug possession offense, as defined in section 2925.11 of the Revised Code, or a violation of section 2925.12, division (C)(1) of section 2925.14, or section 2925.141 of the Revised Code.

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

- i. Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of subsection (b)(2)B. of this section or with regards to any crime other than a minor drug possession offense committed by a person who qualifies for protection pursuant to subsection (b)(2)B. of this section for a minor drug possession offense;
- ii. Limit any seizure of evidence or contraband otherwise permitted by law;
- iii. Limit or abridge the authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in that division;
- iv. Limit, modify or remove any immunity from liability available pursuant to law in effect prior to ~~the effective date of this amendment~~ September 13, 2016, to any public agency or to an employee of any public agency.

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

F. Nothing in this section shall compel any qualified individual to disclose protected health information in a way that conflicts with the requirements of the "Health Insurance Portability and Accountability Act of 1996", 104 Pub. L. No.

191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and regulations promulgated by the United States Department of Health and Human Services to implement the act or the requirements of 42 C.F.R. Part 2.

(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.
(A.O.)

(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 the offender's driver's or commercial driver's license or permit for not more than five years. (Ord. 5418-2017. Passed 1- 17-17.)

(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. (ORC 2925.11)

624.04 POSSESSION OF DRUG ABUSE INSTRUMENTS

- (a) No person shall knowingly make, obtain, possess or use any instrument, article or thing the customary and primary purpose of which is for the administration or use of a dangerous drug, other than marihuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article or thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marihuana, or to prepare a dangerous drug, other than marihuana, for unlawful administration or use.
- (b)
- (1) 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 Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731 and 4741.
- (2) Division (B)(2) of section 2925.11 of the Revised Code applies with respect to a violation of this section when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.
- (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 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. (ORC 2925.12)

624.05 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 Ohio R.C 4501.01(A), shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.
- (b) No person, 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 if either of the following applies:
- (1) is a violation of Ohio R.C. 2925.02, 2925.03, 2925.04 or 2925.041 as provided in Ohio R.C. 2925.13, permitting drug abuse is a felony and shall be prosecuted under appropriate State law.

(2) The felony drug abuse offense in question is a violation of Ohio R.C. section 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 Ohio R.C. of section 2925.041 had assembled or possessed them with the intent to manufacture a controlled substance in schedule I or II in violation of Ohio Section section 2925.04.

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

(ORC 2925.13)

628.10 INTIMIDATION IN CONNECTION WITH HOUSING

(a) No person, whether or not acting under color of law, shall by force or threat of force willfully injure, intimidate, or interfere with, or attempt to injure, intimidate, or interfere with any of the following:

(1) Any person because of race, color, religion, sex, familial status, as defined in Ohio R.C. 4112.01, national origin, military status as defined in that section, disability as defined in that section, or ancestry and because that person is or has been selling, purchasing, renting, financing, occupying, contracting, or negotiating for the sale, purchase, rental, financing, or occupation of any housing accommodations, or applying for or participating in any service, organization, or facility relating to the business of selling or renting housing accommodations.

(2) Any person because that person is or has been doing, or in order to intimidate that person or any other person or any class of persons from doing either of the following:

A. Participating, without discrimination on account of race, color, religion, sex, familial status, as defined in Ohio R.C. 4112.01, national origin, military status as defined in that section, disability as defined in that section, or ancestry, in any of the activities, services, organizations, or facilities described in division (a)(1) of this section;

B. Affording another person or class of persons opportunity or protection so to participate.

(3) Any person because that person is or has been, or in order to discourage that person or any other person from, lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, familial status as defined in Ohio R.C. 4112.01, national origin, military status as defined in that section, disability as defined in that section, or ancestry, in any of the activities, services, organizations, or

facilities described in division (a)(1) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate.

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

(ORC 2927.03)

630.10 PROHIBITIONS WHERE INSTANT BINGO GAME IS CONDUCTED

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

- (1) Fail to comply with the requirements of divisions (A)(1), (2), and (3) of Ohio 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 630.01, is in good standing in the State pursuant to Ohio R.C. 2915.08, and is in compliance with Ohio R.C. Chapter 1716;
 - B. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 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 Ohio R.C. 2915.13.
- (3) Conduct instant bingo on any day, at any time, or at any premises not specified on the organization's license issued pursuant to Ohio R.C. 2915.08;
- (4) Permit any person whom the organization knows or should have known has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator in the conduct of instant bingo;
- (5) Purchase or lease supplies used to conduct instant bingo or punch board games from any person except a distributor licensed under Ohio R.C. 2915.081;
- (6) Sell or provide any instant bingo ticket or card for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare;
- (7) Sell an instant bingo ticket or card to a person under eighteen 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 630.12(d);
 - (11) Pay fees to any person who provides refreshments to the participants in an instant bingo game;
 - (12)
 - A. Allow instant bingo tickets or cards to be sold to bingo game operators 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 Ohio R.C. 2915.081 as reflected on an invoice issued by the distributor that contains all of the information required by Section 630.07(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 ~~Ohio R.C. 2915.01 to 2915.13.~~ this chapter.
- (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 Ohio 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.

(ORC 2915.091)

636.00 DEFINITIONS

- (a) As used in this chapter and any other provision of these Codified Ordinances:
 - (1) "Another's unborn" or "other person's unborn." A member of the species *Homo sapiens* who is or was carried in the womb of another during a period that begins with fertilization

and that continues unless and until live birth occurs.

- (2) "Unlawful termination of another's pregnancy." Causing the death of an unborn member of the species *Homo sapiens* who is or was carried in the womb of another, as a result of injuries inflicted during the period that begins with fertilization and that continues unless and until live birth occurs.
- (b) Notwithstanding division (a) of this section, in no case shall the definitions of the terms "another's unborn," "other person's unborn" and "unlawful termination of another's pregnancy" that are set forth in division (a) of this section be applied or construed in any of the following manners:
- (1) Except as otherwise provided in division (b)(1) of this section, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as any violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21 or 2903.22, or a substantially similar municipal ordinance, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence but that does violate Ohio R.C. 2919.12, 2919.13(B), 2929.15, 2919.151, 2919.17 or 2919.18, or a substantially similar municipal ordinance, may be punished as a violation of such section, as applicable.
- (2) In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:
- A. Her delivery of a stillborn baby.
 - B. Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying.
 - C. Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human.
 - D. Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human.
 - E. Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness, or other psychological illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

(ORC 2903.09)

636.02 ASSAULT

- (a) No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn.
- (b) No person shall recklessly cause serious physical harm to another or to another's unborn.
- (c)

- (1) Whoever violates this section is guilty of assault, a misdemeanor of the first degree, and the court shall sentence the offender as provided in subsection (c) hereof. If the assault was committed under the circumstances provided in subsection (c)(2), (3), (4), (5), (6), (7), (8) or (9) hereof, assault is a felony and shall be prosecuted under appropriate State law.
- (2) Except as otherwise provided in this subsection, if the offense is committed by a caretaker against a ~~functionally impaired~~ person with a function impairment under the caretaker's care.
- (3) If the offense occurs in or on the grounds of a State correctional institution or an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction or the Department of Youth Services, and the offense is committed by a person incarcerated in the State correctional institution or by a person institutionalized in the Department of Youth Services Institution pursuant to a commitment to the Department of Youth Services.
- (4) If the offense is committed in any of the following circumstances:
 - A. The offense occurs in or on the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department or is on the premises of the facility for business purposes or as a visitor, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person's being charged with or convicted of any crime, or subsequent to the person's being alleged to be or adjudicated a delinquent child.
 - B. The offense occurs off the grounds of a State correctional institution and off the grounds of an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction, the Department of Youth Services, or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person incarcerated in a State correctional institution or institutionalized in the Department of Youth Services who temporarily is outside of the institution for any purpose, by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.
 - C. The offense occurs off the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person being charged with or convicted of any crime, or subsequent to the person being alleged to be or adjudicated a delinquent child and who temporarily is outside of the facility for any purpose or by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.
 - D. The victim of the offense is a school teacher or administrator or a school bus

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

(5) If the assault is committed in any of the following circumstances, assault is a felony of the fourth degree:

(A) The victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation, a firefighter, or a person performing emergency medical service, while in the performance of their the officer's investigator's, firefighter's, or person's official duties.

(B) The victim of the offense is an emergency service responder, the offender knows or reasonably should know that the victim is an emergency service responder, and it is the offender's specific purpose to commit the offense against an emergency service responder;

(C) The victim of the offense is a family or household member or co-worker of a person who is an emergency service responder, the offender knows or reasonably should know that the victim is a family or household member or co-worker of an emergency service responder, and it is the offender's specific purpose to commit the offense against a family or household member or co-worker of an emergency service responder.

(6) If the offense is a felony of the fourth degree under division (c)(5)(A) of this section, if the victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation and if the victim suffered serious physical harm as a result of the commission of the offense.

(7) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties.

(8) If the victim of the offense is a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital whom the offender knows or has reasonable cause to know is a health care professional of a hospital; a health care worker of a hospital, or a security officer of a hospital, if the victim is engaged in the performance of the victim's duties, and if the hospital offers de-escalation or crisis intervention training for such professionals, workers or officers, assault is one of the following:

A. Except as otherwise provided in subsection (c)(8)B. of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. Notwithstanding the fine specified in division (A)(2)(~~b~~B) of Ohio R.C. 2929.28 for a misdemeanor of the first degree, in sentencing the offender under this subsection and if the court decides to impose a fine, the court may impose upon the offender a fine of not more than five thousand dollars (\$5,000).

B. If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against hospital personnel, assault committed in the specified circumstances is a felony.

- (9) If the victim of the offense is a judge, magistrate, prosecutor or court official or employee whom the offender knows or has reasonable cause to know is a judge, magistrate, prosecutor or court official or employee, and if the victim is engaged in the performance of the victim's duties, assault is one of the following:
- A. Except as otherwise provided in subsection (c)(9)B. of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. In sentencing the offender under this subsection, if the court decides to impose a fine, notwithstanding the fine specified in division (A)(2)(ba) of Ohio R.C. 2929.28 for a misdemeanor of the first degree, the court may impose upon the offender a fine of not more than five thousand dollars (\$5,000).
 - B. If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against justice system personnel, assault committed in the specified circumstances is a felony.
- (10) If an offender who is convicted of or pleads guilty to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in Ohio R.C. 2941.1423 that was included in the indictment, count in the indictment or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in division (G) of Ohio R.C. 2929.24.
- (d) A prosecution for a violation of this section does not preclude a prosecution of a violation of any other section of the Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under this section or any other section of the Revised Code may be prosecuted under this section, the other section of the Revised Code, or both sections. However, if an offender is convicted of or pleads guilty to a violation of this section and also is convicted of or pleads guilty to a violation of section 2903.22 of the Revised Code based on the same conduct involving the same victim that was the basis of the violation of this section, the two offenses are allied offenses of similar import under section 2941.25 of the Revised Code.
- (e) As used in this section:
- (1) "Peace officer" has the same meaning as in Ohio R.C. 2935.01.
 - (2) "Firefighter" has the same meaning as means any person who is a firefighter as defined in Ohio R.C. 3937.41 and, for purposes of division (e)(21) of this section, also includes a member of a fire department as defined in ORC section 742.01.
 - (3) "Emergency medical service" has the same meaning as in Ohio R.C. 4765.01.
 - (4) "Local correctional facility" means a county, multicounty, municipal, municipal-county or multicounty-municipal jail or workhouse. A minimum security jail established under Ohio R.C. 341.23 or 753.21, or another county, multicounty, municipal, municipal-county, or multicounty-municipal facility used for the custody of persons arrested for any crime or delinquent act, persons charged with or convicted of any crime, or persons alleged to be or adjudicated a delinquent child.
 - (5) "Employee of a local correctional facility" means a person who is an employee of the political subdivision or of one or more of the affiliated political subdivisions that operates the local correctional facility and who operates or assists in the operation of

the facility.

- (6) "School teacher or administrator" means either of the following:
- A. A person who is employed in the public schools of the State under a contract described in Ohio R.C. 3311.77 or 3319.08 in a position in which the person is required to have a certificate issued pursuant to Ohio R.C. 3319.22 to 3319.311.
 - B. A person who is employed by a nonpublic school for which the ~~State Board~~ Director of Education And Workforce prescribes minimum standards under Ohio R.C. 3301.07 and who is certified in accordance with Ohio R.C. 3301.071.
- (7) "Community control sanction" has the same meaning as in Ohio R.C. 2929.01.
- (8) "Escorted visit" means an escorted visit granted under Ohio R.C. 2967.27.
- (9) "Post-release control" and "transitional control" have the same meanings as in Ohio R.C. 2967.01.
- (10) "Investigator of the Bureau of Criminal Identification and Investigation" has the same meaning as in Ohio R.C. 2903.11.
- (11) "Health care professional" and "health care worker" have the same meanings as in Ohio R.C. 2305.234.
- (12) "Assault or homicide offense committed against hospital personnel" means a violation of this section or Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13 or 2903.14 committed in circumstances in which all of the following apply:
- A. The victim of the offense was a health care professional of a hospital, a health care worker of a hospital or a security officer of a hospital.
 - B. The offender knew or had reasonable cause to know that the victim was a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital;
 - C. The victim was engaged in the performance of the victim's duties.
 - D. The hospital offered de-escalation or crisis intervention training for such professionals, workers or officers.
- (13) "De-escalation or crisis intervention training" means de-escalation or crisis intervention training for health care professionals of a hospital, health care workers of a hospital, and security officers of a hospital to facilitate interaction with patients, members of a patient's family, and visitors, including those with mental impairments.
- (14) "Assault or homicide offense committed against justice system personnel" means a violation of this section or of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13 or 2903.14 committed in circumstances in which the victim of the offense was a judge, magistrate, prosecutor, or court official or employee whom the offender knew or had reasonable cause to know was a judge, magistrate, prosecutor, or court official or employee, and the victim was engaged in the performance of the victim's duties.

- (15) "Court official or employee" means any official or employee of a court created under the constitution or statutes of this State or of a United States court located in this State.
- (16) "Judge" means a judge of a court created under the constitution or statutes of this State or of a United States court located in this State.
- (17) "Magistrate" means an individual who is appointed by a court of record of this State and who has the powers and may perform the functions specified in Civil Rule 53, Criminal Rule 19, or Juvenile Rule 40, or an individual who is appointed by a United States court located in this State who has similar powers and functions.
- (18) "Prosecutor" has the same meaning as in Ohio R.C. 2935.01. (19)
- A. "Hospital" means, subject to subsection ~~(d)~~(19)B. of this section, an institution classified as a hospital under Ohio R.C. 3701.01 in which are provided to patients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care or a hospital operated by a health maintenance organization.
- B. "Hospital" does not include any of the following:
- i. A facility licensed under Ohio R.C. Chapter 3721, a health care facility operated by the Department of Mental Health and addiction services or the Department of Developmental Disabilities, a health maintenance organization that does not operate a hospital, or the office of any private, licensed health care professional, whether organized for individual or group practice;
 - ii. An institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under Section 501 of the "Internal Revenue Code of 1986", 100 Stat. 2085, 26 U.S.C. 1, as amended, and providing twenty-four-hour nursing care pursuant to the exemption in division (E) of Ohio R.C. 4723.32 from the licensing requirements of Ohio R.C. Chapter 4723.
- (20) "Health maintenance organization" has the same meaning as in Ohio R.C. 3727.01.

(21) "Emergency service responder" means any law enforcement officer, first responder, emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, firefighter, or volunteer firefighter.

(22) "Family or household member" means any of the following:

(a) Any of the following who is residing or has resided with a person who is employed as an emergency service responder:

(i) A spouse, a person living as a spouse, or a former spouse of a person who is employed as an emergency service responder;

(ii) A parent, a foster parent, or a child of a person who is employed as an emergency service responder, or another person related by consanguinity or affinity to a person who is employed as an emergency service responder;

(iii) A parent or a child of a spouse, person living as a spouse, or former spouse of a person who is employed as an emergency service responder, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of a person who is employed as an emergency service responder.

(b) The natural parent of any child of whom a person who is employed as an emergency service responder is the other natural parent or is the putative other natural parent.

(23) “First responder,” “emergency medical technician-basic,” “emergency medical technician-intermediate,” and “emergency medical technician-paramedic” have the same meanings as in section 4765.01 of the Revised Code.

(24) “Volunteer firefighter” has the same meaning as in section 146.01 of the Revised Code.

(25) “Person living as a spouse” means a person who is living or has lived with a person who is employed as an emergency service responder in a common law marital relationship, who otherwise is cohabiting with a person who is employed as an emergency service responder, or who otherwise has cohabited with a person who is employed as an emergency service responder within five years prior to the date of the alleged commission of the act in question.

(26) “Co-worker” means a person who is employed by the organization or entity that is served by a person who is employed as an emergency service responder.

(ORC 2903.13)

636.05 MENACING

(a)

(1) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediately family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.

(2) No person shall knowingly place or attempt to place another in reasonable fear of physical harm or death by displaying a deadly weapon, regardless of whether the deadly weapon displayed is operable or inoperable, if either of the following applies:

(A) The other person is an emergency service responder, the person knows or reasonably should know that the other person is an emergency service responder, and it is the person's specific purpose to engage in the specified conduct against an emergency service responder.

(B) The other person is a family or household member or co-worker of an emergency service responder, the person knows or reasonably should know that the other person is a family or household member or co-worker of an emergency service responder, and it is the person's specific purpose to engage in the specified conduct against a family or household member or co-worker of an emergency service responder.

(b) Whoever violates this section is guilty of menacing. Except as otherwise provided in this subsection (b), menacing is a misdemeanor of the fourth degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties or if the victim of the offense is an emergency service response in the performance of the responder's official duties menacing is one of the following:

(1) Except as otherwise provided in division (B)(2) of this section, a misdemeanor of the first degree

- (2) If the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency or an emergency service responder, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties or to the responder's performance of the responder's official duties, menacing is a felony and shall be prosecuted under appropriate State law.
- (c) A prosecution for a violation of this section does not preclude a prosecution of a violation of any other section of the Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under this section or any other section of the Revised Code may be prosecuted under this section, the other section of the Revised Code, or both sections. However, if an offender is convicted of or pleads guilty to a violation of this section and also is convicted of or pleads guilty to a violation of ORC section 2903.13 based on the same conduct involving the same victim that was the basis of the violation of this section, the two offenses are allied offenses of similar import under ORC section 2941.25.
- (d) As used in this section,
- (1) “Emergency service responder,” “family or household member,” and “co-worker” have the same meanings as in ORC section 2903.13.
 - (2) “Organization” includes an entity that is a governmental employer. (ORC 2903.22)

636.09 COERCION

- (a) No person, with purpose to coerce another into taking or refraining from action concerning which ~~he or she~~ the other person has a legal freedom of choice, shall do any of the following:
- (1) Threaten to commit any offense.
 - (2) Utter or threaten any slander against any person.
 - (3) Expose or threaten to expose any matter tending to subject any person to hatred, contempt, or ridicule, ~~or to damage his or her~~ any person's personal or business repute, or to impair ~~his or her~~ any person's credit.
 - (4) Institute or threaten criminal proceedings against any person.
 - (5) Take, ~~or~~ withhold, or threaten to take or withhold official action, or cause or threaten to cause official action to be taken or withheld.
- (b) Divisions (a)(4) and (5) of this section shall not be construed to prohibit a prosecutor or court from doing any of the following in good faith and in the interests of justice:
- (1) Offering or agreeing to grant, or granting immunity from prosecution pursuant to Ohio R.C. 2945.44.
 - (2) In return for a plea of guilty to one or more offenses charged or to one or more other or lesser offenses, or in return for the testimony of the accused in a case to which ~~he or she~~ the accused is not a party, offering or agreeing to dismiss, or dismissing one or more charges pending against an accused, or offering or agreeing to impose, or imposing a certain sentence or modification of sentence.
 - (3) ~~Imposing probation~~ a community control sanction on certain conditions, including without limitation requiring the offender to make restitution or redress to the victim of

~~his or her~~ the offense.

- (c) It is an affirmative defense to a charge under division (a)(3), (4), or (5) of this section that the actor's conduct was a reasonable response to the circumstances which occasioned it, and that ~~his or her~~ the actor's purpose was limited to any of the following:
- (1) Compelling another to refrain from misconduct or to desist from further misconduct.
 - (2) Preventing or redressing a wrong or injustice.
 - (3) Preventing another from taking action for which the actor reasonably believed the other person to be disqualified.
 - (4) Compelling another to take action ~~which~~ that the actor reasonably believed the other person to be under a duty to take.
- (d) Whoever violates this section is guilty of coercion, a misdemeanor of the second degree.
- (e) As used in this section:

(1) "Threat" includes a direct threat and a threat by innuendo.

(2) "Community control sanction" has the same meaning as in ORC section 2929.01.

(ORC 2905.12)

636.10 NONSUPPORT OF DEPENDENTS

- (a) No person shall abandon, or fail to provide adequate support to:
- (1) His or her spouse, as required by law;
 - (2) His or her legitimate or illegitimate child who is under age 18, or ~~mentally or physically disabled~~ the person's child with a mental or physical disability who is under age 21;
 - (3) His or her aged or infirm parent or adoptive parent, who from lack of ability and means is unable to provide adequately for his or her own support.
- (b) ~~(1)~~ No person shall abandon or fail to provide support as established by court order to another person whom, by court order or decree, the person: is
- (A) Is legal obligated to support; or
 - (B) Was legally obligated to support, and an amount for support:
 - (i) Was due and owing prior to the date the person's duty to pay current support terminated; and
 - (ii) Remains unpaid.
- (2) The period of limitation under section 2901.13 of the Revised Code applicable to division (B)(1)(b) of this section shall begin to run on the date the person's duty to pay current support terminates.

- (c) No person shall aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming a dependent child, as defined in Ohio R.C. 2151.04, or a neglected child, as defined in Ohio R.C. 2151.03.
- (d) It is an affirmative defense to a charge of failure to provide adequate support under division (a) of this section or a charge of failure to provide support established by a court order under division (b) of this section that the accused was unable to provide adequate support or the established support, but did provide the support that was within his or her ability and means.
- (e) It is an affirmative defense to a charge under division (a)(3) of this section that the parent abandoned the accused, or failed to support the accused as required by law, while the accused was under age 18, or ~~was mentally~~ had a mental or ~~physically disabled~~ physical disability and was under age 21.
- (f) It is not a defense to a charge under division (b) of this section that the person whom a court has ordered the accused to support is being adequately supported by someone other than the accused.
- (g)
- (1) Except as otherwise provided in this division, whoever violates division (a) or (b) of this section is guilty of nonsupport of dependents, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (a)(2) or (b) of this section or a substantially similar state law or municipal ordinance, or if the offender has failed to provide support under division (a)(2) or (b) of this section for a total accumulated period of 26 weeks out of 104 consecutive weeks, whether or not the 26 weeks were consecutive, then a violation of division (a)(2) or (b) of this section is a felony to be prosecuted under appropriate State law. If the offender previously has been convicted of or pleaded guilty to a felony violation of this section or a substantially similar state law or municipal ordinance, a violation of division (a)(2) or (b) of this section is a felony to be prosecuted under appropriate State law. If the offender is guilty of nonsupport of dependents by reason of failing to provide support to his or her child as required by a child support order issued on or after April 15, 1985, pursuant to Ohio R.C. 2151.23, 2151.231, 2151.232, 2151.33, 3105.21, 3109.05, 3111.13, 3113.04, 3113.31, 3115.401 or former section 3115.31, the court, in addition to any other sentence imposed, shall assess all court costs arising out of the charge against the person and require the person to pay any reasonable attorney's fees of any adverse party other than the State, as determined by the court, that arose in relation to the charge.
- (2) Whoever violates division (c) of this section is guilty of contributing to the nonsupport of dependents, a misdemeanor of the first degree. Each day of a violation of division (c) of this section is a separate offense.

(ORC 2919.21)

636.11 ENDANGERING CHILDREN

- (a) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age or a ~~mentally or physically handicapped~~ child with a mental or physical disability under twenty-one years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection or support. It is not a violation of a duty of care, protection or support under this subsection when the parent, guardian, custodian or person having custody or control of a child treats the physical or mental illness or ~~defect-~~ disability of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

Codifier: Added material is underlined, deleted material is struck through.

(b) No person shall abuse a child under eighteen years of age or a ~~mentally or physically~~ handicapped child with a mental or physical disability under twenty-one years of age.

(c)

(1) No person shall operate a vehicle in violation of Section 434.01(a) of the Traffic Code when one or more children under eighteen years of age are in the vehicle. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of subsection (c) hereof and a violation of Section 434.01(a) of the Traffic Code that constitutes the basis of the charge of the violation of subsection (c) hereof. For purposes of Ohio R.C. 4511.191 to 4511.197 and all related provisions of law, a person arrested for a violation of subsection (c) hereof shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

(2) As used in subsection (c) hereof:

A. "Controlled substance" has the same meaning as in Ohio R.C. 3719.01.

B. "Vehicle" has the same meaning as in Ohio R.C. 4511.01.

(d) Whoever violates this section is guilty of endangering children.

(1) Whoever violates subsection (a) or (b) hereof is guilty of a misdemeanor of the first degree. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section, Ohio R.C. 2919.22 or of any offense involving neglect, abandonment, contributing to the delinquency of or physical abuse of a child, endangering children is a felony and shall be prosecuted under appropriate State law.

(2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. Endangering children is a felony and shall be prosecuted under appropriate State law if either of the following applies:

A. The violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under Ohio R.C. 2919.22 or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child.

B. The violation results in serious physical harm to the child involved and the offender previously has been convicted of a violation of Ohio R.C. 2919.22(C) or subsection (c) hereof, Ohio R.C. 2903.06, or 2903.08, Section 2903.07 as it existed prior to March 23, 2000, or Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section.

(3) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to subsection (d)(2) hereof, or pursuant to any other provision of law, the court also may impose upon the offender any of the sanctions provided under Ohio R.C. 2919.22(E)(5)(d).

(e)

(1) If a person violates subsection (c) hereof and if, at the time of the violation, there were two or more children under eighteen years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of subsection (c) hereof for each of the children, but the court may sentence the offender for only one of the violations.

(2)

A. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of Section 434.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, both of the following apply:

i. For purposes of the provisions of the Traffic Code penalty that set forth the penalties and sanctions for a violation of Section 434.01(a) of the Traffic Code, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute a violation of Section 434.01(a) of the Traffic Code.

ii. For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 434.01(a) of the Traffic Code and that is not described in subsection (e)(2)A.1. hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall constitute a conviction of or plea of guilty to a violation of Section 434.01(a) of the Traffic Code.

B. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof and the person also is convicted of or pleads guilty to a separate charge charging the violation of Section 434.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 434.01(a) of the Traffic Code, a conviction of or plea of guilty to a violation of Section 434.01(a) of the Traffic Code.

(ORC 2919.22)

636.12 INTERFERENCE WITH CUSTODY

(a) No person, knowing that he or she is without privilege to do so or being reckless in that regard, shall entice, take, keep, or harbor a person identified in division (a) (1), (2) or (3) of this section from the parent, guardian, or custodian of the person identified in division (a)(1), (2) or (3) of this section:

(1) A child under the age of 18, or a ~~mentally or physically disabled~~ child with mental or physical disability under the age of 21;

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

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

- (b) No person shall aid, abet, induce, cause, or encourage a child or a ward of the juvenile court who has been committed to the custody of any person, department, or public or private institution to leave the custody of that person, department, or institution without legal consent.
- (c) It is an affirmative defense to a charge of enticing or taking under division (a)(1) of this section that the actor reasonably believed that his or her conduct was necessary to preserve the child's health or safety. It is an affirmative defense to a charge of keeping or harboring under division (a) of this section that the actor in good faith gave notice to law enforcement or judicial authorities within a reasonable time after the child or committed person came under his or her shelter, protection, or influence.
- (d) Whoever violates this section is guilty of interference with custody.
 - (1) Except as otherwise provided in this subdivision, a violation of division (a) above is a misdemeanor of the first degree. If the child who is the subject of a violation of division (a)(1) is removed from the State or if the offender previously has been convicted of an offense under this section or a substantially similar state law or municipal ordinance, a violation of division (a)(1) of this section is a felony to be prosecuted under appropriate State law. If the child who is the subject of a violation of division (a)(1) suffers physical harm as a result of the violation, a violation of division (a)(1) of this section is a felony to be prosecuted under appropriate State law.
 - (2) A violation of division (a)(2) or (3) of this section is a misdemeanor of the third degree.
 - (3) A violation of division (b) of this section is a misdemeanor of the first degree. Each day of a violation of division (b) is a separate offense.

(ORC 2919.23)

636.20 ILLEGAL DISTRIBUTION OF CIGARETTES, OTHER TOBACCO PRODUCTS, OR ALTERNATE NICOTINE PRODUCTS

- (a) As used in this section:
 - (1) "Age verification." A service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes) that compares information available from a commercially available database, or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is 21 years of age or older.
 - (2) "Alternative nicotine product."
 - A. Subject to division B. of this definition, an electronic smoking device, vapor product, or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving, or inhaling.
 - B. The phrase does not include any of the following:

- i. Any cigarette or other tobacco product;
 - ii. Any product that is a "drug" as that term is defined in 21 U.S.C. § 321(g)(1);
 - iii. Any product that is a "device" as that term is defined in 21 U.S.C. § 321(h);
 - iv. Any product that is a "combination product" as described in 21 U.S.C. § 353(g).
- (3) "Cigarette." Includes clove cigarettes and hand-rolled cigarettes.
- (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.
- (5) "Electronic smoking device." Means any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device including an electronic cigarette, electronic cigar, electronic hookah, vaping pen, or electronic pipe. The phrase includes any component, part, or accessory of such a device, whether or not sold separately, and includes ~~any substance intended to be aerosolized or vaporized during the use of the device~~. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. §§ 321 and 353(g).
- (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 R.C. §§ 4507.50 to 4507.52 that shows that a person is ~~18~~ 21 years of age or older.
- (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, snuff, or snus. The phrase also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids ~~used in electronic smoking devices, whether or not they contain nicotine~~. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. §§ 321 and 353(g).
- (8) "Vapor product." Means a product, other than a cigarette or other tobacco product as defined in R.C. Chapter 5743, that contains or is made or derived from nicotine and that is intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. The phrase includes any component, part, or additive that is intended for use in an electronic smoking device, a mechanical heating element, battery, or electronic circuit and is used to deliver the product. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. §§ 321 and 353(g). The phrase includes any product containing nicotine, regardless of concentration.
- (9) "Vending machine." Has the same meaning as "coin machine" in 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 person under 21 years of age or without first verifying proof 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 person under 21 years of age with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that person;
 - (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) Allow an employee under eighteen years of age to sell any tobacco product;
 - (8) Give away or otherwise distribute free samples of cigarettes, other tobacco products, alternative nicotine products, or coupons redeemable for cigarettes, other tobacco products, or alternative nicotine products
- (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 persons under 21 years of age are not generally permitted access;
 - (3) Any other place not identified in division (c)(1) or (c)(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 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 division (b)(1) of this section:

(1) The person under 21 years of age was accompanied by a parent, spouse who is 21 years of age or older, or legal guardian of the person under 21 years of age.

(2) The person who gave, sold, or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under 21 years of age under division (b)(1) of this section is a parent, spouse who is 21 years of age or older, or legal guardian of the person under 21 years of age.

(e)

(1) It is not a violation of division (b)(1) or (b)(2) of this section for a person to give or otherwise distribute to a person under 21 years of age cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes while the person under 21 years of age is participating in a research protocol if all of the following apply:

A. The parent, guardian, or legal custodian of the person under 21 years of age has consented in writing to the person under 21 years of age participating in the research protocol.

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

C. The person under 21 years of age is participating in the research protocol at the facility or location specified in the research protocol.

(2) It is not a violation of division (B)(1) or (2) of this section for an employer to permit an employee eighteen, nineteen, or twenty years of age to sell a tobacco product.

(f) (1) No delivery service shall accept from, transport or deliver to, or allow pick-up by, a person under twenty-one years of age with respect to any of the following:

(a) Alternative nicotine products;

(b) Papers used to roll cigarettes;

(c) Tobacco products other than cigarettes.

(2) A delivery service shall require proof of age as a condition of accepting, transporting, delivering, or allowing pickup of the items described in divisions (F)(1)(a) to (c) of this section.

(g) Whoever violates division (b)(1), (b)(2), (b)(4), (b)(5), ~~or (b)(6), (b)(7), or (b)(8), or (c), or (f)~~ of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a ~~violation of division (b)(1), (b)(2), (b)(4), (b)(5), or (b)(6) or (c) of this section~~ or a substantially equivalent state law or municipal ordinance, or plead guilty to illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

(h) Whoever violates division (b)(3) of this section is guilty of permitting a person under 21 years of age to use cigarettes, other tobacco products, or alternative nicotine products.

Except as otherwise provided in this division, permitting a person under 21 years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of division (b)(3) of this section or a substantially equivalent state law or municipal ordinance, permitting a person under 21 years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

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

(ORC 2927.02)

636.23 FAILING TO PROVIDE FOR A FUNCTIONALLY IMPAIRED PERSON

(a) No caretaker shall knowingly fail to provide a ~~functionally impaired person with a functional impairment~~ under his or her care with any treatment, care, goods, or service that is necessary to maintain the health of safety of the ~~functionally impaired person with a functional impairment~~ when this failure results in physical harm or serious physical harm to the ~~functionally impaired person with a functional impairment~~.

(b) No caretaker shall recklessly fail to provide a ~~functionally impaired person with a functional impairment~~ under his or her care with any treatment, care, goods, or service that is necessary to maintain the health of safety of the ~~functionally impaired person with a functional impairment~~ when this failure results in serious physical harm to the ~~functionally impaired person with a functional impairment~~.

(c)

(1) Whoever violates division (a) of this section is guilty of knowingly failing to provide for a ~~functionally impaired person with a functional impairment~~, a misdemeanor of the first degree. If the ~~functionally impaired person with a functional impairment~~ under the offender's care suffers serious physical harm as a result of the violation of this section, a violation of division (a) of this section is a felony to be prosecuted under appropriate State law.

(2) Whoever violates division (b) of this section is guilty of recklessly failing to provide for a ~~functionally impaired person with a functional impairment~~, a misdemeanor of the second degree. If the ~~functionally impaired person with a functional impairment~~ under the offender's care suffers serious physical harm as a result of the violation of this section, a violation of division (b) of this section is a felony to be prosecuted under appropriate State law.

law. (ORC 2903.16)

(d) As used in this section:

(1) "Caretaker" means a person who assumes the duty to provide for the care and protection of a ~~functionally impaired~~ person with a functional impairment on a voluntary basis, by contract, through receipt of payment for care and protection, as a result of a family relationship, or by order of a court of competent jurisdiction. "Caretaker" does not include a person who owns, operates, or administers, or who is an agent or employee of, a care facility, as defined in Ohio R.C. 2903.33.

(2) ~~Functionally impaired person~~ Person with function impairment" means any person who has a physical or mental impairment that prevents the person from providing for ~~his or her~~ the person's own care or protection or whose infirmities caused by aging prevent the person from providing for ~~his or her~~ the person's own care or protection.

(ORC 2903.10)

642.01 DEFINITIONS

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

- (a) "Anhydrous ammonia." A compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the manner described below. Anhydrous ammonia is one part nitrogen to three parts hydrogen (NH₃). Anhydrous ammonia by weight is fourteen parts nitrogen to three parts hydrogen, which is approximately 82% nitrogen to 18% hydrogen.
- (b) "Cable television service." Any services provided by or through the facilities of any cable television system or other similar closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.
- (c) "Coin machine." Any mechanical or electronic device designed to do both of the following:
 - (1) Receive a coin or bill, or token made for that purpose;
 - (2) In return for the insertion or deposit of a coin, bill, or token, automatically dispense property, provide a service, or grant a license.
- (d) "Computer." An electronic device that performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses. "Computer" includes, but is not limited to, all input, output, processing, storage, computer program, or communication facilities that are connected, or related, in a computer system or network to an electronic device of that nature.
- (e) "Computer contaminant." Means a computer program that is designed to modify, damage, destroy, disable, deny or degrade access to, allow unauthorized access to, functionally impair, record, or transmit information within a computer, computer system, or computer network without the express or implied consent of the owner or other person authorized to give consent and that is of a type or kind described in divisions (1) through (4) of this definition or of a type or kind similar to a type or kind described in divisions (1) through (4) of this definition:
 - (1) A group of computer programs commonly known as "viruses" and "worms" that are self-replicating or self-propagating and that are designed to contaminate other computer programs, compromise computer security, consume computer resources, modify, destroy, record, or transmit data, or disrupt the normal operation of the computer, computer system, or computer network;
 - (2) A group of computer programs commonly known as "Trojans" or "Trojan horses" that are not self-replicating or self-propagating and that are designed to compromise computer security, consume computer resources, modify, destroy, record, or transmit data, or disrupt the normal operation of the computer, computer system, or computer network;
 - (3) A group of computer programs commonly known as "zombies" that are designed to use a computer without the knowledge and consent of the owner, or other person authorized to give consent, and that are designed to send large quantities of data to a targeted computer network for the purpose of degrading the targeted computer's or

network's performance, or denying access through the network to the targeted computer or network, resulting in what is commonly known as "denial of service" or "distributed denial of service" attacks;

- (4) A group of computer programs commonly known as "trap doors", "back doors", or "root kits" that are designed to bypass standard authentication software and that are designed to allow access or use of a computer without the knowledge or consent of the owner, or other person authorized to give consent.

(f) "Computer hacking."

- (1) "Computer hacking" means any of the following:

- A. Gaining access or attempting to gain access to all or part of a computer, computer system, or a computer network without express or implied authorization with the intent to defraud or with intent to commit a crime;
- B. Misusing computer or network services including but not limited to mail transfer programs, file transfer programs, proxy servers, and web servers by performing functions not authorized by the owner of the computer, computer system, or computer network or other person authorized to give consent. As used in this division, "misuse of computer and network services" includes but is not limited to the unauthorized use of any of the following:
- i. Mail transfer programs to send mail to persons other than the authorized users of that computer or computer network;
 - ii. File transfer program services or proxy servers to access other computers, computer systems, or computer networks;
 - iii. Web servers to redirect users to other web pages or web servers.
- C.
- i. Subject to division (1)C.2. of this definition, using a group of computer programs commonly known as "port scanners" or "probes" to intentionally access any computer, computer system, or computer network without the permission of the owner of the computer, computer system, or computer network or other person authorized to give consent. The group of computer programs referred to in this division includes but is not limited to those computer programs that use a computer network to access a computer, computer system, or another computer network to determine any of the following: the presence or types of computers or computer systems on a network; the computer network's facilities and capabilities; the availability of computer or network services; the presence or versions of computer software including but not limited to operating systems, computer services, or computer contaminants; the presence of a known computer software deficiency that can be used to gain unauthorized access to a computer, computer system, or computer network; or any other information about a computer, computer system, or computer network not necessary for the normal and lawful operation of the computer initiating the access.

- ii. The group of computer programs referred to in division (1)C.1. of this definition does not include standard computer software used for the normal operation, administration, management, and test of a computer, computer system, or computer network including but not limited to domain name services, mail transfer services, and other operating system services, computer programs commonly called "ping", "tcpdump", and "traceroute" and other network monitoring and management computer software, and computer programs commonly known as "nslookup" and "whois" and other systems administration computer software.

D. The intentional use of a computer, computer system, or a computer network in a manner that exceeds any right or permission granted by the owner of the computer, computer system, or computer network or other person authorized to give consent.

(2) "Computer hacking" does not include the introduction of a computer contaminant, as defined in this section, into a computer, computer system, computer program, or computer network.

- (g) "Computer network." A set of related and remotely-connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.
- (h) "Computer program." An ordered set of data representing coded instructions or statements that, when executed by a computer, causes the computer to process data.
- (i) "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.
- (j) "Computer software." Computer programs, procedures, and other documentation associated with the operation of a computer system.
- (k) "Computer system." A computer and related devices, whether connected or unconnected, including, but not limited to, data input, output, and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.
- (l) "Counterfeit telecommunications device." A telecommunications device that, alone or with another telecommunications device, has been altered, constructed, manufactured, or programmed to acquire, intercept, receive, or otherwise facilitate the use of a telecommunications service or information service without the authority or consent of the provider of the telecommunications service or information service. The phrase includes but is not limited to a clone telephone, clone microchip, tumbler telephone, or tumbler microchip; a wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use of telecommunications service or information service without immediate detection; or a device, equipment, hardware, or software designed for, or capable of, altering or changing the electronic serial number in a wireless telephone.

- (m) "Create a substantial risk of serious physical harm to any person." Includes the creation of a substantial risk of serious physical harm to any emergency personnel.
- (n) "Credit card." Includes, but is not limited to, a card, code, device, or other means of access to a customer's account for the purpose of obtaining money, property, labor, or services on credit, or for initiating an electronic fund transfer at a point-of-sale terminal, an automated teller machine, or a cash dispensing machine. It also includes a county procurement card issued under Ohio R.C. 301.29.
- (o) "Dangerous drug." Has the same meaning as in Ohio R.C. 4729.01.
- (p) "Data." A representation of information, knowledge, facts, concepts, or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system, or computer network.
- (q) "Deception." To knowingly deceive another or cause another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.
- (r) "Defraud." To knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.
- (s) "Deprive." To do any of the following:
 - (1) To withhold property of another permanently, or for a period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;
 - (2) To dispose of property so as to make it unlikely that the owner will recover it;
 - (3) To accept, use, or appropriate money, property, or services, with purpose not to give proper consideration in return for the money, property, or services, and without reasonable justification or excuse for not giving proper consideration.
- (t) "Disabled adult." A person who is 18 years of age or older and has some impairment of body or mind that makes the person unable to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least 12 months without any present indication of recovery from the impairment, or who is 18 years of age or older and has been certified as permanently and totally disabled by an agency of this State or the United States that has the function of so classifying persons.
- (u) "Drug abuse offense." Has the same meaning as in Ohio R.C. 2925.01.
- (v) "Elderly person." A person who is 65 years of age or older.
- (w) "Electronic fund transfer." Has the same meaning as in 92 Stat. 3728, 15 U.S.C. 1693a, as amended.
- (x) "Emergency personnel." Means any of the following persons:
 - (1) A peace officer, as defined in Ohio R.C. 2935.01;

- (2) A member of a fire department or other firefighting agency of a municipal corporation, township, township fire district, joint fire district, other political subdivision, or combination of political subdivisions;
 - (3) A member of a private fire company, as defined in Ohio R.C. 9.60, or a volunteer firefighter;
 - (4) A member of a joint ambulance district or joint emergency medical services district;
 - (5) An emergency medical technician-basic, emergency medical technician- intermediate, emergency medical technician-paramedic, ambulance operator, or other member of an emergency medical service that is owned or operated by a political subdivision or a private entity;
 - (6) The State Fire Marshal, the Chief Deputy State Fire Marshal, or an assistant State fire marshal;
 - (7) A fire prevention officer of a political subdivision or an arson, fire, or similar investigator of a political subdivision.
- (y) "Firearm" and "dangerous ordnance." Have the same meaning as in Ohio R.C. 2923.11.
- (z) "Forge." To fabricate or create, in whole or in part and by any means, any spurious writing, or to make, execute, alter, complete, reproduce, or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.
- (aa) "Gain access." To approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network, or any cable service or cable system both as defined in Ohio R.C. 2913.04.
- (ab) "Information service."
- (1) Subject to division (2) of this definition, the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, including but not limited to electronic publishing.
 - (2) "Information service" does not include any use of a capability of a type described in division (1) of this definition for the management, control, or operation of a telecommunications system or the management of a telecommunications service.
- (ac) "Internet." Has the same meaning as in Ohio R.C. 341.42.
- (ad) "Motor vehicle." Has the same meaning as in Ohio R.C. 4501.01.
- (ae) "Occupied structure." Means any house, building, outbuilding, watercraft, aircraft, railroad car, truck, trailer, tent, or other structure, vehicle, or shelter, or any portion thereof, to which any of the following applies:
- (1) It is maintained as a permanent or temporary dwelling, even though it is temporarily unoccupied and whether or not any person is actually present;
 - (2) At the time, it is occupied as the permanent or temporary habitation of any person, whether or not any person is actually present;

- (3) At the time, it is specially adapted for the overnight accommodation of any person, whether or not any person is actually present;
- (4) At the time, any person is present or likely to be present in it.
- (af) "Owner." Unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.
- (ag) "Police dog or horse" and "service dog" have the same meanings as in R.C. §2921.321.
- (ah) "Political subdivision." Has the same meaning as in Ohio R.C. 2744.01.
- (ai) "Rented property." Personal property in which the right of possession and use of the property is for a short and possibly indeterminate term in return for consideration; the rentee generally controls the duration of possession of the property within any applicable minimum or maximum term; and the amount of consideration is generally determined by the duration of possession of the property.
- (aj) "Services" include labor, personal services, professional services, rental services, public utility services, including wireless service as defined in Ohio R.C. ~~5507.01(F)(1)~~ 128.01, common carrier services, and food, drink, transportation, entertainment and cable television services.
- (ak) "Slug." An object that, by virtue of its size, shape, composition, or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill, or token made for that purpose.
- (al) "State." Has the same meaning as in Ohio R.C. 2744.01.
- (am) "Telecommunication." The origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence or intelligence of any nature over any communications system by any method, including but not limited to a fiber optic, electronic, magnetic, optical, digital or analog method.
- (an) "Telecommunications device." Any instrument, equipment, machine, or other device that facilitates telecommunication, including but not limited to a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.
- (ao) "Telecommunications service." The providing, allowing, facilitating, or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.
- (ap) "Theft offense." Any of the following:
- (1) A violation of Ohio R.C. 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42, 2913.43, 2913.44, 2913.45, 2913.47, former Ohio R.C. 2913.47 or 2913.48, or Ohio R.C. 2913.51, 2915.05, 2921.41 ~~or 4737.04(B)(2)~~;
 - (2) A violation of an existing or former municipal ordinance or law of this or any other State or of the United States substantially equivalent to any section listed in division

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

- (3) An offense under an existing or former municipal ordinance or law of this or any other State or the United States involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit, or fraud;
- (4) A conspiracy to commit, attempt to commit, or complicity in committing any offense under division (1), (2), or (3) of this definition.

(aq) "Utter." To issue, publish, transfer, use, put or send into circulation, deliver, or display.

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

(as) "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.

(ORC 2909.01, 2913.01)

642.02 THEFT

(a) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:

- (1) Without the consent of the owner or person authorized to give consent;
- (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
- (3) By deception;
- (4) By threat;
- (5) By intimidation.

(b) Whoever violates this section is guilty of ~~petty misdemeanor~~ 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 one thousand dollars (\$1,000) or more; 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
 - (8) The property stolen is a special purpose article as defined in Ohio R.C. 4737.04 or a bulk merchandise container as defined in Ohio 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 Ohio 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 Ohio R.C. 2929.18 or 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of Ohio 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 Ohio R.C. Chapter 4510.

(ORC 2913.02)

642.035 EVIDENCE OF THEFT OF RENTED PROPERTY

- (a) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- (1) "Renter." A person who owns rented property.
 - (2) "Rentee." A person who pays consideration to a renter for the use of rented property.

- (b) Each of the following shall be considered evidence of intent to commit theft of rented property:
- (1) At the time of entering into the rental contract, the rentee presented the renter with identification that was materially false, fictitious, or not current with respect to name, address, place of employment, or other relevant information.
 - (2) After receiving a notice demanding the return of the rented property as provided in division (c) of this section, the rentee neither returned the rented property nor made arrangements acceptable with the renter to return the rented property.
- (c) To establish that a rentee has an intent to commit theft of rented property or rental services under division (b)(2) above, a renter may issue a notice to a rentee demanding the return of the rented property. The renter shall mail the notice by certified mail, return receipt requested, to the rentee at the address the rentee gave when the rental contract was executed, or to the rentee at the last address the rentee or the rentee's agent furnished in writing to the renter.
- (d) A demand for the return of the rented property is not a prerequisite for the prosecution of a rentee for theft of rented property or rental services. The evidence specified in division (b) above does not constitute the only evidence that may be considered as evidence of intent to commit theft of rented property or rental services.

(ORC 2913.72)

642.145 FORGING OR SELLING FORGED IDENTIFICATION CARDS

- (a) No person shall knowingly do either of the following:
- (1) Forge an identification card.
 - (2) Sell or otherwise distribute a card that purports to be an identification card, knowing it was forged.
- (b) As used in this section, "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.
- (c) Whoever violates this section is guilty of forging identification cards or selling or distributing forged identification cards. Except as otherwise provided in this division, forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (a) of this section or a substantially similar state law or municipal ordinance, forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree and, in addition, the court shall impose upon the offender a fine not less than two hundred fifty dollars (\$250.00).
- (1) If the victim of a violation of division (b) of this section is an elderly person, division (c)(1) of this section applies to the offense. In addition to any other penalty imposed for the offense under division (c) of this section, whoever violates division (b) of this section shall be required to pay full restitution to the victim and to pay a fine of up to fifty thousand dollars. The clerk of court shall forward all fines collected under division (c)(a)

of this section to the county department of job and family services to be used for the reporting and investigation of elder abuse, neglect, and exploitation or for the provision or arrangement of protective services under ORC sections 5101.61 to 5101.71.

(ORC 2913.31(B), (C)(2))

642.31 MEDICAID FRAUD

(a) As used in this section:

~~(1)~~ "Medical assistance program" means the program established by the Ohio Department of Job and Family Services to provide medical assistance under Ohio R.C. 5111.01 and the Medicaid program of Title XIX of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

~~(2)~~(1) "Provider" means any person who has signed a provider agreement with the Ohio Department of Job and Family Services Medicaid to provide goods or services pursuant to the ~~medical assistance~~ Medicaid program or any person who has signed an agreement with a party to such a provider agreement under which the person agrees to provide goods or services that are reimbursable under the ~~medical assistance~~ Medicaid program.

~~(3)~~ (2) "Provider agreement" means an oral or written agreement between the Ohio Department of Job and Family Services and a person in which the person agrees to provide goods or services under the ~~medical assistance program~~. Has the same meaning as in Ohio R.C. section 5164.01.

~~(4)~~(3) "Recipient" means any individual who receives goods or services from a provider under the ~~medical assistance~~ Medicaid program.

~~(5)~~(4) "Records" means any medical, professional, financial or business records relating to the treatment or care of any recipient, to goods or services provided to any recipient, or to rates paid for goods or services provided to any recipient, and any records that are required by the rules of the Ohio medicaid Director of Job and Family Services to be kept for the ~~medical assistance~~ Medicaid program.

~~(6)~~(5) "Statement or representation" means any oral, written, electronic, electronic impulse or magnetic communication that is used to identify an item of goods or a service for which reimbursement may be made under the ~~medical assistance~~ Medicaid program or that states income and expense and is or may be used to determine a rate of reimbursement under the ~~medical assistance~~ Medicaid program.

(b) No person shall knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from the ~~medical assistance~~ Medicaid program.

(c) No person, with purpose to commit fraud or knowing that the person is facilitating a fraud, shall do either of the following:

(1) Contrary to the terms of the person's provider agreement, charge, solicit, accept or receive for goods or services that the person provides under the ~~medical assistance~~ Medicaid program any property, money or other consideration in addition to the amount of reimbursement under the ~~medical assistance~~ Medicaid program and the

person's provider agreement for the goods or services and any deductibles or co-payments authorized by Ohio R.C. ~~5111.0112~~ 5162.20 or rules adopted pursuant to ~~Ohio R.C. 5111.01, 5111.011, or 5111.02~~ by the Medicaid director regarding the Medicaid program.

- (2) Solicit, offer or receive any remuneration, other than any deductibles or co-payments authorized by Ohio R.C. ~~5111.0112~~ 5162.20 or rules adopted ~~under Ohio R.C. 5111.01, 5111.011, or 5111.02~~ by the Medicaid director regarding the Medicaid program, in cash or in kind, including, but not limited to, a kickback or rebate, in connection with the furnishing of goods or services for which whole or partial reimbursement is or may be made under the ~~medical assistance~~ Medicaid program.
- (d) No person, having submitted a claim for or provided goods or services under the ~~medical assistance~~ Medicaid program, shall do either of the following for a period of at least six years after a reimbursement pursuant to that claim, or a reimbursement for those goods or services, is received under the ~~medical assistance~~ Medicaid program:
- (1) Knowingly alter, falsify, destroy, conceal or remove any records that are necessary to fully disclose the nature of all goods or services for which the claim was submitted, or for which reimbursement was received, by the person; or
 - (2) Knowingly alter, falsify, destroy, conceal or remove any records that are necessary to disclose fully all income and expenditures upon which rates of reimbursements were based for the person.
- (e) Whoever violates this section is guilty of medicaid fraud. Except as otherwise provided in this division, medicaid fraud is a misdemeanor of the first degree. If the value of the property, services or funds obtained in violation of this section is five hundred dollars (\$500.00) or more, medicaid fraud is a felony to be prosecuted under appropriate State law.
- (f) Upon application of the governmental agency, office or other entity that conducted the investigation and prosecution in a case under this section, the court shall order any person who is convicted of a violation of this section for receiving any reimbursement for furnishing goods or services under the ~~medical assistance~~ Medicaid program to which the person is not entitled to pay to the applicant its cost of investigating and prosecuting the case. The costs of investigation and prosecution that a defendant is ordered to pay pursuant to this division shall be in addition to any other penalties for the receipt of that reimbursement that are provided in this section, Ohio R.C. 2913.40 or ~~5111.03~~ 5164.35, or any other provision of law.
- (g) The provisions of this section are not intended to be exclusive remedies and do not preclude the use of any other criminal or civil remedy for any act that is in violation of this section. (ORC 2913.40)
- (h) Medicaid Eligibility Fraud.
- (1) No person shall knowingly do any of the following in an application for enrollment in the medicaid benefits program or in a document that requires a disclosure of assets for the purpose of determining eligibility ~~to receive~~ for the medicaid benefits program:
 - A. Make or cause to be made a false or misleading statement;
 - B. Conceal an interest in property; C.

- i. Except as provided in division (h)(1)C.ii. of this section, fail to disclose a transfer of property that occurred during the period beginning 36 months before submission of the application or document and ending on the date the application or document was submitted;
- ii. Fail to disclose a transfer of property that occurred during the period beginning 60 months before submission of the application or document and ending on the date the application or document was submitted and that was made to an irrevocable trust a portion of which is not distributable to the applicant for ~~medicaid benefits~~ or ~~the~~ recipient of ~~medicaid benefits~~ or to a revocable trust.

(2)

- A. Whoever violates this division (h) is guilty of medicaid eligibility fraud. Except as otherwise provided in this division, a violation of this division (h) is a misdemeanor of the first degree. If the value of the ~~medicaid benefits~~ services paid as a result of the violation is one thousand dollars (\$1,000) or more, a violation of this division (h) is a felony to be prosecuted under appropriate State law.
- B. In addition to imposing a sentence under division (h)(2)A. of this section, the court shall order that a person who is guilty of medicaid eligibility fraud make restitution in the full amount of any ~~medicaid benefits~~ services paid on behalf of an applicant for or recipient of ~~medicaid benefits~~ for which the applicant or recipient was not eligible, plus interest at the rate applicable to judgments on unreimbursed amounts from the date on which the ~~benefits~~ medicaid services were paid to the date on which restitution is made.
- C. The remedies and penalties provided in this division (h) are not exclusive and do not preclude the use of any other criminal or civil remedy for any act that is in violation of this division (h).

(3) This division (h) does not apply to a person who fully disclosed in an application for ~~medicaid benefits~~ services or in a document that requires a disclosure of assets for the purpose of determining eligibility ~~to receive for medicaid benefits~~ all of the interests in property of the applicant for or recipient of ~~medicaid benefits~~, all transfers of property by the applicant for or recipient of ~~medicaid benefits~~, and the circumstances of all those transfers.

(4) Any amounts of ~~medicaid benefits~~ services recovered as restitution under this division (h) and any interest on those amounts shall be credited to the general revenue fund, and any applicable federal share shall be returned to the appropriate agency or department of the United States.

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

- A. "Medicaid benefits" means benefits under the medical assistance program established under Ohio R.C. Chapter 5111.

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

(ORC 2913.401)

648.05 DISTURBING A LAWFUL MEETING

- (a) No person, with purpose to prevent or disrupt a lawful meeting, procession, or gathering, shall do either of the following:
- (1) Do any act which obstructs or interferes with the due conduct of the meeting, procession, or gathering.
 - (2) Make any utterance, gesture, or display which outrages the sensibilities of the group.
- (b) Whoever violates this section is guilty of disturbing a lawful meeting. Except as otherwise provided in this division, disturbing a lawful meeting is a misdemeanor of the fourth degree. Disturbing a lawful meeting is a misdemeanor of the first degree if either of the following applies:
- (1) The violation is committed with the intent to disturb or disquiet any assemblage of people met for religious worship at a tax-exempt place of worship, regardless of whether the conduct is within the place at which the assemblage is held or is on the property on which that place is located and disturbs the order and solemnity of the assemblage.
 - (2) The violation is committed with the intent to prevent, disrupt, or interfere with a virtual meeting or gathering of people for religious worship, through use of a computer, computer system, telecommunications device, or other electronic device or system, or in any other manner.
- (c) As used in this section:
- (1) “Computer,” “computer system,” and “telecommunications device” have the same meanings as in section 2913.01 of the Revised Code.
 - (2) “Virtual meeting or gathering” means a meeting or gathering by interactive video conference or teleconference, or by a combination thereof.

(ORC 2917.12)

648.07 INDUCING PANIC

- (a) No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:
- (1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that such report or warning is false;
 - (2) Threatening to commit any offense of violence;
 - (3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.
- (b) Division (a) hereof does not apply to any person conducting an authorized fire or emergency

drill.

- (c) Whoever violates this section is guilty of inducing panic, a misdemeanor of the first degree. If inducing panic results in physical harm to any person, economic harm of one thousand dollars (\$1,000) or more, if the public place involved in a violation of this section is a school or an institution of higher education, or if the violation pertains to a purported, threatened or actual use of a weapon of mass destruction, inducing panic 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) “Economic harm” means any of the following:

- A. All direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. “Economic harm” as described in this division includes, but is not limited to, all of the following:
- i. All wages, salaries, or other compensation lost as a result of the criminal conduct;
 - ii. 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;
 - iii. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
 - iv. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.
- B. All costs incurred by the Municipality as a result of, or in making any response to, the criminal conduct that constituted the violation of this section or Section 648.08, including, but not limited to, all costs so incurred by any law enforcement officers, firefighters, rescue personnel, or emergency medical services personnel of the state or the political subdivision.

(2) “School” means any school operated by a board of education or any school for which the ~~state board~~ director of education and workforce prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a violation of this section is committed.

(3) “Weapon of mass destruction” means any of the following:

- A. Any weapon that is designed or intended to cause death or serious physical harm through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;
- B. Any weapon involving a disease organism or biological agent;
- C. Any weapon that is designed to release radiation or radioactivity at a level

dangerous to human life;

- D. Any of the following, except to the extent that the item or device in question is expressly excepted from the definition of “destructive device” pursuant to 18 U.S.C. 921(a)(4) and regulations issued under that section:
- i. Any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device;
 - ii. Any combination of parts either designed or intended for use in converting any item or device into any item or device described in division (e)(3)D.1. of this section and from which an item or device described in that division may be readily assembled.

(4) “Biological agent” has the same meaning as in Ohio R.C. 2917.33.

(5) “Emergency medical services personnel” has the same meaning as in Ohio R.C. 2133.21.

(6) “Institution of higher education” means any of the following:

- A. A state university or college as defined in Ohio R.C. 3345.12(A) (1), community college, state community college, university branch, or technical college;
- B. A private, nonprofit college, university or other post-secondary institution located in this State that possesses a certificate of authorization issued by the ~~Ohio Board of Regents~~ chancellor of higher education pursuant to Ohio R.C. Chapter 1713.
- C. A post-secondary institution with a certificate of registration issued by the State Board of Career Colleges and Schools under Ohio R.C. Chapter 3332.

(ORC 2917.31)

666.01 DEFINITIONS

As used in this chapter:

- (a) "Harmful to juveniles." That quality of any material or performance describing or representing nudity, sexual conduct, sexual excitement, or sado-masochistic abuse in any form to which all of the following apply:
- (1) The material or performance, when considered as a whole, appeals to the prurient interest of juveniles in sex.
 - (2) The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles.

- (3) The material or performance, when considered as a whole, lacks serious literary, artistic, political, and scientific value for juveniles.
- (b) "Juvenile." Any unmarried person under 18 years of age.
- (c) "Material." Any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, video cassette, laser disc, phonograph record, cassette tape, compact disc, or other tangible thing capable of arousing interest through sight, sound, or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape, or similar data storage device.
- (d) "Mental health client or patient." Has the same meaning as in Ohio R.C. 2305.51.
- (e) "Mental health professional." Has the same meaning as in Ohio R.C. 2305.115.
- (f) "Minor." A person under the age of 18.
- (g) "Nudity." The showing, representation, or depiction of human male or female genitals, pubic area, or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.
- (h) "Obscene." When considered as a whole, and judged with reference to ordinary adults or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to that group, any material or performance is "obscene" if any of the following apply:
- (1) Its dominant appeal is to prurient interest.
 - (2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement, or nudity in a way that tends to represent human beings as mere objects of sexual appetite.
 - (3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty, or brutality.
 - (4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way that inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral, or artistic purpose.
 - (5) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty, or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such an interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral, or artistic purpose.
- (i) "Performance." Any motion picture, preview, trailer, play, show, skit, dance, or other exhibition performed before an audience.
- (j) "Prostitute." A male or female who promiscuously engages in sexual activity for hire,

regardless of whether the hire is paid to the prostitute or to another.

- (k) "Sado-masochistic abuse." Flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.
- (l) "Sexual activity." Sexual conduct or sexual contact, or both.
- (m) "Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.
- (n) "Sexual contact." Any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.
- (o) "Sexual excitement." The condition of human male or female genitals when in a state of sexual stimulation or arousal.
- (p) "Spouse." A person married to an offender at the time of an alleged offense, except that such person shall not be considered the spouse when any of the following apply:
 - (1) When the parties have entered into a written separation agreement pursuant to Ohio R.C. 3103.06.
 - (2) When an action is pending between the parties for annulment, divorce, dissolution of marriage, or legal separation.
 - (3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.
- (q) "Place where a person has a reasonable expectation of privacy" means a place where a reasonable person would believe that the person could fully disrobe in private.
- (R) "Private area" means the genitals, pubic area, buttocks, or female breast below the top of the areola, where nude or covered by an undergarment.

(ORC 2907.01)

666.05 VOYEURISM

- (a) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.
- (b) No person, ~~for the purpose of sexually arousing or gratifying the person's self,~~ shall knowingly commit trespass or otherwise secretly or surreptitiously invade the privacy of another to videotape, film, photograph, broadcast, stream, or otherwise record ~~the other person in a state of nudity~~ another person, in a place where a person has a reasonable expectation of privacy, for the purpose of viewing the private areas of that person.
- (c) No person shall secretly or surreptitiously videotape, film, photograph, or otherwise record another person above, under, or through the clothing being worn by that other person for the

purpose of viewing the body of, or the undergarments worn by, that other person.

(d)

- (1) Whoever violates this section is guilty of voyeurism.
- (2) A violation of subsection (a) hereof is a misdemeanor of the third degree.
- (3) A violation of subsection (b) hereof is a misdemeanor of the second degree.
- (4) A violation of subsection (c) hereof is a misdemeanor of the first degree.

(ORC 2907.08)

666.07 PROCURING; ENGAGEMENT IN SEXUAL ACTIVITY FOR HIRE

- (a) No person, knowingly and for gain, shall do either of the following:
- (1) Entice or solicit another to patronize a prostitute or brothel;
 - (2) Procure a prostitute for another to patronize, or take or direct another at ~~his or her~~ the other's request to any place for the purpose of patronizing a prostitute.
- (b) No person, having authority or responsibility over the use of premises, shall knowingly permit such premises to be used for the purpose of engaging in sexual activity for hire.
- (c) Whoever violates division (a) or (b) of this section is guilty of procuring. Except as otherwise provided in this subsection (c), procuring is a misdemeanor of the first degree. If the prostitute who is procured, patronized or otherwise involved in a violation of subsection (a)(2) of this section is under sixteen years of age at the time of the violation, regardless of whether the offender who violates subsection (a)(2) of this section knows the prostitute's age, or if a prostitute who engages in sexual activity for hire in premises used in violation of subsection (b) of this section is under sixteen years of age at the time of the violation, regardless of whether the offender who violates subsection (b) of this section knows the prostitute's age, procuring is a felony and shall be prosecuted under appropriate state law. If the prostitute who is procured, patronized or otherwise involved in a violation of subsection (a)(2) of this section is sixteen or seventeen years of age at the time of the violation or if a prostitute who engages in sexual activity for hire in premises used in violation of subsection (b) of this section is sixteen or seventeen years of age at the time of the violation, procuring is a felony and shall be prosecuted under appropriate state law. (ORC 2907.23)
- (d) No person shall recklessly induce, entice, or procure another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person.
- (e) As used in division (d) of 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.
- (f) Whoever violates division (d) of this section is guilty of engaging in prostitution, a misdemeanor of the first degree. In sentencing ~~the~~ an offender under this division for a violation of this section, the court shall require the offender to attend an education or treatment program aimed at preventing persons from inducing, enticing, or procuring another to engage in sexual activity

for hire in exchange for the person giving anything of value to the other person ~~and, notwithstanding~~ Notwithstanding the fine specified in R.C. § 2929.28(A)(2)(a) for a misdemeanor of the first degree in sentencing an offender under this division of the section, the court may impose upon the offender a fine of not more than \$1,500.

(R.C. § 2907.231)

666.11 DISSEMINATING MATTER HARMFUL TO JUVENILES

- (a) No person, with knowledge of its character or content, shall recklessly do any of following:
- (1) Directly sell, deliver, furnish, disseminate, provide, exhibit, rent, or present to a juvenile any material or performance that is obscene or harmful to juveniles;
 - (2) ~~Offer~~ Directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;
 - (3) While in the physical proximity of the juvenile or law enforcement officer posing as a juvenile, allow any juvenile or law enforcement officer posing as a juvenile to review or peruse any material or view any live performance that is harmful to juveniles.
- (b) The following are affirmative defenses to a charge under this section that involves material or a performance that is harmful to juveniles but not obscene:
- (1) The defendant is the parent, guardian, or spouse of the juvenile involved.
 - (2) The juvenile involved, at the time of the conduct in question, was accompanied by his or her parent or guardian who, with knowledge of its character, consented to the material or performance being furnished or presented to the juvenile.
 - (3) The juvenile exhibited to the defendant or his or her agent or employee a draft card, driver's license, birth record, marriage license, or other official or apparently official document purporting to show that the juvenile was 18 years of age or over or married, and the person to whom the document was exhibited did not otherwise have reasonable cause to believe that the juvenile was under the age of 18 and unmarried.
- (c)
- (1) It is an affirmative defense to a charge under this section, involving material or a performance that is obscene or harmful to juveniles, that the material or performance was furnished or presented for a bona fide medical, scientific, educational, governmental, judicial, or other proper purpose, by a physician, psychologist, sociologist, scientist, teacher, librarian, clergy, prosecutor, judge, or other proper person.
 - (2) Except as provided in division (b)(3) of this section, mistake of age is not a defense to a charge under this section.
- (d)

- (1) A person directly sells, delivers, furnishes, disseminates, provides, exhibits, rents, or presents or directly offers or agrees to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present material or a performance to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section by means of an electronic method of remotely transmitting information if the person knows or has reason to believe that the person receiving the information is a juvenile or the group of persons receiving the information are juveniles.
- (2) A person remotely transmitting information by means of a method of mass distribution does not directly sell, deliver, furnish, disseminate, provide, exhibit, rent, or present or directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present the material or performance in question to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section if either of the following applies:
- A. The person has inadequate information to know or have reason to believe that a particular recipient of the information or offer is a juvenile.
 - B. The method of mass distribution does not provide the person the ability to prevent a particular recipient from receiving the information.
- (e) Whoever violates this section is guilty of disseminating matter harmful to juveniles. If the material or performance involved is harmful to juveniles except as otherwise provided in this division, a violation of this section is a misdemeanor of the first degree. If the material or performance involved is obscene, violation of this section is a felony to be prosecuted under appropriate State law.

(ORC 2907.31)

666.99 SENTENCING FOR SEXUALLY ORIENTED OFFENSES; SEXUAL PREDATORS; REGISTRATION

- (a) If an offender is being sentenced for a sexually oriented offense or a child-victim oriented offense that is a misdemeanor committed on or after January 1, 1997, ~~and if the judge imposing sentence for the sexually oriented offense determines pursuant to Ohio R.C. 2950.09(B) that the offender is a sexual predator-tier III sex offender/child-victim offender relative to the offense or the offense is any offense listed in Ohio R.C. section 2901.07 division (D)(1) to (3), the judge shall include in the offender's sentence a statement that the offender has been adjudicated a sexual predator~~ is a tier III sex offender/child-victim offender, shall comply with the requirements of Ohio R.C. 2950.03, and shall require the offender to submit to a DNA specimen collection procedure pursuant to Ohio R.C. 2901.07.
- (b)
- (1) ~~Before imposing sentence on an offender who is being sentenced for a sexually oriented offense that is a misdemeanor, that was committed on or after January 1, 1997, and that is not a registration-exempt sexually oriented offense, the judge shall conduct a hearing in accordance with Ohio R.C. 2950.09(B) to determine whether the offender is a sexual~~

~~predator. Before imposing sentence on an offender who is being sentenced for a sexually oriented offense that is not a registration-exempt sexually oriented offense, the court also shall comply with Ohio R.C. 2950.09(E).~~

- ~~(2) Before imposing a sentence on or after January 1, 2004, on an offender who is being sentenced for a child-victim oriented offense that is a misdemeanor, regardless of when the offense was committed, the judge shall conduct a hearing in accordance with Ohio R.C. 2950.091(B) to determine whether the offender is a child-victim predator. Before imposing sentence on an offender who is being sentenced for a child-victim offense, the court also shall comply with Ohio R.C. 2950.091(B).~~

~~If an offender is being sentenced for a sexually oriented offense that is not a registration-exempt sexually oriented offense or for a child-victim oriented offense that is a misdemeanor committed on or after January 1, 1997, the judge shall include in the sentence a summary of the offender's duties imposed under Ohio~~

~~R.C. 2950.04, 2950.041, 2950.05, and 2950.06, and the duration of the duties. The judge shall inform the offender, at the time of sentencing, of those duties and of their duration, and, if required under Ohio R.C. 2950.03(A)(2), the judge shall perform the duties specified in that section or, if required under division (A)(6) of section 2950.03 of the Revised Code, the judge shall perform the duties specified in that division.~~

(ORC 2929.23)

672.02 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, 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 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 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 Ohio 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 Ohio 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 Ohio R.C. 2923.11 in the actor's own home for any lawful purpose.

(2) Division (a)(2) of this section does not apply to any person who 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 R.C. § 2923.125(G)(1), unless the person knowingly is in a place described in R.C. § 2923.126(B).

(d) It is an affirmative defense to a charge under 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:

- (1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.
- (2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.

- (3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.

(e)

- (1) No person who is charged with a violation of this section shall be required to obtain a 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 division (b)(1) of this section as it existed prior to June 13, 2022, the person may file an application under R.C. § 2953.37~~5~~ requesting the expungement of the record of conviction.

(f)

- (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) 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 subsections (f)(2), (5) and (6) 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 subsections (f)(2), (5) 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 Chapter 4303, of the Revised Code 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) A person shall not be arrested for a violation of division (a)(2) of this section solely because the person does not promptly produce a valid concealed handgun license. If a person is arrested for a violation of division (a)(2) of this section and is convicted of or pleads guilty to the violation, the offender shall be punished as follows:
 - A. The offender shall be guilty of a minor misdemeanor if both of the following apply:
 - i. Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.
 - ii. At the time of the arrest, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
 - B. The offender shall be guilty of a misdemeanor and shall be fined five hundred dollars (\$500.00) if all of the following apply:
 - i. The offender previously had been issued a concealed handgun

license and that license expired within the two years immediately preceding the arrest.

- ii. Within forty-five days after the arrest, the offender presents any type of concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in Ohio R.C. 2945.71.
- iii. At the time of the commission of the offense, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

C. If subsections (f)(2)A. and B. and (f)(5) of this section do not apply, the offender shall be punished under subsection (f)(1) or (6) of this section.

- (3) Carrying concealed weapons in violation of division (b)(1) of this section is a misdemeanor of the second degree.

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 Ohio R.C. 2923.128.

- (4) Except as otherwise provided herein, carrying concealed weapons in violation of subsection (b)(2) or (b)(3) hereof is a misdemeanor of the first degree. If the offender has previously been convicted or pleaded guilty to a violation of Ohio 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 violation of subsection (b)(2) or (b)(3) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

- (5) 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 division (G)(1) of Ohio R.C. 2923.125, and if at the time of the violation the person was not knowingly in a place described in division (B) of Ohio 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 division (G)(1) of Ohio R.C. 2923.125 and if the person is not in a place described in division (B) of Ohio R.C. 2923.126, the officer shall issue a citation and the offender shall be assessed a civil penalty of not more than five hundred dollars (\$500.00). The citation shall be automatically dismissed and the civil penalty shall not be assessed if both of the following apply:

A. Within ten 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 division (G)(1) of Ohio R.C. 2923.125, 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 division (B) of Ohio R.C. 2923.126.

(6) If a person being arrested for a violation of subsection (a)(2) of this section is knowingly in a place described in division (B)(5) of Ohio R.C. 2923.126, 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 Ohio 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.

(R.C. § 2923.12)

672.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE

- (a) No person shall knowingly discharge a firearm while in or on a motor vehicle.
- (b) No person shall knowingly transport or have a loaded firearm in a motor vehicle in such a manner that the firearm is accessible to the operator or any passenger without leaving the vehicle.
- (c) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:
 - (1) In a closed package, box or case.
 - (2) In a compartment that can be reached only by leaving the vehicle.
 - (3) In plain sight and secured in a rack or holder made for the purpose.
 - (4) If the firearm is at least 24 inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least 18 inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.
- (d) No person shall knowingly transport or have a loaded handgun in a motor vehicle if, at the time of that transportation or possession, any of the following applies:
 - (1) The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 - (2) The person's whole blood, blood serum or plasma, breath, or urine contains a concentration of alcohol, a listed controlled substance, or a listed metabolite of a controlled substance prohibited for persons operating a vehicle, as specified in R.C. § 4511.19(A), regardless of whether the person at the time of the transportation or possession as described in this division is the operator of or a passenger in the motor vehicle.
- (e) No person who has been issued a 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 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 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) Before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop;

- (2) Before or at the time an employee of the motor carrier enforcement unit asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the commercial motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an employee of the unit during the stop and the person already has notified another employee of the unit of that fact during the same stop;
- (3) Knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;
- (4) Knowingly have contact with the loaded handgun by touching it with the person's hands or fingers in the motor vehicle at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer.
- (5) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including but not limited to a specific order to the person to keep the person's hands in plain sight.

(f)

- (1) Divisions (a), (b), (c) and (e) of this section do not apply to any of the following:
 - A. An officer, agent or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's or employee's duties;
 - B. Any person who is employed in this state, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of R.C. § 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in this division (f) (1) B. does not apply to the person.
- (2) Division (a) of this section does not apply to a person if all of the following circumstances apply:
 - A. The person discharges a firearm from a motor vehicle at a coyote or groundhog, the discharge is not during the deer gun hunting season as set by the Chief of the Division of Wildlife of the Department of Natural Resources, and the discharge at the coyote or groundhog, but for the operation of this section, is lawful.
 - B. The motor vehicle from which the person discharges the firearm is on real property that is located in an unincorporated area of a township and that is either zoned for agriculture or is used for agriculture.

- C. The person owns the real property described in division (f)(2)B. of this section, is the spouse or a child of another person who owns that real property, is a tenant of another person who owns that real property, or is the spouse or a child of a tenant of another person who owns that real property.
- D. The person does not discharge the firearm in any of the following manners:
 - i. While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;
 - ii. In the direction of a street, highway or other public or private property used by the public for vehicular traffic or parking;
 - iii. At or into an occupied structure that is a permanent or temporary habitation;
 - iv. In the commission of any violation of law, including but not limited to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.

(3) Division (a) of this section does not apply to a person if all of the following apply:

- A. The person possesses a valid all-purpose vehicle permit issued under R.C. § 1533.103 by the Chief of the Division of Wildlife.
- B. The person discharges a firearm at a wild quadruped or game bird as defined in R.C. § 1531.01 during the open hunting season for the applicable wild quadruped or game bird.
- C. The person discharges a firearm from a stationary all-purpose vehicle as defined in R.C. § 1531.01 from private or publicly owned lands or from a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife.
- D. The person does not discharge the firearm in any of the following manners:
 - i. While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;
 - ii. In the direction of a street, a highway or other public or private property that is used by the public for vehicular traffic or parking;
 - iii. At or into an occupied structure that is a permanent or temporary habitation;
 - iv. In the commission of any violation of law, including but not limited to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.

- (4) Divisions (b) and (c) of this section do not apply to a person if all of the following circumstances apply:
- A. At the time of the alleged violation of either of those divisions, the person is the operator of or a passenger in a motor vehicle.
 - B. The motor vehicle is on real property that is located in an unincorporated area of a township and that is either zoned for agriculture or is used for agriculture.
 - C. The person owns the real property described in division (f)(4)B. of this section, is the spouse or a child of another person who owns that real property, is a tenant of another person who owns that real property, or is the spouse or a child of a tenant of another person who owns that real property.
 - D. The person, prior to arriving at the real property described in division (f)(4)B. of this section, did not transport or possess a firearm in the motor vehicle in a manner prohibited by division (b) or (c) of this section while the motor vehicle was being operated on a street, highway or other public or private property used by the public for vehicular traffic or parking.
- (5) Divisions (b) and (c) of this section do not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:
- A. The person transporting or possessing the handgun 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 R.C. § 2923.125(G)(1).
 - B. The person transporting or possessing the handgun is not knowingly in a place described in R.C. § 2923.126(B).
- (6) Divisions (b) and (c) of this section do not apply to a person if all of the following apply:
- A. The person possesses a valid all-purpose vehicle permit issued under R.C. § 1533.103 by the Chief of the Division of Wildlife.
 - B. The person is on or in an all-purpose vehicle as defined in R.C. § 1531.01 or a motor vehicle during the open hunting season for a wild quadruped or game bird.
 - C. The person is on or in an all-purpose vehicle as defined in R.C. § 1531.01 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.

(g)

- (1) The affirmative defenses authorized in R.C. § 2923.12(D)(1) and (D)(2) are affirmative defenses to a charge under division (b) or (c) of this section that involves a firearm other than a handgun.
- (2) It is an affirmative defense to a charge under division (b) or (c) of this section of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that this affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by division (b) or (c) of this section while the motor vehicle was being operated on a street, highway or other public or private property used by the public for vehicular traffic.

(h)

- (1) No person who is charged with a violation of division (b), (c) or (d) of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

(2)

A. If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (e) of this section as it existed prior to September 30, 2011, and the conduct that was the basis of the violation no longer would be a violation of division (e) of this section on or after September 30, 2011, or if a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (e)(1) or (e)(2) of this section as it existed prior to June 13, 2022, the person may file an application under R.C. § 2953.375 requesting the expungement of the record of conviction.

B. If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (b) or (c) of this section as the division existed prior to September 30, 2011 and if the conduct that was the basis of the violation no longer would be a violation of division (b) or (c) of this section on or after September 30, 2011 due to the application of division (f)(5) of this section as it exists on and after September 30, 2011, the person may file an application under R.C. § 2953.375 requesting the expungement of the record of conviction.

- (i) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. A violation of division (a) of this section is a felony to be prosecuted under appropriate state law. A violation of division (c) of this section is a misdemeanor of the fourth degree. A violation of division (d) of this section is a felony to be prosecuted under appropriate state law and, if the loaded handgun is concealed on the person's person, it is also a felony to be prosecuted under appropriate state law. A violation of division (e)(1) or (e)(2) of this section is a misdemeanor of the second degree. A violation of division (e)(4) of this section is a felony to be prosecuted under appropriate state law. A violation of division (e)

(3) or (e)(5) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of division (e)(3) or (e)(5) of this section or any substantially equivalent state law or municipal ordinance, a felony to be prosecuted under

appropriate state law. In addition to any other penalty or sanction imposed for a misdemeanor violation of division (e)

(3) or (e)(5) of this section, the offender's concealed handgun license shall be suspended pursuant to R.C. § 2923.128(A)(2). A violation of division (b) of this section is a felony to be prosecuted under appropriate state law.

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

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

(1) "Agriculture." Has the same meaning as in R.C. § 519.01.

(2) "Commercial motor vehicle." Has the same meaning as in R.C. § 4506.25(A).

(3) "Motor carrier enforcement unit." The Motor Carrier Enforcement Unit in the Department of Public Safety, Division of State Highway Patrol, that is created by R.C. § 5503.34.

(4) "Motor vehicle," "street" and "highway." Have the same meaning as in R.C. § 4511.01.

(5) "Occupied structure." Has the same meaning as in R.C. § 2909.01.

(6) "Tenant." Has the same meaning as in R.C. § 1531.01.

(7) "Unloaded."

A. With respect to a firearm other than a firearm described in division

D. of this definition, means that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm, and one of the following applies:

i. There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.

ii. Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.

B. For the purposes of division A.ii. of this definition, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:

- i. A package, box, or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;
 - ii. A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.
 - C. For the purposes of divisions A. and B. of this definition, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.
 - D. “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.
- (l) Divisions A. and B. of the definition of “unloaded” in division (k) of this section do not affect the authority of a person who has been issued a concealed handgun license that is valid at the time in question to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in those divisions, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter. A person who has been issued a concealed handgun license that is valid at the time in question may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter.

(R.C. § 2923.16)

Statutory reference:

Return of surrendered firearms by law enforcement, see R.C. § 2923.163

672.15 POSSESSION OF AN OBJECT INDISTINGUISHABLE FROM A FIREARM IN A SCHOOL SAFETY ZONE

- (a) No person shall knowingly possess an object in a school safety zone if both of the following apply:
 - (1) The object is indistinguishable from a firearm, whether or not the object is capable of being fired.

(2) The person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.

(b)

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

A. An officer, agent, or employee of this or any other state or the United States 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.

i. Any person not described in divisions (b)(1)A. to (b)(1)C. of this section who has written authorization from the board of education or governing body of a school to convey deadly weapons or dangerous ordnance into a school safety zone or to possess a deadly weapon or dangerous ordnance in a school safety zone and who conveys or possesses the deadly weapon or dangerous ordnance in accordance with that authorization, provided both of the following apply:

1. Either the person has successfully completed the curriculum, instruction, and training established under 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.

ii. A district board or school governing body that authorizes a person under division (b)(1)D. of this section shall require that person to submit to an annual criminal records check conducted in the same manner as R.C. § 3319.39 or R.C. § 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 R.C. § 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in division (b)(1)E. of this section does not apply to the person.

- (2) This section does not apply to premises upon which home schooling is conducted. This section also does not apply to a school administrator, teacher or employee who possesses an object that is indistinguishable from a firearm for legitimate school purposes during the course of employment, a student who uses an object that is indistinguishable from a firearm under the direction of a school administrator, teacher or employee, or any other person who, with the express prior approval of a school administrator, possesses an object that is indistinguishable from a firearm for a legitimate purpose, including the use of the object in a ceremonial activity, a play, re-enactment or other dramatic presentation, school safety training, 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 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).
 - D. The person is not knowingly in a place described in R.C. § 2923.126(B)(1) or (B)(3) to (B)(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 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 this section is guilty of illegal possession of an object indistinguishable from a firearm in a school safety zone. Except as otherwise provided in this division, illegal possession of an object indistinguishable from a firearm in a school safety zone is a

misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, illegal possession of an object indistinguishable from a firearm in a school safety zone is a felony to be prosecuted under appropriate state law.

(d)

- (1) In addition to any other penalty imposed upon a person who is convicted of or pleads guilty to a violation of this section, and subject to division (d) (2) of this section, if the offender has not attained 19 years of age, regardless of whether the offender is attending or is enrolled in a school operated by a board of education or for which the ~~State Board~~ director of Education and workforce prescribes minimum standards under R.C. § 3301.07, the court shall impose upon the offender a class four suspension of the offender's probationary driver's license, restricted license, driver's license, commercial driver's license, temporary instruction permit or probationary commercial driver's license that then is in effect from the range specified in R.C. § 4510.02(A)(4) and shall deny the offender the issuance of any permit or license of that type during the period of the suspension. If the offender is not a resident of this state, the court shall impose a class four suspension of the nonresident operating privilege of the offender from the range specified in R.C. § 4510.02(A)(4).
- (2) If the offender shows good cause why the court should not suspend one of the types of licenses, permits or privileges specified in division (d)(1) of this section or deny the issuance of one of the temporary instruction permits specified in division (d)(1) of this section, the court in its discretion may choose not to impose the suspension, revocation or denial required in division (d)(1) of this section, but the court, in its discretion, instead may require the offender to perform community service for a number of hours determined by the court.

- (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.

(R.C. § 2923.122(C) - (G))

Statutory reference:

Conveyance or possession of deadly weapons or dangerous ordnance in a school safety zone, felony offense, see R.C. § 2923.122(A), (B)

672.16 CONCEALED HANDGUN LICENSES: POSSESSION OF A REVOKED OR SUSPENDED LICENSE; ADDITIONAL RESTRICTIONS; POSTING OF SIGNS PROHIBITING POSSESSION

(a) Possession of a Revoked or Suspended Concealed Handgun License.

- (1) No person, except in the performance of official duties, shall possess a license to carry a concealed handgun license that was issued and that has been revoked or suspended ~~pursuant to Ohio R.C. 2923.128 or a temporary emergency license to carry a concealed handgun that was issued and that has been revoked pursuant to Ohio R.C. 2923.1213.~~
- (2) Whoever violates this division (a) is guilty of possessing a revoked or suspended

concealed handgun license, a misdemeanor of the third degree. (ORC 2923.1211(B), (C))

(b) Additional Restrictions. Pursuant to Ohio R.C. 2923.126:

- (1) A concealed handgun license that is issued under R.C. § 2923.125 shall expire five years after the date of issuance. A licensee who has been issued a license under that section shall be granted a grace period of 30 days after the licensee's license expires during which the licensee's license remains valid. Except as provided in divisions (b)(2) and (b)(3) of this section, a licensee who has been issued a concealed handgun license under R.C. § 2923.125 or 2923.1213 may carry a concealed handgun anywhere in this state if the license is valid when the licensee is in actual possession of a concealed handgun. The licensee shall give notice of any change in the licensee's residence address to the sheriff who issued the license within 45 days after that change.
- (2) A valid concealed handgun license does not authorize the licensee to carry a concealed handgun in any manner prohibited under R.C. § 2923.12(B) or in any manner prohibited under R.C. § 2923.16. A valid license does not authorize the licensee to carry a concealed handgun into any of the following places:
 - A. A police station, sheriff's office, or state highway patrol station, premises controlled by the bureau of criminal identification and investigation; a state correctional institution, jail, workhouse, or other detention facility; any area of an airport passenger terminal that is beyond a passenger or property screening checkpoint or to which access is restricted through security measures by the airport authority or a public agency; or an institution that is maintained, operated, managed, and governed pursuant to R.C. § 5119.14(A) or R.C. § 5123.03(A)(1);
 - B. A school safety zone if the licensee's carrying the concealed handgun is in violation of R.C. § 2923.122;
 - C. A courthouse or another building or structure in which a courtroom is located if the licensee's carrying the concealed handgun is in violation of R.C. § 2923.123;
 - D. Any premises or open air arena for which a D permit has been issued under R.C. Chapter 4303, if the licensee's carrying the concealed handgun is in violation of R.C. § 2923.121;
 - E. Any premises owned or leased by any public or private college, university or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle or unless the licensee is carrying the concealed handgun pursuant to a written policy, rule, or other authorization that is adopted by the institution's board of trustees or other governing body and that authorizes specific individuals or classes of individuals to carry a concealed handgun on the premises;
 - F. Any church, synagogue, mosque or other place of worship, unless the church, synagogue, mosque or other place of worship posts or permits otherwise;
 - G. Any building that is a government facility of this state or a political

subdivision of this state and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located that is subject to division (b)(2)C. of this section, unless the governing body with authority over the building has enacted a statute, ordinance, or policy that permits a licensee to carry a concealed handgun into the building;

H. A place in which federal law prohibits the carrying of handguns.

(3)

A. Nothing in this division (b) shall negate or restrict a rule, policy or practice of a private employer that is not a private college, university, or other institution of higher education concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer. Nothing in this division (b) shall require a private employer of that nature to adopt a rule, policy or practice concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer.

B.

- i. A private employer shall be immune from liability in a civil action for any injury, death or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises or property of the private employer, including motor vehicles owned by the private employer, unless the private employer acted with malicious purpose. A private employer is immune from liability in a civil action for any injury, death or loss to person or property that allegedly was caused by or related to the private employer's decision to permit a licensee to bring, or prohibit a licensee from bringing, a handgun onto the premises or property of the private employer.
- ii. A political subdivision shall be immune from liability in a civil action, to the extent and in the manner provided in R.C. Chapter 2744, for any injury, death or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto any premises or property owned, leased or otherwise under the control of the political subdivision. As used in this division, "political subdivision" has the same meaning as in R.C. § 2744.01.
- iii. An institution of higher education shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises of the institution, including motor vehicles owned by the institution, unless the institution acted with malicious purpose. An institution of higher education is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the institution's decision

to permit a licensee or class of licensees to bring a handgun onto the premises of the institution.

- iv. A nonprofit corporation shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises of the nonprofit corporation, including any motor vehicle owned by the nonprofit corporation, or to any event organized by the nonprofit corporation, unless the nonprofit corporation acted with malicious purpose. A nonprofit corporation is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the nonprofit corporation's decision to permit a licensee to bring a handgun onto the premises of the nonprofit corporation or to any event organized by the nonprofit corporation.

C.

i.

1. Except as provided in division (b)(3)C.ii. of this section and R.C. § 2923.1214, the owner or person in control of private land or premises, and a private person or entity leasing land or premises owned by the state, the United States, or a political subdivision of the state or the United States, may post a sign in a conspicuous location on that land or on those premises prohibiting persons from carrying firearms or concealed firearms on or onto that land or those premises. Except as otherwise provided in this division, a person who knowingly violates a posted prohibition of that nature is guilty of criminal trespass in violation of R.C. § 2911.21(A)(4) and is guilty of a misdemeanor of the fourth degree. If a person knowingly violates a posted prohibition of that nature and the posted land or premises primarily was a parking lot or other parking facility, the person is not guilty of criminal trespass under R.C. § 2911.21 or under any other criminal law of this state or criminal law, ordinance, or resolution of a political subdivision of this state, and instead is subject only to a civil cause of action for trespass based on the violation.
2. If a person knowingly violates a posted prohibition of the nature described in this division and the posted land or premises is a child ~~day-care~~ center, type A family ~~day-care~~ child care home, or type B family ~~day-care~~ child care home, unless the person is a licensee who resides in a type A family ~~day-care~~ child care home or type B family ~~day-care~~ child care home, the person is guilty of aggravated trespass in violation of R.C. § 2911.211. Except as otherwise provided in this division, the offender is guilty of a misdemeanor of the first degree. If the person previously has been convicted

of a violation of this division or any substantially equivalent state law or municipal ordinance, or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, the offender is guilty of a felony to be prosecuted under appropriate state law.

ii. A landlord may not prohibit or restrict a tenant who is a licensee and who on or after September 9, 2008 enters into a rental agreement with the landlord for the use of residential premises, and the tenant's guest while the tenant is present, from lawfully carrying or possessing a handgun on those residential premises.

iii. As used in division (b)(3)C. of this section:

1. "Residential premises." Has the same meaning as in R.C. § 5321.01, except "residential premises" does not include a dwelling unit that is owned or operated by a college or university.
2. "Landlord," "tenant," and "rental agreement." Have the same meanings as in R.C. § 5321.01.

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

(5)

A. A peace officer has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under R.C. § 2923.125, provided that the officer when carrying a concealed handgun under authority of this division is carrying validating identification. For purposes of reciprocity with other states, a peace officer shall be considered to be a licensee in this state.

B. An active duty member of the armed forces of the United States who is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in R.C. § 2923.125(G)(1) has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under R.C. § 2923.125 and is subject to the same restrictions as specified in this division (b).

C. A tactical medical professional who is qualified to carry firearms while on

duty under R.C. § 109.771 has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under R.C. § 2923.125.

(6)

A. A qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to division (b)(6)B. of this section and a valid firearms requalification certification issued pursuant to division (b)(6)C. of this section has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under R.C. § 2923.125 and is subject to the same restrictions that apply to a person who has been issued a license issued under that section that is valid at the time in question. For purposes of reciprocity with other states, a qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to division (b)(6)B. of this section and a valid firearms requalification certification issued pursuant to division (b)(6)C. of this section shall be considered to be a licensee in this state.

B.

i. Each public agency of this state or of a political subdivision of this state that is served by one or more peace officers shall issue a retired peace officer identification card to any person who retired from service as a peace officer with that agency, if the issuance is in accordance with the agency's policies and procedures and if the person, with respect to the person's service with that agency, satisfies all of the

following:

1. The person retired in good standing from service as a peace officer with the public agency, and the retirement was not for reasons of mental instability.
2. Before retiring from service as a peace officer with that agency, the person was authorized to engage in or supervise the prevention, detection, investigation or prosecution of, or the incarceration of any person for, any violation of law and the person had statutory powers of arrest.
3. At the time of the person's retirement as a peace officer with that agency, the person was trained and qualified to carry firearms in the performance of the peace officer's duties.
4. Before retiring from service as a peace officer with that agency, the person was regularly employed as a peace officer for an aggregate of 15 years or more, or, in the alternative, the person retired from service as a peace officer with that agency, after completing any applicable probationary period of that service, due to a service-

connected disability, as determined by the agency.

- ii. A retired peace officer identification card issued to a person under division (b)(6)B.1. of this section shall identify the person by name, contain a photograph of the person, identify the public agency of this state or of the political subdivision of this state from which the person retired as a peace officer and that is issuing the identification card, and specify that the person retired in good standing from service as a peace officer with the issuing public agency and satisfies the criteria set forth in divisions (b)(6)B.i.1. to (b)(6)B.i.4. of this section. In addition to the required content specified in this division, a retired peace officer identification card issued to a person under division (b)(6)B.i. of this section may include the firearms requalification certification described in division (b)(6)C. of this section, and if the identification card includes that certification, the identification card shall serve as the firearms requalification certification for the retired peace officer. If the issuing public agency issues credentials to active law enforcement officers who serve the agency, the agency may comply with division (b)(6)B.i.

of this section by issuing the same credentials to persons who retired from service as a peace officer with the agency and who satisfy the criteria set forth in divisions (b)(6)B.i.1. to (b)(6)B.i.4. of this section, provided that the credentials so issued to retired peace officers are stamped with the word "RETIRED."

- iii. A public agency of this state or of a political subdivision of this state may charge persons who retired from service as a peace officer with the agency a reasonable fee for issuing to the person a retired peace officer identification card pursuant to division (b)(6)B.i. of this section.

C.

- i. If a person retired from service as a peace officer with a public agency of this state or of a political subdivision of this state and the person satisfies the criteria set forth in divisions (b)(6)B.i.1. to (b)(6)B.i.4. of this section, the public agency may provide the retired peace officer with the opportunity to attend a firearms requalification program that is approved for purposes of firearms requalification required under R.C. § 109.801. The retired peace officer may be required to pay the cost of the course.

- ii. If a retired peace officer who satisfies the criteria set forth in divisions (b)(6)B.i.1. to (b)(6)B.i.4. of this section attends a firearms requalification program that is approved for purposes of firearms requalification required under R.C. § 109.801, the retired peace officer's successful completion of the firearms requalification program requalifies the retired peace officer for purposes of division (b)(6) of this section for five years from the date on which the program was successfully completed, and the requalification is valid

during that five-year period. If a retired peace officer who satisfies the criteria set forth in divisions (b)(6)B.1.a. to (b)(6)B.1.d. of this section satisfactorily completes such a firearms requalification program, the retired peace officer shall be issued a firearms requalification certification that identifies the retired peace officer by name, identifies the entity that taught the program, specifies that the retired peace officer successfully completed the program, specifies the date on which the course was successfully completed, and specifies that the requalification is valid for five years from that date of successful completion. The firearms requalification certification for a retired peace officer may be included in the retired peace officer identification card issued to the retired peace officer under division (b)(6)B. of this section.

- iii. A retired peace officer who attends a firearms requalification program that is approved for purposes of firearms requalification required under R.C. § 109.801 may be required to pay the cost of the program.

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

- A. “Governing body.” Has the same meaning as in R.C. § 154.01.
- B. “Government facility of this state or a political subdivision of this state.” Any of the following:
 - i. A building or part of a building that is owned or leased by the government of this state or a political subdivision of this state and where employees of the government of this state or the political subdivision regularly are present for the purpose of performing their official duties as employees of the state or political subdivision;
 - ii. The office of a Deputy Registrar serving pursuant to R.C. Chapter 4503 that is used to perform deputy registrar functions.
- C. “Nonprofit corporation.” Means any private organization that is exempt from federal income taxation pursuant to subsection 501(a) and described in subsection 501(c) of the Internal Revenue Code.
- D. “Qualified retired peace officer.” A person who satisfies all of the following:
 - i. The person satisfies the criteria set forth in divisions (b)(6)B.i.1. to (b)(6)B.i.4. of this section.
 - ii. The person is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
 - iii. The person is not prohibited by federal law from receiving firearms.
- E. “Retired peace officer identification card.” An identification card that is

issued pursuant to division (b)(6)B. of this section to a person who is a retired peace officer.

F. "Tactical medical professional." Has the same meaning as in R.C. § 109.71.

G. "Validating identification." Means photographic identification issued by the agency for which an individual serves as a peace officer that identifies the individual as a peace officer of the agency. (R.C. § 2923.126)

- (c) Posting of Signs Prohibiting Possession. Each person, board, or entity that owns or controls any place or premises identified in R.C. § 2923.126(B) as a place into which a valid license does not authorize the licensee to carry a concealed handgun, or a designee of such a person, board, or entity, shall post in the following one or more conspicuous locations in the premises a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto these premises."

(R.C. § 2923.1212)

698.02 PENALTIES FOR MISDEMEANOR

(a) Considerations in Misdemeanor Sentencing.

- (1) A court that sentences an offender for a misdemeanor or minor misdemeanor violation of any provision of the Ohio Revised Code, or of any municipal ordinance that is substantially equivalent to a misdemeanor or minor misdemeanor violation of a provision of the Ohio Revised Code, shall be guided by the overriding purposes of misdemeanor sentencing. The overriding purposes of misdemeanor sentencing are to protect the public from future crime by the offender and others and to punish the offender. To achieve those purposes, the sentencing court shall consider the impact of the offense upon the victim and the need for changing the offender's behavior, rehabilitating the offender, and making restitution to the victim of the offense, the public, or the victim and the public.
- (2) A sentence imposed for a misdemeanor or minor misdemeanor violation of an Ohio Revised Code provision or for a violation of a municipal ordinance that is subject to division (a)(1) of this section shall be reasonably calculated to achieve the two overriding purposes of misdemeanor sentencing set forth in division (a)(1) of this section, commensurate with and not demeaning to the seriousness of the offender's conduct and its impact upon the victim, and consistent with sentences imposed for similar offenses committed by similar offenders.
- (3) A court that imposes a sentence upon an offender for a misdemeanor or minor misdemeanor violation of an Ohio Revised Code provision or for a violation of a municipal ordinance that is subject to division (a)(1) of this section shall not base the sentence upon the race, ethnic background, gender, or religion of the offender.
- (4) Divisions (a)(1) and (a)(2) of this section shall not apply to any offense that is disposed of by a traffic violations bureau of any court pursuant to Traffic Rule 13 and

shall not apply to any violation of any provision of the Ohio Revised Code that is a minor misdemeanor and that is disposed of without a court appearance. Divisions (a)(1) to (a)(3) of this section do not affect any penalties established by the municipality for a violation of its ordinances that are not substantially equivalent to a misdemeanor or minor misdemeanor violation of a provision of the Ohio Revised Code. (ORC 2929.21)

(b) Misdemeanor Jail Terms.

- (1) Except as provided in Section 666.99 or 698.03 of this Code or Ohio 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 chapter, the court shall impose a definite jail term that shall be one of the following:
 - A. For a misdemeanor of the first degree, not more than 180 days;
 - B. For a misdemeanor of the second degree, not more than 90 days;
 - C. For a misdemeanor of the third degree, not more than 60 days;
 - D. For a misdemeanor of the fourth degree, not more than 30 days.
- (2) A court that sentences an offender to a jail term under division (b) of this section may permit the offender to serve the sentence in intermittent confinement or may authorize a limited release of the offender as provided in division (d)(2) of this section.
- (3) If a court sentences an offender to a jail term under division (b) of this section and the court assigns the offender to a County Jail that has established a County Jail Industry Program pursuant to Ohio R.C. 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the County Jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the County Jail Industry Program.
- (4) If a person sentenced to a jail term pursuant to division (b) of this section, the court may impose as part of the sentence pursuant to Ohio 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 Ohio R.C. 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and Ohio R.C. 2929.37, both of the following apply:
 - A. The court shall specify both of the following as part of the sentence:
 - i. If the person is presented with an itemized bill pursuant to Ohio R.C. 2929.37 for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.
 - ii. If the person does not dispute the bill described in division (b)(4)A.1. of this section and does not pay the bill by the times specified in Ohio R.C. 2929.37, the Clerk of the Court may issue a certificate of judgment against the person as described in that section.

- B. The sentence automatically includes any certificate of judgment issued as described in division (b)(4)A.2. of this section. (ORC 2929.24)

(c) Misdemeanor Community Control Sanctions. (1)

- A. Except as provided in Section 666.99 and 698.03 of this Code or Ohio R.C. 2929.22 and 2929.23 or when a jail term is required by law, in sentencing an offender for a misdemeanor, other than a minor misdemeanor, the sentencing court may do either of the following:
- i. Directly impose a sentence that consists of one or more community control sanctions authorized by divisions (d), (e), or (f) of this section. The court may impose any other conditions of release under a community control sanction that the court considers appropriate. If the court imposes a jail term upon the offender, the court may impose any community control sanction or combination of community control sanctions in addition to the jail term.
 - ii. Impose a jail term under division (b) of this section from the range of jail terms authorized under that division for the offense, suspend all or a portion of the jail term imposed, and place the offender under a community control sanction or combination of community control sanctions authorized under divisions (d), (e), or (f) of this section.
- B. The duration of all community control sanctions imposed upon an offender and in effect for an offender at any time shall not exceed five years.
- C. At sentencing, if a court directly imposes a community control sanction or combination of community control sanctions pursuant to division (c)(1)A.1. of this section, the court shall state the duration of the community control sanctions imposed and shall notify the offender that if any of the conditions of the community control sanctions are violated the court may do any of the following:
- i. Impose a longer time under the same community control sanction if the total time under all of the offender's community control sanctions does not exceed the five-year limit specified in division (c)(1)B. of this section;
 - ii. Impose a more restrictive community control sanction under division (d), (e), or (f) of this section, but the court is not required to impose any particular sanction or sanctions;
 - iii. Impose a definite jail term from the range of jail terms authorized for the offense under division (b) of this section.

(2)

- A. If a court sentences an offender to any community control sanction or combination of community control sanctions authorized under division (d),

(e), or (f) of this section, the court shall place the offender under the general control and supervision of the court or of a department of probation in the jurisdiction that serves the court for purposes of reporting to the court a violation of any of the conditions of the sanctions imposed. If the offender resides in another jurisdiction and a department of probation has been established to serve the Municipal Court or County Court in that jurisdiction, the sentencing court may request the Municipal Court or the County Court to receive the offender into the general control and supervision of that department of probation for purposes of reporting to the sentencing court a violation of any of the conditions of the sanctions imposed. The sentencing court retains jurisdiction over any offender whom it sentences for the duration of the sanction or sanctions imposed.

- B. The sentencing court shall require as a condition of any community control sanction that the offender abide by the law and not leave the State without the permission of the court or the offender's probation officer. In the interests of doing justice, rehabilitating the offender, and ensuring the offender's good behavior, the court may impose additional requirements on the offender. The offender's compliance with the additional requirements also shall be a condition of the community control sanction imposed upon the offender.

(1)

- A. If the court imposing sentence upon an offender sentences the offender to any community control sanction or combination of community control sanctions authorized under division (d), (e), or (f) of this section, and the offender violates any of the conditions of the sanctions, the public or private person or entity that supervises or administers the program or activity that comprises the sanction shall report the violation directly to the sentencing court or to the department of probation or probation officer with general control and supervision over the offender. If the public or private person or entity reports the violation to the department of probation or probation officer, the department or officer shall report the violation to the sentencing court.
- B. If an offender violates any condition of a community control sanction, the sentencing court may impose upon the violator a longer time under the same community control sanction if the total time under all of the community control sanctions imposed on the violator does not exceed the five-year limit specified in division (c)
- (1)B. of this section or may impose on the violator a more restrictive community control sanction or combination of community control sanctions, including a jail term. If the court imposes a jail term upon a violator pursuant to this division, the total time spent in jail for the misdemeanor offense and the violation of a condition of the community control sanction shall not exceed the maximum jail term available for the offense for which the sanction that was violated was imposed. The court may reduce the longer period of time that the violator is required to spend under the longer sanction or the more restrictive sanction by all or part of the time the violator successfully spent under the sanction that was initially imposed.

- (2) Except as otherwise provided in this division, if an offender, for a significant period of time, fulfills the conditions of a community control sanction imposed pursuant to division (d), (e), or (f) of this section in an exemplary manner, the court may reduce the period of time under the community control sanction or impose a less restrictive community control sanction. Fulfilling the conditions of a community control sanction does not relieve the offender of a duty to make restitution under division (f) of this section. (ORC 2929.25)

(d) Community Residential Sanction.

- (1) Except when a mandatory jail term is required by law, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, may impose upon the offender any community residential sanction or combination of community residential sanctions under this division (d).

Community residential sanctions include, but are not limited to, the following:

- A. A term of up to 180 days in a halfway house or a term in a halfway house not to exceed the longest jail term available for the offense, whichever is shorter, if the political subdivision that would have responsibility for paying the costs of confining the offender in a jail has entered into a contract with the halfway house for use of the facility for misdemeanor offenders;
- B. A term of up to 180 days in an alternative residential facility or a term in an alternative residential facility not to exceed the longest jail term available for the offense, whichever is shorter. The court may specify the level of security in the alternative residential facility that is needed for the offender.
- (2) The court that sentences an offender to a community residential sanction under this division (d) may do either or both of the following:
- A. Permit the offender to serve the offender's sentence in intermittent confinement, overnight, on weekends or at any other time or times that will allow the offender to continue at the offender' occupation or care for the offender' family;
- B. Authorize the offender to be released so that the offender may seek or maintain employment, receive education or training, receive treatment, perform community service, or otherwise fulfill an obligation imposed by law or by the court. A release pursuant to this division shall be only for the duration of time that is needed to fulfill the purpose of the release and for travel that reasonably is necessary to fulfill the purposes of release.
- (3) The court may order that a reasonable portion of the income earned by the offender upon a release pursuant to division (d)(2) of this section be applied to any financial sanction imposed under division (f) of this section.
- (4) No court shall sentence any person to a prison term for a misdemeanor or to a jail term for a minor misdemeanor.
- (5) If a court sentences a person who has been convicted of or pleaded guilty to a misdemeanor to a community residential sanction as described in division (d)(1) of

this section, at the time of reception and at other times the person in charge of the operation of the halfway house, alternative residential facility, or other place at which the offender will serve the residential sanction determines to be appropriate, the person in charge of the operation of the halfway house, alternative residential facility, or other place may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the halfway house, alternative residential facility, or other place at which the offender will serve the residential sanction may cause a convicted offender in the halfway house, alternative residential facility, or other place who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.

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

(e) Nonresidential Sanction Where Jail Term is not Mandatory.

- (1) Except when a mandatory jail term is required by law, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, may impose upon the offender any nonresidential sanction or combination of nonresidential sanctions authorized under this division. Nonresidential sanctions include, but are not limited to, the following:

- A. A term of day reporting;
- B. A term of house arrest with electronic monitoring or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest without electronic monitoring or continuous alcohol monitoring;
- C. A term of community service of up to 500 hours for misdemeanor of the first degree or 200 hours for a misdemeanor of the second, third, or fourth degree;
- D. A term in a drug treatment program with a level of security for the offender as determined necessary by the court;
- E. A term of intensive probation supervision;
- F. A term of basic probation supervision;
- G. A term of monitored time;
- H. A term of drug and alcohol use monitoring, including random drug testing;
 - I. A curfew term;
 - J. A requirement that the offender obtain employment;
 - K. A requirement that the offender obtain education or training;
 - L. Provided the court obtains the prior approval of the victim, a

requirement that the offender participate in victim-offender mediation;

- M. If authorized by law, suspension of the offender's privilege to operate a motor vehicle, immobilization or forfeiture of the offender's motor vehicle, a requirement that the offender obtain a valid motor vehicle operator's license, or any other related sanction;
- N. A requirement that the offender obtain counseling if the offense is a violation of Ohio R.C. 2919.25 or a substantially similar municipal ordinance or a violation of Ohio R.C. 2903.13 or a substantially similar municipal ordinance involving a person who was a family or household member at the time of the violation, if the offender committed the offense in the vicinity of one or more children who are not victims of the offense, and if the offender or the victim of the offense is a parent, guardian, custodian, or person in loco parentis of one or more of those children. This division does not limit the court in requiring that the offender obtain counseling for any offense or in any circumstance not specified in this division.

- (2) If the court imposes a term of community service pursuant to division (e)(1)(C) of this section, the offender may request that the court modify the sentence to authorize the offender to make a reasonable contribution, as determined by the court, to the general fund of the county, municipality, or other local entity that provides funding to the court. The court may grant the request if the offender demonstrates a change in circumstances from the date the court imposes the sentence or that the modification would otherwise be in the interests of justice. If the court grants the request, the offender shall make a reasonable contribution to the court, and the clerk of the court shall deposit that contribution into the general fund of the county, municipality, or other local entity that provides funding to the court. If more than one entity provides funding to the court, the clerk shall deposit a percentage of the reasonable contribution equal to the percentage of funding the entity provides to the court in that entity's general fund.
- (3) In addition to the sanctions authorized under division (e)(1) of this section, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, upon an offender who is not required to serve a mandatory jail term may impose any other sanction that is intended to discourage the offender or other persons from committing a similar offense if the sanction is reasonably related to the overriding purposes and principles of misdemeanor sentencing.
- (4) The court imposing a sentence for a minor misdemeanor may impose a term of community service in lieu of all or part of a fine. The term of community service imposed for a minor misdemeanor shall not exceed 30 hours. After imposing a term of community service, the court may modify the sentence to authorize a reasonable contribution, as determined by the court, to the appropriate general fund as provided in division (e)(2) of this section.

(ORC 2929.27)

(f) Financial Sanctions.

- (1) In addition to imposing court costs pursuant to Ohio R.C. 2947.23, the court imposing

a sentence upon an offender for a misdemeanor, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this division (f) and, if the offender is being sentenced for a criminal offense as defined in Ohio R.C. section 2930.01, shall sentence the offender to make restitution pursuant to this section and Ohio R.C. 2929.281. If the court in its discretion, or as required by this section, imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

A. Restitution.

- i. ~~Unless the misdemeanor offense is a minor misdemeanor or could be disposed of by the Traffic Violations Bureau~~ serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender's crime or ~~any survivor of the victim's estate,~~ in an amount based upon the victim's economic loss. The court may not impose restitution as a sanction pursuant to this division if the offense ~~is a minor misdemeanor or could be disposed of by the Traffic Violations Bureau serving the court under Traffic Rule 13.~~ If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the Clerk of the Court on behalf of the victim.
- ii. ~~If the court imposes restitution, the~~ 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~~ The victim, victim's representative, victim's attorney, if applicable, the prosecutor or the prosecutor's designee, and the offender may provide information relevant to the determination of the amount of restitution. The amount the court orders as restitution shall not exceed the amount of economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court imposes restitution for the cost of accounting or auditing done to determine the extent of economic loss, the court may order restitution for any amount of the victim's costs of accounting or auditing provided that the amount of restitution is reasonable and does not exceed the value of property or services stolen or damaged as a result of the offense. If the court decides to or is required to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim, ~~or survivor~~ victim's representative, victim's attorney, if applicable, or the victim's estate disputes the amount of restitution. ~~If the~~ The court ~~holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove~~ shall determine the amount of full restitution by a preponderance of the evidence ~~the amount of restitution sought from the offender.~~
- iii. All restitution payments shall be credited against any recovery of

economic loss in a civil action brought by the victim or ~~any survivor of the victim~~ victim's estate against the offender.

- iv. ~~If the court imposes restitution, the~~ 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.
- v. ~~The victim or survivor, victim's attorney, if applicable, or the attorney for the victim's estate~~ of the victim may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate but shall not reduce the amount of restitution ordered, except as provided in Ohio R.C. division (A) of section 2929.281.

B. Fines. A fine of the type described in divisions (f)(1)B.i. and ii. of this section payable to the appropriate entity as required by law:

i. A fine in the following amount:

1. For a misdemeanor of the first degree, not more than one thousand dollars (\$1,000.00);
2. For a misdemeanor of the second degree, not more than seven hundred fifty dollars (\$750.00);
3. For a misdemeanor of the third degree, not more than five hundred dollars (\$500.00);
4. For a misdemeanor of the fourth degree, not more than two hundred fifty dollars (\$250.00);
5. For a minor misdemeanor, not more than one hundred fifty dollars (\$150.00).

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

C. Reimbursement.

- i. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:
1. All or part of the costs of implementing any community control sanction, including a supervision fee under Ohio R.C. 2951.021 and the costs of global positioning system device monitoring;
 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.

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

(2)

- A. If the court determines a hearing is necessary, the court may hold a hearing to determine whether the offender is able to pay the financial sanction imposed pursuant to this division (f) or court costs or is likely in the future to be able to pay the sanction or costs.
- B. If the court determines that the offender is indigent and unable to pay the financial sanction or court costs, the court shall consider imposing and may impose a term of community service under division (e)(1) of this section in lieu of imposing a financial sanction or court costs. If the court does not determine that the offender is indigent, the court may impose a term of community service under division (e)(1) of this section in lieu of or in addition to imposing a financial sanction under this division (f) and in addition to imposing court costs. The court may order community service for a minor misdemeanor pursuant to division (e)(3) of this section in lieu of or in addition to imposing a financial sanction under this section and in addition to imposing court costs. If a person fails to pay a financial sanction or court costs, the court may order community service in lieu of the financial sanction or court costs.

(3)

- A. The offender shall pay reimbursements imposed upon the offender pursuant to division (f)(1)C. of this section to pay the costs incurred by a county pursuant to any sanction imposed under division (d), (e), or (f) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (d) of this section to the County Treasurer. The County Treasurer shall deposit the reimbursements in the County's General Fund in accordance with division (f)(8) of this section. The County shall use the amounts deposited in the fund to pay the costs incurred by the County pursuant to any sanction imposed under division (d), (e), or (f) of this section or in operating a facility used to confine

offenders pursuant to a sanction imposed under division (d) of this section.

- B. The offender shall pay reimbursements imposed upon the offender pursuant to division (f)(1)C. of this section to pay the costs incurred by a municipal corporation pursuant to any sanction imposed under division (d), (e), or (f) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (d) of this section to the Treasurer of the municipal corporation. The Treasurer shall deposit the reimbursements in the municipal corporation's General Fund in accordance with division (f)(8) of this section. The municipal corporation shall use the amounts deposited in the fund to pay the costs incurred by the municipal corporation pursuant to any sanction imposed under division (d), (e), or (f) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (d) of this section.
- C. The offender shall pay reimbursements imposed pursuant to division (f)(1)C. of this section for the costs incurred by a private provider pursuant to a sanction imposed under division (d), (e), or (f) of this section to the provider.

(4) In addition to any other fine that is or may be imposed under this section, the court imposing sentence upon an offender for misdemeanor domestic violence or menacing by stalking may impose a fine of not less than seventy nor more than five hundred dollars, which shall, except as provided in divisions (4)(A) and (4)(B) of this section, be transmitted to the treasurer of state to be credited to the address confidentiality program fund created by Ohio R.C. section 111.48.

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

(5)

- A. Except as otherwise provided in this division (f)(4), a financial sanction imposed under division (f)(1) of this section is a judgment in favor of the state or the political subdivision that operates the court that imposed the financial sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (f)(1)C.i.1. of this section upon an offender is a judgment in favor of the entity administering the community control sanction. A financial sanction of reimbursement imposed pursuant to division (f)(1)C.i.2. of this section upon an offender confined in a jail or other residential facility is a judgment in favor of the entity operating the jail or other residential facility. A financial sanction of restitution imposed pursuant to division (f)(1)A. of this section is an order in favor of the victim of the offender's criminal act that can be collected through execution as described in division (f)(4)B.1. of this section or through

an order as described in division (f)(4)B.ii. of this section and the offender shall be considered for purposes of the collection as a judgment debtor.

- B. Once a financial sanction is imposed as a judgment, the victim, private provider, state, or political subdivision may bring an action to do any of the following:
 - i. Obtain execution of the judgment or order through any available procedure, including any of the procedures identified in Ohio R.C. 2929.18(D)(1)(a) to (e) or a substantially similar municipal ordinance.
 - ii. Obtain an order for the assignment of wages of the judgment debtor under Ohio R.C. 1321.33 or a substantially similar municipal ordinance.
- (6) The civil remedies authorized under division (f)(4) of this section for the collection of the financial sanction supplement, but do not preclude, enforcement of the criminal sentence.
- (7) Each court imposing a financial sanction upon an offender under this division (f) may designate the Clerk of the Court or another person to collect the financial sanction. The Clerk, or another person authorized by law or the court to collect the financial sanction may do the following:
- A. Enter into contracts with one or more public agencies or private vendors for the collection of amounts due under the sanction. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this division (f), a court shall comply with Ohio R.C. 307.86 to 307.92.
 - B. Permit payment of all or any portion of the sanction in installments, by financial transaction device if the court is a County Court or a Municipal Court operated by a county, or by any other reasonable method, in any time, and on any terms that the court considers just, ~~except that the maximum time permitted for payment shall not exceed five years.~~ If the court is a County Court or a Municipal Court operated by a county, the acceptance of payments by any financial transaction device shall be governed by the policy adopted by the Board of County Commissioners of the county pursuant to Ohio R.C. 301.28. If the court is a Municipal Court not operated by a county, the Clerk may pay any fee associated with processing an electronic transfer out of public money or may charge the fee to the offender.
 - C. To defray administrative costs, charge a reasonable fee to an offender who elects a payment plan rather than a lump sum payment of any financial sanction.
- (8) No financial sanction imposed under this division (f) shall preclude a victim from bringing a civil action against the offender.
- (9) If the court imposes restitution, fines, fees, or incarceration costs on a business

or corporation, it is the duty of the person authorized to make disbursements from assets of the business or corporation to pay the restitution, fines, fees, or incarceration costs from those assets.

(ORC 2929.28)

698.03 IMPOSING SENTENCE FOR MISDEMEANOR

(a)

- (1) Unless a mandatory jail term is required to be imposed by Ohio R.C. 1547.99(G), 4510.14(B), or 4511.19(G), or any other provision of the Revised Code, or any municipal ordinance, a court that imposes a sentence under this chapter upon an offender for a misdemeanor or minor misdemeanor has discretion to determine the most effective way to achieve the purposes and principles of sentencing set forth in Section 698.02.
- (2) Unless a specific sanction is required to be imposed or is precluded from being imposed by the section setting forth an offense or the penalty for an offense or by any provision of Sections 666.99 or 698.02 of this Code or Ohio R.C. 2929.23 to 2929.28, a court that imposes a sentence upon an offender for a misdemeanor may impose on the offender any sanction or combination of sanctions under Section 698.02(b) to (f). The court shall not impose a sentence that imposes an unnecessary burden on local government resources.

(b)

- (1) In determining the appropriate sentence for a misdemeanor, the court shall consider all of the following factors:
 - A. The nature and circumstances of the offense or offenses;
 - B. Whether the circumstances regarding the offender and the offense or offenses indicate that the offender has a history of persistent criminal activity and that the offender's character and condition reveal a substantial risk that the offender will commit another offense;
 - C. Whether the circumstances regarding the offender and the offense or offenses indicate that the offender's history, character, and condition reveal a substantial risk that the offender will be a danger to others and that the offender's conduct has been characterized by a pattern of repetitive, compulsive, or aggressive behavior with heedless indifference to the consequences;
 - D. Whether the victim's youth, age, disability, or other factor made the victim particularly vulnerable to the offense or made the impact of the offense more serious;
 - E. Whether the offender is likely to commit future crimes in general, in addition to the circumstances described in divisions (b)(1)B. and of this section.
 - F. Whether the offender has an emotional, mental, or physical condition that is

traceable to the offender's service in the armed forces of the United States and that was a contributing factor in the offender's commission of the offense or offenses;

G. The offender's military service record.

- (2) In determining the appropriate sentence for a misdemeanor, in addition to complying with division (b)(1) of this section, the court may consider any other factors that are relevant to achieving the purposes and principles of sentencing set forth in Section 698.02(a).
- (c) Before imposing a jail term as a sentence for a misdemeanor, a court shall consider the appropriateness of imposing a community control sanction or a combination of community control sanctions under Section 698.02(c), (d), (e), and
- (f). A court may impose the longest jail term authorized under Section 698.02(b) only upon offenders who commit the worst forms of the offense or upon offenders whose conduct and response to prior sanctions for prior offenses demonstrate that the imposition of the longest jail term is necessary to deter the offender from committing a future ~~crime~~ criminal offense.
- (d)
- (1) A sentencing court shall consider any relevant oral ~~or~~ and written statement made by the victim, ~~the victim's representative, the victim's attorney, if applicable,~~ the defendant, the defense attorney, ~~or~~ and the prosecuting authority regarding sentencing for a misdemeanor. This division does not create any rights to notice other than those rights authorized by Ohio R.C. Chapter 2930.
- (2) At the time of sentencing for a misdemeanor or as soon as possible after sentencing, the court shall notify the victim of the offense of the victim's right to file an application for an award of reparations pursuant to Ohio R.C. 2743.51 to 2743.72.

(ORC 2929.22)

698.05 MULTIPLE SENTENCES

- (a) Except as provided in division (b) of this section, Ohio R.C. 2929.14(~~EC~~), or Ohio R.C. 2971.03(D) or (E), a prison term, jail term, or sentence of imprisonment shall be served concurrently with any other prison term, jail term, or sentence of imprisonment imposed by a court of this Municipality, the State, another state, or the United States. Except as provided in division (b)(2) of this section, a jail term or sentence of imprisonment for misdemeanor shall be served concurrently with a prison term or sentence of imprisonment for felony served in a State or Federal correctional institution.
- (b)
- (1) A jail term or sentence of imprisonment for a misdemeanor shall be served consecutively to any other prison term, jail term, or sentence of imprisonment when the trial court specifies that it is to be served consecutively or when it is imposed for a misdemeanor violation of Ohio R.C. 2907.322, 2921.34 or 2923.131. When consecutive sentences are imposed for

misdemeanors under this division, the term to be served is the aggregate of the consecutive terms imposed, except that the aggregate term to be served shall not exceed 18 months.

(2) A jail term or sentence of imprisonment imposed for a misdemeanor violation of Ohio R.C. 4510.14, 4510.16, 4510.21, or 4511.19, or a substantially similar municipal ordinance, shall be served consecutively to a prison term that is imposed for a felony violation of Ohio R.C.

2903.06, 2903.07, 2903.08 or 4511.19 or a felony violation of Ohio R.C. 2903.04 involving the operation of a motor vehicle by the offender and that is served in a State correctional institution when the trial court specifies that it is to be served consecutively. When consecutive jail terms or sentences of imprisonment and prison terms are imposed for one or more misdemeanors and one or more felonies under this division, the term to be served is the aggregate of the consecutive terms imposed, and the offender shall serve all terms imposed for a felony before serving any term imposed for a misdemeanor.

(ORC 2929.41)

SECTION 7. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule, or regulation adopted or issued in pursuance thereof 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 months.

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

SECTION 9. All ordinances and parts of ordinances in conflict herewith are expressly repealed.

SECTION 10. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were conducted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in accordance with all legal requirements, including §121.22 of the Ohio Revised Code.

SECTION 11. This Ordinance is hereby declared to be an emergency measure, the emergency being the immediate necessity to provide for the health, safety and welfare of the Citizens of the City of North Ridgeville. Wherefore, this Ordinance shall take effect and be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: December 4, 2023



Jason R. Jacobs
PRESIDENT OF COUNCIL

ATTEST :



Nicholas Ciofani
CLERK OF COUNCIL

APPROVED: Dec 07, 2023



Kevin Corcoran
MAYOR

DATE:	<u>November 20, 2023</u>	1 ST READING:	<u>November 20, 2023</u>
INTRODUCED BY:	<u>Mayor Corcoran</u>	2 ND READING:	<u>December 04, 2023</u>
REFERRED BY:	<u></u>	3 RD READING:	<u>Dispensed</u>
TEMPORARY NO:	<u>T 126-2023</u>	ADOPTED:	<u>December 4, 2023</u>
		EMERGENCY:	<u>December 4, 2023</u>
		EFFECTIVE:	<u>December 4, 2023</u>

ORDINANCE NO. 6124-2023

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF NORTH RIDGEVILLE, OHIO TO PROVIDE AMENDMENTS TO TRAFFIC NORTH RIDGEVILLE CITY CODE SECTIONS 402.075, 402.24, 402.36, 402.37, 412.04, 416.06, 432.14, 432.22, 432.28, 432.30, 432.33, 432.39, 434.01, 434.011, 434.03, 434.035, 434.07, 434.08, 434.09, 436.021, 436.09, 438.16, 436.165, 438.17, 438.23, 438.28, 440.11, 440.15, 442.01, 442.04, 442.025, 476.01, 476.03, 476.04, 476.08; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES, AND DECLARING AN EMERGENCY.

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

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH RIDGEVILLE, LORAIN COUNTY, OHIO:

SECTION 1. That the Code of Ordinances of the City of North Ridgeville, Ohio (meaning City Municipal Code) is hereby amended by adding the provisions as provided under Section 6, below.

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

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

SECTION 4. Supplementation of Code.

(a) In preparing a supplement to the City’s Municipal Code, all portions of this ordinance which have been repealed shall be excluded from the City’s Municipal Code by the omission thereof from reprinted pages.

(b) When preparing a supplement to the City’s Municipal Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in this ordinance and parts of this ordinance included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the City’s Municipal Code printed in the supplement, and make changes in such catchlines, headings, and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the City’s Municipal Code and, where necessary to accommodate new material, change existing section or other subdivision

numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the City's Municipal Code which embody the substantive sections, or the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the City's Municipal Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the City's Municipal Code.

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

SECTION 5. Provisions of 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. The following sections and subsections of the Municipal Code are new or have been amended with new matter in the Municipal Code, and are hereby approved, adopted, and enacted:

402.075 CHAUFFEURED LIMOUSINE

"Chauffeured limousine" means a motor vehicle that is designed to carry nine or fewer passengers and is operated for hire ~~on an hourly basis~~ pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an agreement, made in advance of boarding, to provide transportation from a specific location in an chauffeured limousine at a fixed rate per hour or trip. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing.

(ORC 4501.01(LL))

402.24 PEDESTRIAN

"Pedestrian" means any natural person afoot. "Pedestrian" includes a personal delivery device as defined in section 4511.513 of the Revised Code unless the context clearly suggests otherwise.

(ORC 4511.01(X))

402.36 SAFETY ZONE

"Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians; and protected or marked or indicated by adequate signs so as to be plainly visible at all times.

(ORC 4511.01(MM))

402.37 SCHOOL BUS

"School bus" means every bus designed for carrying more than nine passengers ~~which that~~ is owned by a public, private, or governmental agency or institution of learning, and operated for the transportation of children to or from a school session or a school function, or owned by a private person and operated for

compensation for the transportation of children to or from a school session or a school function; provided "school bus" does not include a bus operated by a municipally owned transportation system, a mass transit company operating exclusively within the territorial limits of a municipality, or within such limits and the territorial limits of municipalities immediately contiguous to the municipality, nor a common passenger carrier certified by the Public Utilities Commission unless the bus is devoted exclusively to the transportation of children to and from a school session or a school function, and "school bus" does not include a van or bus used by a licensed child day-care center or Type A family day-care home to transport children from the child day-care center or Type A family day-care home to a school if the van or bus does not have more than 15 children in the van or bus at any time.

(ORC 4511.01(F))

412.04 FREEWAY USE PROHIBITED BY PEDESTRIANS, BICYCLES AND ANIMALS

- (a) No person, unless otherwise directed by a police officer, shall:
- (1) As a pedestrian, occupy any space within the limits of the right-of-way of a freeway, except: in a rest area; on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for pedestrian use; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle; or to obtain assistance.
 - (2) Occupy any space within the limits of the right-of-way of a freeway, with an animal-drawn vehicle, a ridden or led animal, herded animals, a pushcart, a bicycle, except on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for bicycle use, an electric bicycle a bicycle with motor attached, a motor-driven cycle with a motor which produces not to exceed five brake horsepower, an agricultural tractor, or farm machinery, except in the performance of public works or official duties.
- (b) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 4511.991 of the Revised Code.

(ORC 4511.051)

416.06 SOLICITING RIDES OR BUSINESS; RIDING ON OUTSIDE OF VEHICLE OR IN CARGO STORAGE AREA

- (a) No person while on a roadway outside a safety zone shall solicit a ride from the driver of any vehicle.
- (b)

Codifier: Added material is underlined, deleted material is struck through.

- (1) Except as provided in division (b)(2) of this section, no person shall stand on a highway for the purpose of soliciting employment, business, or contributions from the occupant of any vehicle.
 - (2) The Council, by ordinance, may authorize the issuance of a permit to a charitable organization to allow a person acting on behalf of the organization to solicit charitable contributions from the occupant of a vehicle by standing on a highway, other than a freeway as provided in Ohio R.C. 4511.051(A)(1), that is under the jurisdiction of the Municipality. The permit shall be valid for only one period of time, which shall be specified in the permit, in any calendar year. The Council also may specify the locations where contributions may be solicited and may impose any other restrictions on or requirements regarding the manner in which the solicitations are to be conducted that the Council considers advisable.
 - (3) As used in divisions (b)(2) of this section, "charitable organization" means an organization that has received from the Internal Revenue Service a currently valid ruling or determination letter recognizing the tax-exempt status of the organization pursuant to Internal Revenue Code 501(c)(3).
- (c) No person shall hang onto or ride on the outside of any motor vehicle while it is moving upon a roadway, except mechanics or test engineers making repairs or adjustments, or workers performing specialized highway or street maintenance or construction under authority of a public agency.
- (d) No operator shall knowingly permit any person to hang onto or ride on the outside of any motor vehicle while it is moving upon a roadway, except mechanics or test engineers making repairs or adjustments, or workers performing specialized highway or street maintenance or construction under authority of a public agency.
- (e) No driver of a truck, trailer, or semitrailer shall knowingly permit any person who has not attained the age of 16 years to ride in the unenclosed or unroofed cargo storage area of the driver's vehicle if the vehicle is traveling faster than 25 miles per hour, unless either of the following applies:
- (1) The cargo storage area of the vehicle is equipped with a properly secured seat to which is attached a seat safety belt that is in compliance with Federal standards for an occupant restraining device as defined in Ohio R.C. 4513.263(A)(2), the seat and seat safety belt were installed at the time the vehicle was originally assembled, and the person riding in the cargo storage area is in the seat and is wearing the seat safety belt; or
 - (2) An emergency exists that threatens the life of the driver or the person being transported in the cargo storage area of the truck, trailer, or

semitrailer.

- (f) No driver of a truck, trailer, or semitrailer shall permit any person, except for those workers performing specialized highway or street maintenance or construction under authority of a public agency, to ride in the cargo storage area or on a tailgate of the driver's vehicle while the tailgate is unlatched.

(g)

- (1) Except as otherwise provided in this division, whoever violates any provision of divisions (a) to (d) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates any provision of divisions (a) to (d) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates any provision of divisions (a) to (d) of this section is guilty of a misdemeanor of the third degree.
- (2) Whoever violates division (e) or (f) of this section is guilty of a minor misdemeanor.

(ORC 4511.51)

432.14 HAND AND ARM SIGNALS

- (a) Except as provided in division (b) of this section, all signals required by the provisions of this Traffic Code, when given by hand and arm, shall be given from the left side of the vehicle in the following manner, and the signals shall indicate as follows:

- (1) Left turn, hand and arm extended horizontally;
- (2) Right turn, hand and arm extended upward;
- (3) Stop or decrease speed, hand and arm extended downward.

- (b) As an alternative to division (a)(2) of this section, a person operating a bicycle or electric bicycle may give a right turn signal by extending the right hand and arm horizontally and to the right side of the bicycle or electric bicycle.
- (c) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 404.991 of the Traffic Code.

(ORC 4511.40)

432.22 DRIVING UPON SIDEWALKS, TREE LAWNS OR CURBS

(a)

- (1) No person shall drive any vehicle, other than a bicycle or an electric bicycle if the motor is not engaged, upon a sidewalk or sidewalk area, except upon a permanent or duly authorized temporary driveway.
- (2) This prohibition does not apply to a law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, using an electric bicycle with the motor engaged while in the performance of the officer’s duties.

Nothing in this section shall be construed as prohibiting local authorities from regulating the operation of bicycles or electric bicycles except that no local authority may require that bicycles or electric bicycles be operated on sidewalks. (ORC 4511.711(A))

- (b) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 404.991 of the Traffic Code. (ORC 4511.711(B))

- (c) No person shall drive a vehicle on a tree lawn area or the curb of a street, except upon a permanent or duly authorized temporary driveway or when otherwise lawfully authorized.

432.28 ONE-WAY STREETS AND ROTARY TRAFFIC ISLANDS

(a) The department of transportation may designate any highway or any separate roadway under its jurisdiction for one-way traffic and shall erect appropriate signs giving notice thereof.

- (1) Upon a roadway designated and posted with signs for one-way traffic, a vehicle shall be driven only in the direction designated.
- (2) A vehicle passing around a rotary traffic island shall be driven only to the right of the rotary traffic island.

- (b) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 404.991 of the Traffic Code.

(ORC 4511.32)

432.30 STOPPING FOR SCHOOL BUS; ACTUATING VISUAL SIGNALS;

DISCHARGING CHILDREN

The driver of a vehicle upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child, person attending programs offered by community boards of mental health and County boards of developmental disabilities, or child attending a program offered by a head start agency, shall stop at least ten feet from the front or rear of the school bus and shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed.

It is no defense to a charge under this subsection (a) hereof that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by subsection (b) hereof.

Every school bus shall be equipped with amber and red visual signals meeting the requirements of Ohio R.C. 4511.771, and an automatically extended stop warning sign of a type approved by the ~~State Board~~ Department of Education and workforce, which shall be actuated by the driver of the bus whenever but only whenever the bus is stopped or stopping on the roadway for the purpose of receiving or discharging school children, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, or children attending programs offered by head start agencies. A school bus driver shall not actuate the visual signals or the stop warning sign in designated school bus loading areas where the bus is entirely off the roadway or at school buildings when children or persons attending programs offered by community boards of mental health and County boards of developmental disabilities are loading or unloading at curbside or at buildings when children attending programs offered by head start agencies are boarding or unloading at curbside. The visual signals and stop warning sign shall be synchronized or otherwise operated as required by rule of the Board.

Where a highway has been divided into four or more traffic lanes, a driver of a vehicle need not stop for a school bus approaching from the opposite direction which has stopped for the purpose of receiving or discharging any school child, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, or children attending programs offered by head start agencies. The driver of any vehicle overtaking the school bus shall comply with subsection (a) hereof.

School buses operating on divided highways or on highways with four or more traffic lanes shall receive and discharge all school children, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, and children attending programs offered by head start agencies on their residence side of the highway.

No school bus driver shall start the driver's bus until after any child, person attending programs offered by community boards of mental health and County boards of developmental disabilities, or child attending a program offered by a head start agency who may have alighted therefrom has reached a place of safety on the child or person's residence side of the road.

As used in this section:

"Head start agency" has the same meaning as in Ohio R.C. 3301.32.

"School bus", as used in relation to children who attend a program offered by a head start agency, means a bus that is owned and operated by a head start agency, is equipped with an automatically extended stop warning sign of a type approved by the ~~State Board of Education~~ department, is painted the color and displays the markings described in Ohio R.C. 4511.77, and is equipped with amber and red visual signals meeting the requirements of Ohio R.C. 4511.771, irrespective of whether or not the bus has fifteen or more children aboard at any time. "School bus" does not include a van owned and operated by a head start agency, irrespective of its color, lights, or markings.

Whoever violates subsection (a) of this section shall pay a mandatory minimum fine of three hundred fifty dollars (\$350.00) plus court costs up to and not to exceed one thousand dollars (\$1,000) plus court costs in addition to any other penalty allowed by law or in this section. Whoever violates subsection (a) of this section and has a prior violation of this section (or an ordinance substantially similar within the State of Ohio) within two years of the present violation shall pay a mandatory minimum fine of seven hundred fifty dollars (\$750.00) plus court costs up to and not to exceed one thousand dollars (\$1,000) plus court costs in addition to any other penalty allowed by law or in this section. (Ord. 5988-2022. Passed 8-15-22.)

In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a class seven 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)(7) of Ohio R.C. 4510.02. When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to the court, and the court or clerk of the court immediately shall forward the license to the Registrar of Motor Vehicles, together with notice of the court's action. (ORC 4511.75)

432.33 SLOW-MOVING VEHICLES OR EQUIPMENT AT GRADE CROSSINGS

No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of six or less miles per hour or a vertical body or load clearance of less than nine inches above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with divisions (a)(1) and (2) of this section.

Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same, and while stopped, the person shall listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train, and shall proceed only upon exercising due care.

No such crossing shall be made when warning is given by automatic signal, crossing gates, or a flagperson, or otherwise of the immediate approach of a railroad train or car.

If the normal sustained speed of the vehicle, equipment, or structure is not more than three miles per hour, the person owning, operating, or moving the same shall also give notice of the intended crossing to a station agent or superintendent of the railroad, and a reasonable time shall be given to the railroad to provide proper protection for the crossing. Where the vehicles or equipment are being used in constructing or repairing a section of highway lying on both sides of a railroad grade crossing, and in this construction or repair it is necessary to repeatedly move the vehicles or equipment over the crossing, one daily notice specifying when the work will start and stating the hours during which it will be prosecuted is sufficient.

Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 404.991 of the Traffic Code.

432.39 OPERATION ON PATHS SET ASIDE FOR BICYCLES

- (a)
- (1) No person shall operate a motor vehicle, snowmobile, or all-purpose vehicle upon any path set aside for the exclusive use of bicycles, when an appropriate sign giving notice of such use is posted on the path.
 - (2) Nothing in this section shall be construed to affect any rule of the Director of Natural Resources governing the operation of motor vehicles, snowmobiles, all-purpose vehicles, and bicycles on lands under the Director's jurisdiction.
- (b) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 404.991 of the Traffic Code.

(ORC 4511.713(A), (B))

434.01 DRIVING OR PHYSICAL CONTROL OF VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

- (a)
- (1) Operation Generally. No person shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:
 - A. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 - B. The person has a concentration of eight-hundredths of one percent or more but less than seventeen-hundredths of one percent by weight per unit volume of alcohol in the person's whole blood.
 - C. The person has a concentration of ninety-six-thousandths of one percent or more but less than two hundred four-thousandths of one percent by weight per unit volume of alcohol in the person's blood serum or plasma.
 - D. The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
 - E. The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

- F. The person has a concentration of seventeen-hundredths of one percent or more by weight per unit volume of alcohol in the person's whole blood.
- G. The person has a concentration of two hundred four-thousandths of one percent or more by weight per unit volume of alcohol in the person's blood serum or plasma.
- H. The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath.
- I. The person has a concentration of two hundred thirty-eight- thousandths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.
- J. Except as provided in subsection (m) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:
 - i. The person has a concentration of amphetamine in the person's urine of at least five hundred nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.
 - ii. The person has a concentration of cocaine in the person's urine of at least one hundred fifty nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.
 - iii. The person has a concentration of cocaine metabolite in the person's urine of at least one hundred fifty nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.
 - iv. The person has a concentration of heroin in the person's urine of at least two thousand nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least fifty nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.
 - v. The person has a concentration of heroin metabolite (6- monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.
 - vi. The person has a concentration of L.S.D. in the person's urine of at least twenty-five nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of

the person's whole blood or blood serum or plasma.

- vii. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.
- viii. Either of the following applies:
1. The person is under the influence of alcohol, a drug of abuse or a combination of them, and the person has a concentration of marihuana metabolite in the person's urine of at least fifteen nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
 2. The person has a concentration of marihuana metabolite in the person's urine of at least thirty-five nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
- ix. The person has a concentration of methamphetamine in the person's urine of at least five hundred nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.
- x. The person has a concentration of phencyclidine in the person's urine of at least twenty-five nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.
- xi. The State Board of Pharmacy has adopted a rule pursuant to Ohio R.C. 4729.041 that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is impaired for purposes of operating any vehicle within this Municipality, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by rule in the person's urine, in the person's whole blood, or in the person's blood serum or plasma.

- (2) No person who, within twenty years of the conduct described in subsection (a)(2)A. of this section, previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) or (B), or any other equivalent offense shall do both of the following:
- A. Operate any vehicle within this Municipality while under the influence of alcohol, a drug of abuse or a combination of them;
 - B. Subsequent to being arrested for operating the vehicle as described in subsection (a)(2)A. of this section, being asked by a law enforcement officer to submit to a chemical test or tests under Ohio R.C. 4511.191, and being advised by the officer in accordance with Ohio R.C. 4511.192 of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.
- (b) Operation After Under-Age Consumption. No person under twenty-one years of age shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:
- (1) The person has a concentration of at least two-hundredths of one percent but less than eight-hundredths of one percent by weight per unit volume of alcohol in the person's whole blood.
 - (2) The person has a concentration of at least three-hundredths of one percent but less than ninety-six-thousandths of one percent by weight per unit volume of alcohol in the person's blood serum or plasma.
 - (3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
 - (4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person's urine.
- (c) One Conviction Limitation. In any proceeding arising out of one incident, a person may be charged with a violation of subsection (a)(1)A. or (a)(2) and a violation of subsection (b)(1), (2) or (3) of this section, but the person may not be convicted of more than one violation of these subsections. (ORC 4511.99)
- (d) Physical Control.
- (1) As used in this subsection, "physical control" means being in the driver's position of the front seat of a vehicle and having possession of the vehicle's ignition key or other ignition device.
 - (2)
 - A. No person shall be in physical control of a vehicle if, at the time of the physical control, any of the following apply:
 - i. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 - ii. The person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (a)(1)B., C., D. or E. hereof.

iii. Except as provided in subsection (d)(3) of this section, the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the concentration specified in subsection (a)(1)J. hereof.

B. No person under twenty-one years of age shall be in physical control of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or while the person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (b)(1) to (4) hereof.

(3) Subsection (d)(2)A.3. of this section does not apply to a person who is in physical control of a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in subsection (a)(1)J. hereof, if both of the following apply:

- A. The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
- B. The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(e) Evidence; Tests.

(1)

- A. In any criminal prosecution or juvenile court proceeding for a violation of (a)(1)A. of this section or for any equivalent offense, that is vehicle-related the result of any test of any blood or urine withdrawn and analyzed at any health care provider, as defined in Ohio R.C. 2317.02, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.
- B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a) or (b) of this section or for an equivalent offense that is vehicle related, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this subsection regarding the admission of evidence does not extend or affect the two-hour time limit specified in Ohio R.C. 4511.192(A) as the maximum period of time during which a person may consent to a chemical test or tests as described in that section.

The court may admit evidence on the concentration of alcohol, drugs of abuse, or a combination of them as described in this section when a person submits to a blood, breath, urine or other bodily substance test at the request of a law enforcement officer under Ohio R.C. 4511.191, or a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, an

emergency medical technician-intermediate, an emergency medical technician-paramedic or a qualified technician, chemist, or phlebotomist shall withdraw a blood sample for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this subsection may refuse to withdraw blood under this subsection, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood.

The bodily substance withdrawn under subsection (e)(1)B. hereof shall be analyzed in accordance with methods approved by the Director of Health by an individual possessing a valid permit issued by the Director pursuant to Ohio R.C. 3701.143.

C. As used in subsection (e)(1)B. of this section, "emergency medical technician-intermediate" and "emergency medical technician- paramedic" have the same meanings as in Ohio R.C. 4765.01.

- (2) In a criminal prosecution or juvenile court proceeding for violation of subsection (a) of this section or for an equivalent offense that is vehicle related, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in subsections (a)(1)B., C., D. and E. of this section, or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of subsection (a)(1)J. of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This subsection does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of subsection (b) of this section or for an equivalent offense that is substantially equivalent to that subsection.
- (3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis.

If the chemical test was obtained pursuant to subsection (e)(1)B. hereof, the person tested may have a physician, a registered nurse, or a qualified technician, chemist or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. If the person was under arrest as described in division (A)(5) of Ohio R.C. 4511.191, the arresting officer shall advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. If the person was under arrest other than described in division (A)(5) of Ohio R.C. 4511.191, the form to be read to the person to be tested, as required under Ohio R.C. 4511.192, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.

(4)

A. As used in subsections (e)(4)B. and C. of this section, "national highway traffic safety administration" means the National Traffic Highway Safety Administration established as an administration of the United States Department of Transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.

- B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a), (b) or (d) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine, if a law enforcement officer has administered a field sobriety test to the operator or person in physical control of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the National Highway Traffic Safety Administration, all of the following apply:
- i. The officer may testify concerning the results of the field sobriety test so administered.
 - ii. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.
 - iii. If testimony is presented or evidence is introduced under subsection (e)(4)B.1. or 2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.
- C. Subsection (e)(4)B. of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that subsection, from considering evidence or testimony that is not otherwise disallowed by subsection (e)(4)B. of this section. (ORC 4511.19; 4511.194)

(f) Forensic Laboratory Reports.

- (1) Subject to subsection (f)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of subsection (a)(1)B., C., D., E., F., G., H., I., or J. or (b)(1), (2), (3) or (4) of this section or for an equivalent offense that is substantially equivalent to any of those subsections, a laboratory report from any laboratory personnel issued a permit by the Department of Health authorizing an analysis as described in this subsection that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this subsection shall be admitted as prima-facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:

- A. The signature, under oath, of any person who performed the analysis;
- B. Any findings as to the identity and quantity of alcohol, a drug of abuse, a controlled substance, a metabolite of a controlled substance, or a combination of them that was found;

- C. A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties;
- D. An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the Department of Health.

- (2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in subsection (f)(1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant.
- (3) A report of the type described in subsection (f)(1) of this section shall not be prima-facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interest of justice.

- (g) Immunity From Liability For Withdrawing Blood. Except as otherwise provided in this subsection, any physician, registered nurse, emergency medical technician- intermediate, emergency medical technician-paramedic, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section or Ohio R.C. 4511.191 or 4511.192, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section or Ohio R.C. 4511.191 or 4511.192, is immune from criminal liability and civil liability based upon a claim of assault and battery or any other claim that is not a claim of malpractice, for any act performed in withdrawing blood from the person. The immunity provided in this subsection also extends to an emergency medical service organization that employs an emergency medical technician-intermediate or emergency medical technician-paramedic who withdraws blood under this section. The immunity provided in this subsection is not available to a person who withdraws blood if the person engaged in willful or wanton misconduct.

As used in this subsection, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01

- (h) General OVI Penalty.

- (1) Whoever violates any provision of subsections (a)(1)A. to I. or (a)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates subsection (a) (1)J. of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under Ohio R.C. Chapter 2929, and this Traffic Code, except as otherwise authorized or required by subsections (h)(1)A. to E. of this section:

- A. Except as otherwise provided in subsections (h)(1)B., C., D. or E. of this section, the offender is guilty of a misdemeanor of the first degree, and the

court shall sentence the offender to all of the following:

- i. If the sentence is being imposed for a violation of subsections (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of three consecutive days. As used in this subsection, three consecutive days means seventy- two consecutive hours. The court may sentence an offender to both an intervention program and a jail term. The court may impose a jail term in addition to the three- day mandatory jail term or intervention program. However, in no case shall the cumulative jail term imposed for the offense exceed six months.

The court may suspend the execution of the three-day jail term under this subsection if the court, in lieu of that suspended term, places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 and requires the offender to attend, for three consecutive days, a drivers' intervention program certified under Ohio R.C. 5119.38.

The court also may suspend the execution of any part of the three-day jail term under this subsection if it places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 for part of the three days, requires the offender to attend for the suspended part of the term a drivers' intervention program so certified, and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the program. The court may require the offender, as a condition of community control and in addition to the required attendance at a drivers' intervention program, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose on the offender any other conditions of community control that it considers necessary.

If the court grants unlimited driving privileges to a first-time offender under Ohio R.C. 4510.022, all penalties imposed upon the offender by the court under subsection (h)(1)A.1. of this section for the offense apply, except that the court shall suspend any mandatory or additional jail term imposed by the court under subsection (h)(1)A.1. of this section upon granting unlimited driving privileges in accordance with Ohio R.C. 4510.022.

- ii. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of at least three consecutive days and a requirement that the offender attend, for three consecutive days, a drivers' intervention program that is certified pursuant to Ohio R.C. 5119.38. As used in this subsection, three consecutive days means seventy-two consecutive hours. If the court determines that the offender is not conducive to treatment in a drivers' intervention

program, if the offender refuses to attend a drivers' intervention program, or if the jail at which the offender is to serve the jail term imposed can provide a drivers' intervention program, the court shall sentence the offender to a mandatory jail term of at least six consecutive days.

If the court grants unlimited driving privileges to a first-time offender under Ohio R.C. 4510.022, all penalties imposed upon the offender by the court under subsection (h)(1)A.2. of this section for the offense apply, except that the court shall suspend any mandatory or additional jail term imposed by the court under subsection (h)(1)A.2. of this section upon granting unlimited driving privileges in accordance with Ohio R.C. 4510.022.

The court may require the offender, under a community control sanction imposed under Ohio R.C. 2929.25, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services, in addition to the required attendance at drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.

- iii. In all cases, a fine of not less than three hundred seventy- five dollars (\$375.00) and not more than one thousand seventy-five dollars (\$1,075).
 - iv. In all cases, a suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege for a definite period of one to three years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022.
- B. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to one violation of subsection (a) ~~or (b)~~ of this section or one other equivalent offense is guilty of a misdemeanor of the first degree. The court shall sentence the offender to all of the following:
- i. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of ten consecutive days. The court shall impose the ten-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the ten-day mandatory jail term. The cumulative jail term

imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by a community addiction services provider that is authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted.

Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

- ii. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of twenty consecutive days. The court shall impose the twenty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the twenty-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by a community addiction services provider that is authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted.

Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

- iii. In all cases, notwithstanding the fines set forth in Section 404.99, a fine of not less than five hundred twenty-five dollars (\$525.00) and not more than one thousand six hundred twenty-five dollars (\$1,625).
- iv. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of one to seven years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
- v. In all cases, if the vehicle is registered in the offender's name, immobilization of the vehicle involved in the offense for ninety days

in accordance with Ohio R.C. 4503.233 and impoundment of the license plates of that vehicle for ninety days. (ORC 4511.193)

- C. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to two violations of subsection (a) ~~or (b)~~ of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the following:
- i. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of thirty consecutive days. The court shall impose the thirty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the thirty-day mandatory jail term. Notwithstanding the jail terms set forth in Section 404.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
 - ii. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, a mandatory jail term of sixty consecutive days. The court shall impose the sixty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of electronically monitored house arrest with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the sixty-day mandatory jail term. Notwithstanding the terms of imprisonment set forth in Section 404.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
 - iii. In all cases, notwithstanding the fines set forth in Section 404.99, a fine of not less than eight hundred fifty dollars (\$850.00) and not more than two thousand seven hundred fifty dollars (\$2,750).
 - iv. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of two to twelve years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
 - v. In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with Ohio R.C. 4503.234. Subsection (h)(5) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this subsection. (ORC 4511.193)
 - vi. In all cases, the court shall order the offender to participate with a community addiction services provider authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services

provider. The operator of the services provider shall determine and assess the degree of the offender's alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

- D. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or four violations of subsection (a) ~~or (b)~~ of this section or other equivalent offenses or an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature, or an offender who previously has been convicted of or pleaded guilty to a specification of the type described in Ohio R.C. 2941.1413 is guilty of a felony of the fourth degree and shall be prosecuted under appropriate state law.
- E. An offender who previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony of the third degree and shall be prosecuted under appropriate state law.
- (2) An offender who is convicted of or pleads guilty to a violation of subsection (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in division (F)(2) of Ohio R.C. 4511.191.
- (3) If an offender is sentenced to a jail term under subsection (h)(1)B.1. or 2. or (h)(1)C.1. or 2. of this section and if, within sixty days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing, the court may impose an alternative sentence under this subsection that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring.

As an alternative to a mandatory jail term of ten consecutive days required by subsection (h)(1)B.1. of this section, the court, under this subsection, may sentence the offender to five consecutive days in jail and not less than eighteen consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the five consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed six months. The five consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of twenty consecutive days required by subsection (h)(1)B.2. of this section, the court, under this subsection, may sentence the offender to ten consecutive days in jail and not less than thirty-six consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of

the ten consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed six months. The ten consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to a mandatory jail term of thirty consecutive days required by subsection (h)(1)C.1. of this section, the court, under this subsection, may sentence the offender to fifteen consecutive days in jail and not less than fifty-five consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the fifteen consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed one year. The fifteen consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of sixty consecutive days required by subsection (h)(1)C.2. of this section, the court, under this subsection, may sentence the offender to thirty consecutive days in jail and not less than one hundred ten consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the thirty consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The thirty consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

- (4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under subsection (h) of this section and if Ohio R.C. 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under Ohio R.C. 4503.231, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of Ohio R.C. 4503.231.
- (5) If title to a motor vehicle that is subject to an order of criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.
- (6) In all cases in which an offender is sentenced under subsection (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under subsection (h) of this section.
- (7) A court may order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to a chemical test or tests administered to the

offender if all of the following apply:

- A. The offender is convicted of or pleads guilty to a violation of subsection (a) of this section.
- B. The test or tests were of the offender's whole blood, blood serum or plasma, or urine.
- C. The test or tests indicated that the offender had a prohibited concentration of a controlled substance or a metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine at the time of the offense.

(8) As used in subsection (h) of this section, "electronic monitoring", "mandatory prison term" and "mandatory term of local incarceration" have the same meanings as in Ohio R.C. 2929.01.

(i) Vehicle Operation After Underage Alcohol Consumption Penalty. Whoever violates subsection (b) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:

(1) Except as otherwise provided in subsection (i)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose 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 division (A)(6) of Ohio R.C. 4510.02.

The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022. If the court grants unlimited driving privileges under Ohio R.C. 4510.022, the court shall suspend any jail term imposed under subsection (i)(1) of this section as required under that section.

(2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) or (b) of this section or other equivalent offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose 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 Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13.

~~(3) If the offender also is convicted of or also pleads guilty to a specification of the type described in Ohio R.C. 2941.1416 and if the court imposes a jail term for the violation of subsection (b) of this section, the court shall impose upon the offender an additional definite jail term pursuant to division (E) of Ohio R.C. 2929.24.~~

~~(4)~~ (3) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28, in an amount not exceeding five

thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the violation of subsection (b) of this section. (ORC 4511.19)

- (j) Physical Control Penalty. Whoever violates subsection (d) hereof is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender a class seven 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)(7) of Ohio R.C. 4510.02. (ORC 4511.194)
- (k) Compliance With Ohio R.C. Chapter 5119 Standards.
 - (1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services.
 - (2) An offender who stays in a driver's intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.
- (l) Appeal Does Not Stay Operation of License Suspension. If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.
- (m) Subsection (a)(1)J. of this section does not apply to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that subsection, if both of the following apply:
 - (1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
 - (2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.
- (n) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in subsection (a)(1)J. of this section also apply in a prosecution of a violation of Ohio R.C. 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.
- (o) Conflict of Terms. All terms defined in Ohio R.C. 4510.01 apply to this section. If the meaning of a term defined in Ohio R.C. 4510.01 conflicts with the meaning of the same term as defined in Ohio R.C. 4501.01 or this Traffic Code, the term as defined in Ohio R.C. 4510.01 applies to this section. (ORC 4511.19)
- (p) Indigent Drivers Alcohol Treatment Fund. Twenty-five dollars (\$25.00) of any fine imposed for a violation of subsection (a) hereof shall be deposited into the municipal or county indigent drivers alcohol treatment fund pursuant to Ohio R.C. 4511.193. (ORC 4511.193)
- (q) Definitions. As used in this section:

- (1) “Equivalent offense” means any of the following:
- A. A violation of division (A) ~~or (B)~~ of Ohio R.C. 4511.19;
 - B. A violation of a municipal OVI ordinance;
 - C. A violation of Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;
 - D. A violation of division (A)(1) of Ohio R.C. 2903.06 or 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;
 - E. A violation of division (A)(2), (3) or (4) of Ohio R.C. 2903.06, division (A)(2) of Ohio R.C. 2903.08, or former Ohio R.C. 2903.07, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;
 - F. A violation of division (A) ~~or (B)~~ of Ohio R.C. 1547.11;
 - G. A violation of a municipal ordinance prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine;
 - H. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) ~~or (B)~~ of Ohio R.C. 4511.19 or division (A) ~~or (B)~~ of Ohio R.C. 1547.11;
 - I. A violation of a former law of this State that was substantially equivalent to division (A) ~~or (B)~~ of Ohio R.C. 4511.19 or division (A) ~~or (B)~~ of Ohio R.C. 1547.11;
- (2) “Mandatory jail term” means the mandatory term in jail of three, six, ten, twenty, thirty, or sixty days that must be imposed under subsection (h) (1)A., B. or C. upon an offender convicted of a violation of subsection (a) hereof and in relation to which all of the following apply:
- A. Except as specifically authorized under this section, the term must be served in a jail.
 - B. Except as specifically authorized under this section, the term cannot be suspended, reduced or otherwise modified pursuant to Ohio R.C. 2929.21 to 2929.28, or any other provision of the Ohio Revised Code.
- (3) “Municipal OVI ordinance” and “municipal OVI offense” mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol, a controlled substance,

or a metabolite of a controlled substance in the whole blood, blood serum, or plasma, breath or urine.

- (4) “Community residential sanction”, “continuous alcohol monitoring”, “jail”, “mandatory prison term”, “mandatory term of local incarceration”, “sanction” and “prison term” have the same meanings as in Ohio R.C. 2929.01.
- (5) “Drug of abuse” has the same meaning as in Ohio R.C. 4506.01.
- (6) “Equivalent offense that is vehicle-related” means an equivalent offense that is any of the following:
- A. A violation described in subsection (q)(1), (2), (3), (4) or (5) hereof;
 - B. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) ~~or (B)~~ of Ohio R.C. 4511.19;
 - C. A violation of a former law of this state that was substantially equivalent to division (A) ~~or (B)~~ of Ohio R.C. 4511.19.

(ORC 4511.181)

434.011 IMMOBILIZING OR DISABLING DEVICE VIOLATION

(a)

- (1) No offender ~~with~~ who has been granted limited or unlimited driving privileges, during any period that the offender is required to operate only a motor vehicle equipped with an immobilizing or disabling device, shall request or permit any other person to breathe into the device if it is an ignition interlock device or another type of device that monitors the concentration of alcohol in a person's breath or to otherwise start the motor vehicle equipped with the device, for the purpose of providing the offender with an operable motor vehicle.

(2)

- A. ~~Except as provided in division (a)(2)B. of this section, no~~ No person shall breathe into an immobilizing or disabling device that is an ignition interlock device or another type of device that monitors the concentration of alcohol in a person's breath or otherwise start a motor vehicle equipped with an immobilizing or disabling device, for the purpose of providing an operable motor vehicle to ~~an offender with limited driving privileges who is permitted to~~ another person who has been granted limited or unlimited driving privileges under the condition that the person operate only a motor vehicle equipped with an immobilizing or disabling device.
- B. ~~Division (a)(2)A. of this section does not apply to a person in the following circumstances:~~
 - i. ~~The person is an offender with limited driving privileges.~~
 - ii. ~~The person breathes into an immobilizing or disabling device that is an ignition interlock device or another type of device that monitors the concentration of alcohol in a person's breath or otherwise starts a motor vehicle equipped with an immobilizing or disabling device.~~

~~iii. The person breathes into the device or starts the vehicle for the purpose of providing the person with an operable motor vehicle.~~

(3) No unauthorized person shall tamper with or circumvent the operation of an immobilizing or disabling device.

(b) Whoever violates this section is guilty of an immobilizing or disabling device violation, a misdemeanor of the first degree.

(ORC 4510.44)

434.03 MAXIMUM SPEED LIMITS; ASSURED CLEAR DISTANCE AHEAD

(a) No person shall operate a motor vehicle at a speed greater or less than is reasonable or proper, having due regard for the traffic, surface, and width of the street or highway and any other conditions, and no person shall drive any motor vehicle in and upon any street or highway at a greater speed than will permit him or her to bring it to a stop within the assured clear distance ahead.

(b) It is prima-facie lawful, in the absence of a lower limit declared or established pursuant to Ohio R.C. 4511.21 by the Ohio Director of Transportation or Council, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:

(1)

A. Twenty miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, and when twenty miles per hour school speed limit signs are erected, except that on controlled-access highways and expressways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by division (b)(4) of this section, and on freeways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by division (b)(7) of this section. The end of every school zone may be marked by a sign indicating the end of the zone. Nothing in this section or in the Manual and Specifications for a Uniform System of Traffic-Control Devices shall be construed to require school zones to be indicated by signs equipped with flashing or other lights, or giving other special notice of the hours in which the school zone speed limit is in effect.

B. As used in this section, "school" means all of the following:

i. Any school chartered under R.C. § 3301.16;

ii. Any nonchartered school that during the preceding year filed with the Department of Education and workforce in compliance with O.A.C. 3301-35-08, a copy of the school's report for the parents of the school's pupils certifying that the school meets state minimum standards for nonchartered, nontax- supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone;

- iii. Any special elementary school that in writing requests the County Engineer to create a school zone at the location of the school. Upon receipt of the written request, the County Engineer shall create a school zone at that location by erecting appropriate signs;
 - iv. Any preschool education program operated by an educational service center that is located on a street or highway with a speed limit of 45 miles per hour or more, when the educational service center in writing requests that the County Engineer create a school zone at the location of that program. Upon receipt of such a written request, the County Engineer shall create a school zone at that location by erecting the appropriate signs.
 - C. As used in this section, "school zone" means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway, and also includes that portion of a State highway. Upon request from local authorities for streets and highways under their jurisdiction and that portion of a State highway under the jurisdiction of the Director of Transportation, the Director may extend the traditional school zone boundaries. The distances in divisions (b)(1)C.1. through 3. below shall not exceed 300 feet per approach per direction, and are bounded by whichever of the following distances or combination thereof the Director approves as most appropriate:
 - i. The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance of 300 feet on each approach direction;
 - ii. The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of 300 feet on each approach direction;
 - iii. The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of 300 feet on each approach direction of the highway.
 - D. Nothing in this section shall be construed to invalidate the Director's initial action on August 9, 1976, establishing all school zones at the traditional school zone boundaries defined by projecting school property lines, except when those boundaries are extended as provided in divisions (b)(1)A. and (b)(1)C. of this section.
 - E. As used in this division, "crosswalk" has the meaning given that term in Ohio R.C. 4511.01(LL)(2).
- (2) Twenty-five miles per hour in all other portions of the Municipality, except on state routes outside business districts, through highways outside business districts, and alleys;
 - (3) Thirty-five miles per hour on all state routes or through highways within the Municipality outside business districts, except as provided in divisions (b)(4) and (5) of this section;
 - (4) Fifty miles per hour on controlled-access highways and expressways within the Municipality, except as provided in subsections (b)(8) to (b)(12) of this section;

- (5) Fifty miles per hour on State routes within the Municipality outside urban districts unless a lower prima-facie speed is established as further provided in this section;
 - (6) Fifteen miles per hour on all alleys within the Municipality;
 - (7) Fifty-five miles per hour on freeways with paved shoulders inside the Municipality other than freeways as provided in subsection (b)(10) and (12);
 - (8) Sixty miles per hour on rural expressways with traffic control signals and on all portions of rural divided highways, except as provided in subsections (b)(9) and (10) of this section;
 - (9) Sixty-five miles per hour on all rural expressways without traffic control signals;
 - (10) Seventy miles per hour on all rural freeways;
 - (11) Fifty-five miles per hour on all portions of freeways or expressways in congested areas as determined by the Director and that are located within a municipal corporation or within an interstate freeway outerbelt, except as provided in subsection (b)(12) of this section;
 - (12) Sixty-five miles per hour on all portions of freeways or expressways without traffic control signals in urbanized areas.
- (c) It is prima-facie unlawful for any person to exceed any of the speed limitations in subsection (b)(1)A. to (b)(6) hereof, or any declared or established pursuant to this section by the Director or local authorities and it is unlawful for any person to exceed any of the speed limitations in subsection (d) hereof. No person shall be convicted of more than one violation of this section for the same conduct, although violations of more than one provision of this section may be charged in the alternative in a single affidavit.
- (d) No person shall operate a motor vehicle upon a street or highway as follows:
- (1) At a speed exceeding fifty-five miles per hour, except upon a highway, expressway or freeway as provided in subsection (b)(8), (9), (10) and (12) hereof;
 - (2) At a speed exceeding sixty miles per hour upon a highway as provided in subsection (b)(8) hereof;
 - (3) At a speed exceeding sixty-five miles per hour upon an expressway as provided in subsection (b)(9) hereof, or upon a freeway as provided in subsection (b)(12) of this section, except upon a freeway as provided in subsection (b)(10) hereof;
 - (4) At a speed exceeding seventy miles per hour upon a freeway as provided in subsection (b)(10) hereof;
 - (5) At a speed exceeding the posted speed limit upon a highway, expressway or freeway for which the Director has determined and declared a speed limit pursuant to Ohio R.C. 4511.21(I)(2) or (L)(2).
- (e) In every charge of violation of this section the affidavit and warrant shall specify the time, place and speed at which the defendant is alleged to have driven, and in charges made in reliance upon subsection (c) hereof also the speed which subsections (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section declares is prima-facie lawful at the time and place of such alleged violation, except that in affidavits where a person is alleged to have driven at a greater speed than will permit the person to bring the vehicle to a stop within the
- Codifier: Added material is underlined, deleted material is struck through.

assured clear distance ahead the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.

- (f) When a speed in excess of both a prima-facie limitation and a limitation in subsection (d) hereof is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both subsections (b) (1)A. to (b)(6) hereof, or of a limit declared or established pursuant to this section by the Director or local authorities, and of the limitation in subsection (d) hereof. If the court finds a violation of subsection (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section has occurred, it shall enter a judgment of conviction under such subsection and dismiss the charge under subsection (d) hereof. If it finds no violation of subsections (b)(1)A. to (b)(6) hereof or a limit declared or established pursuant to this section, it shall then consider whether the evidence supports a conviction under subsection (d) hereof.
- (g) Points shall be assessed for violation of a limitation under subsection (d) hereof in accordance with Ohio R.C. 4510.036.
- (h) Whenever, in accordance with Ohio R.C. 4511.21 or this section, the speed limitations as established herein have been altered, either higher or lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima-facie unlawful for any person to exceed the speed limits posted upon such signs.
- (i) As used in this section:
- (1) "Interstate system" has the same meaning as in 23 U.S.C.A. 101.
 - (2) "Commercial bus" means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.
 - (3) "Noncommercial bus" includes but is not limited to a school bus, or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.
 - (4) "Outerbelt" means a portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the Director.
 - (5) "Rural" means an area outside urbanized areas and outside of a business or urban district, and areas that extend within urbanized areas where the roadway characteristics remain mostly unchanged from those outside the urbanized areas.
 - (6) "Urbanized area" has the same meaning as in 23 U.S.C. 101.
 - (7) "Divided" means a roadway having two or more travel lanes for vehicles moving in opposite directions and that is separated by a median of more than four feet, excluding turn lanes.
- (j) Penalty.
- (1) A violation of any provision of this section is one of the following:
 - A. Except as otherwise provided in divisions (j)(1)B., (j)(1) C., and (j) (2) and (j)(3) of this section, a minor misdemeanor;
 - B. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section, Ohio R.C. 4511.21, or any provision of any other municipal ordinance that is substantially

similar to any provision of that section, a misdemeanor of the fourth degree;

- C. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of this section, Ohio R.C. 4511.21, or any provision of any other municipal ordinance that is substantially similar to any provision of that section, a misdemeanor of the third degree.

- (2) ~~If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of this section, Ohio R.C. 4511.21, or any other municipal ordinance that is substantially similar to any provision of that section, and~~ operated a motor vehicle faster than 35 miles an hour in a business district of the municipality, faster than 50 miles an hour in other portions of the municipality, or faster than 35 miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree. Division (P)(2) of this section does not apply if penalties may be imposed under division (P)(1)(b) or (c) of this section.

- (3) Notwithstanding division (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this division and if the court determines that the offender is an indigent person and unable to pay the fine.
- (4) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 4511.991 of the Revised Code.

(ORC 4511.21(P))

434.035 SPEED LIMITS ON PRIVATE ROADS AND DRIVEWAYS

- (a) The owner of a private road or driveway located in a private residential area containing 20 or more dwelling units may establish a speed limit on the road or driveway by complying with all of the following requirements:
 - (1) The speed limit is not less than 25 miles per hour and is indicated by a sign that is in a proper position, is sufficiently legible to be seen by an ordinarily observant person, and meets the specifications for the basic speed limit sign included in the manual adopted by the Department of Transportation pursuant to Ohio R.C. 4511.09;
 - (2) The owner has posted a sign at the entrance of the private road or driveway that is in plain view and clearly informs persons entering the road or driveway that they are entering private property, a speed limit has been established for the road or driveway, and the speed limit is enforceable by law enforcement officers under State law.
- (b) No person shall operate a vehicle upon a private road or driveway as provided in division (a) of this section at a speed exceeding any speed limit established and posted pursuant to division (a).
- (c) When a speed limit is established and posted in accordance with division (a) of this section, a law enforcement officer may apprehend a person violating the speed limit of the residential area by utilizing any of the means described in Ohio R.C. 4511.091 or by any other accepted method of determining the speed of a motor vehicle and may stop and charge the person with exceeding the speed limit.
- (d) Pursuant to Ohio R.C. 4511.211(D), points shall be assessed for violation of a speed limit established and posted in accordance with division (a) of this section in accordance with Ohio R.C. 4510.036.
- (e) As used in this section:

- (1) "Owner" includes but is not limited to a person who holds title to the real property in fee simple, a condominium owners' association, a property owners' association, a board of directors or trustees of a private community, and a nonprofit corporation governing a private community.
- (2) "Private residential area containing 20 or more dwelling units" does not include a Chautauqua assembly as defined in Ohio R.C. 4511.90. (ORC 4511.211(A) - (E))
- (f)
- (1) Penalty. A violation of division (b) of this section is one of the following:
- (1) ~~(a)~~ Except as otherwise provided in divisions (f)(2b) and (f)(3c) of this section, a minor misdemeanor;
- (2) ~~(b)~~ If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of this section, Ohio R.C. 4511.211(B), or any other municipal ordinance that is substantially similar to that division, a misdemeanor of the fourth degree;
- (3) ~~(c)~~ If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of this section, Ohio R.C. 4511.211(B), or any other municipal ordinance that is substantially similar to that division, a misdemeanor of the third degree.
- (2) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 4511.991 of the Revised Code.

(ORC 4511.211(F))

434.07 STREET RACING PROHIBITED

- (k) As used in this section, "street racing" means the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point, wherein timing is made of the participating vehicles involving competitive accelerations or speeds. Persons rendering assistance in any manner to such competitive use of vehicles shall be equally charged as the participants. The operation of two or more vehicles side by side either at speeds in excess of prima facie lawful speeds established by Ohio R.C. 4511.21(B)(1)(a) through (B)(79) or a substantially similar municipal ordinance, or rapidly accelerating from a common starting point to a speed in excess of such prima facie lawful speeds shall be prima facie evidence of street racing.
- (l) No person shall participate in street racing upon any public road, street, or highway in this Municipality.
- (m) Whoever violates this section is guilty of street racing, a misdemeanor of the first degree. In addition to any other sanctions, the court shall suspend the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privileges for not less than 30 days or more than three years. No judge shall suspend the first 30 days of any suspension of an offender's license, permit, or privilege imposed under this division.

Codifier: Added material is underlined, deleted material is struck through.

(ORC 4511.251)

434.07 VEHICULAR HOMICIDE; VEHICULAR MANSLAUGHTER

(n) 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.

(o)

(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 prosecuted under appropriate State law if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter or assault offense. The court shall impose a mandatory jail term on the offender when required by Ohio R.C. 2903.06(E).

(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 Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.

- (p) The court shall impose a mandatory jail term of at least fifteen 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 698.02.

The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of subsection (a) if either division (E)(2)(a) or (b) of this section applies. The mandatory prison term shall be a definite term from the range of prison terms provided in division (A)(3)(a) of section 2929.14 of the Revised Code for a felony of the third degree or from division (A)(4) of that section for a felony of the fourth degree, whichever is applicable. The court shall impose a mandatory prison term on an offender in a category described in this division

- (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 Ohio R.C. 2903.06 or 2903.08.
- (2) At the time of the offense, the offender was driving under suspension or cancellation under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10.

- (q) Subsection (a)(1)B. does not apply in a particular construction zone unless signs of the type described in Ohio R.C. 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the Director of Transportation under Ohio R.C. 5501.27. The failure to erect signs of the type described in Ohio R.C. 2903.081 in a particular construction zone in accordance with those guidelines and design specifications does not limit or affect the application of 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.

- (r) As used in this section:

- (1) "Mandatory prison term" and "mandatory jail term" have the same meanings as in Ohio R.C. 2929.01.
- (2) "Traffic-related homicide, manslaughter or assault offense" means a violation of Ohio R.C. 2903.04 in circumstances in which division (D) of that section applies, a violation of Ohio R.C. 2903.06 or 2903.08, or a violation of Ohio R.C. 2903.06, 2903.07 or 2903.08 as they existed prior to March 23, 2000.
- (3) "Construction zone" has the same meaning as in Ohio R.C. 5501.27.
- (4) "Speeding offense" means a violation of Ohio R.C. 4511.21 or a municipal ordinance pertaining to speed.

- (s) 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. (ORC 2903.06)

- (t) 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 Ohio R.C. 4510.02 that is equivalent in length to the suspension required for a violation of Ohio R.C. 2903.06 under similar circumstances.

(ORC 4510.07)

434.09 TEXTING WHILE DRIVING PROHIBITED

(a) No person shall ~~drive~~ operate a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using a handheld, holding, or physically supporting with any part of the person's body an electronic wireless communications device to write, send, or read a text-based communication.

(b) Subsection (a) of this section does not apply to any of the following:

- (1) A person using an handheld electronic wireless communications device ~~in that manner for emergency purposes, including an emergency to make contact, for emergency purposes~~ with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;
- (2) A person driving a public safety vehicle ~~who uses a handheld while using an~~ electronic wireless communications device ~~in that manner~~ in the course of the person's duties;
- (3) A person using a ~~handheld~~ an electronic wireless communications device ~~in that manner whose when the person's~~ motor vehicle is in a stationary position and ~~who is~~ outside a lane of travel , at a traffic control signal that is currently directing traffic to stop, or parked on a road or highway due to an emergency or road closure;
- (4) A person ~~reading, selecting, or entering a name or telephone number in a handheld using and holding an~~ electronic wireless communications device directly near the person's ear for the purpose of making ~~or~~ receiving, or conducting a telephone call, provided that the person does not manually enter letters, numbers, or symbols into the device;
- (5) A person receiving wireless messages on a an electronic wireless communications device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic or weather alerts; or data used primarily by the motor vehicle , provided that the person does not hold or support the device with any part of the person's body;
- (6) A person ~~receiving wireless messages via radio waves using the speaker phone function of the~~ electronic wireless communications device, provided that the person does not hold or support the device with any part of the person's body;
- (7) A person using an electronic wireless communication device for navigation purposes, provided that the person does not do either of the following during the use:
 - (A) Manually enter letters, numbers, or symbols into the device;
 - (B) Hold or support the device with any part of the person's body;
- (8) A person ~~conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or using a feature or function of the~~ electronic wireless communications device with a single touch or single swipe, provided that the person does not do either of the following during the use:
 - (A) Manually enter letters, numbers, or symbols into the device;

(B) Hold or support the device with any part of the person's body;

(9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;

(10) A person operating a utility service vehicle or a vehicle for or on behalf of a utility, if the person is acting in response to an emergency, power outage, or circumstance that affects the health or safety of individuals;

(11) A person using a handheld an electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle or of the device without the use of either hand except to activate, deactivate, or initiate the feature or function with a single touch or swipe, provided the person does not hold or support the device with any part of the person's body;

(12) A person using technology that physically or electronically integrates the device into the motor vehicle, provided that the person does not do either of the following during the use:

(a) Manually enter letters, numbers, or symbols into the device;

(b) Hold or support the device with any part of the person's body.

(13) A person storing an electronic wireless communications device in a holster, harness, or article of clothing on the person's body.

~~(c) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of subsection (a) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.~~

If a law enforcement officer issues an offender a ticket, citation, or summons for a violation of division (A) of this section, the officer shall do both of the following:

(a) Report the issuance of the ticket, citation, or summons to the officer's law enforcement agency;

(b) Ensure that such report indicates the offender's race.

(D)(1) Whoever violates division (A) of this section is guilty of operating a motor vehicle while using an electronic wireless communication device, an unclassified misdemeanor.

(a) Except as provided in divisions (D)(1)(b), (c), (d), and (2) of this section, the court shall impose upon the offender a fine of not more than one hundred fifty dollars.

(b) If, within two years of the violation, the offender has been convicted of or pleaded guilty to one prior violation of this section or a substantially equivalent municipal ordinance, the court shall impose upon the offender a fine of not more than two hundred fifty dollars.

(c) If, within two years of the violation, the offender has been convicted of or pleaded guilty to two or more prior violations of this section or a substantially equivalent municipal ordinance, the court shall impose upon the offender a fine of not more than five hundred dollars. The court also may impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for ninety days.

(d) Notwithstanding divisions (D)(1)(a) to (c) of this section, if the offender was operating the motor vehicle at the time of the violation in a construction zone where a sign was posted in accordance with section 4511.98 of the Revised Code, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the amount imposed for the violation under division (D)(1)(a), (b), or (c) of this section, as applicable.

(2) In lieu of payment of the fine of one hundred fifty dollars under division (D)(1)(a) of this section and the assessment of points under division (D)(4) of this section, the offender instead may elect to attend the distracted driving safety course, as described in section 4511.991 of the Revised Code. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall not be required to pay the fine and shall not have the points assessed against that offender's driver's license if the offender submits the written evidence to the court within 90 days of the violation of division (A) of this section. However, successful completion of the course does not result in a dismissal of the charges for the violation, and the violation is a prior offense under divisions (D)(1)(b) and (c) of this section if the offender commits a subsequent violation or violations of division (A) of this section within two years of the offense for which the course was completed.

(3) The court may impose any other penalty authorized under sections 2929.21 to 2929.28 of the Revised Code. However, the court shall not impose a fine or a suspension not otherwise specified in division (D)(1) of this section. The court also shall not impose a jail term or community residential sanction.

(4) Except as provided in division (D)(2) of this section, points shall be assessed for a violation of division (A) of this section in accordance with section 4510.036 of the Revised Code.

(5) The offense established under this section is a strict liability offense and section 2901.20 of the Revised Code does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

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

(v) (f) A prosecution for an offense in violation of Ohio R.C. 4511.204 does not preclude a prosecution for an offense in violation of a substantially equivalent municipal ordinance based on the same conduct. However, if an offender is convicted of or pleads guilty to a violation of Ohio R.C. 4511.204 and is also convicted of or pleads guilty to a violation of a substantially equivalent municipal ordinance based on the same conduct, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.

(g)

(1) A law enforcement officer does not have probable cause and shall not stop the operator of a motor vehicle for purposes of enforcing this section unless the officer visually observes the operator using, holding, or physically supporting with any part of the person's body the electronic wireless communications device.

(2) A law enforcement officer who stops the operator of a motor vehicle, trackless trolley, or streetcar for a violation of division (A) of this section shall inform the operator that the operator may decline a search of the operator's electronic wireless communications device. The officer shall not do any of the following:

(A) Access the device without a warrant, unless the operator voluntarily and unequivocally gives consent for the officer to access the device;

(B) Confiscate the device while awaiting the issuance of a warrant to access the device;

(C) Obtain consent from the operator to access the device through coercion or any other improper means.

Any consent by the operator to access the device shall be voluntary and unequivocal before the officer may access the device without a warrant.

(w) (h)As used in this section:

(1) "Electronic wireless communications device" includes any of the following:

A. A wireless telephone;

- B. A text-messaging device;
- C. A personal digital assistant;
- D. A computer, including a laptop computer and a computer tablet;
- E. Any other substantially similar wireless device that is designed or used to communicate text , initiate or receive communication, or exchange information or data.

An “electronic wireless communications device” does not include a two-way radio transmitter or receiver used by a person who is licensed by the federal communications commission to participate in the amateur radio service.

- F. Any device capable of displaying a video, movie, broadcast television image, or visual image;

(2) "Voice-operated or hands-free device feature or function" means a device feature or function that allows the user to vocally compose or send, or to listen to a text-based communication a person to use an electronic wireless communications device without the use of either hand, except to activate, or deactivate a ,or initiate the feature or function with a single touch or single swipe.

(3) "Write, send or read a text-based communication" means to manually write or send, or read a text-based communication using an electronic wireless-communications device, including manually writing or sending, or reading-communications referred to as text messages, instant messages, or electronic mail. "Utility" means an entity specified in division (A), (C), (D), (E), or (G) of section 4905.03 of the Revised Code.

(4) “Utility service vehicle” means a vehicle owned or operated by a utility.

(ORC 4511.204)

436.021 OHIO DRIVER'S LICENSE REQUIRED FOR IN STATE RESIDENTS

(a) Any person who becomes a resident of this State, within thirty days of becoming a resident, shall surrender any driver's license, temporary instruction permit, or identification card issued by another state to the Registrar of Motor Vehicles or a Deputy Registrar. If such a person intends to operate a motor vehicle upon the public roads or highways, the person shall apply for a temporary instruction permit or driver's license in this State. If the person fails to apply for a driver's license or temporary instruction permit within thirty days of becoming a resident, the person shall not operate any motor vehicle in this Municipality under a license or permit issued by another state.

(b)

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

(2) The offense established under subsection (b)(1) of this section is a strict liability offense and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

Codifier: Added material is underlined, deleted material is struck through.

(c) For purposes of subsection (a) of this section, "resident" means any person to whom any of the following applies:

- (1) The person maintains their principal residence in this State and does not reside in this State as a result of the person's active service in the United States Armed Forces.
- (2) The person is determined by the Registrar of Motor Vehicles to be a resident in accordance with standards adopted by the Registrar under Ohio R.C. 4507.01.

(ORC 4507.213)

436.09 DISPLAY OF LICENSE PLATES; REGISTRATION; OBSTRUCTIONS

(a)

- (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the rear of the motor vehicle a license plate that displays the distinctive number and registration mark assigned to the motor vehicle by the Ohio Director of Public Safety, including any county identification sticker and any validation sticker when required by and issued under R.C. §§ 4503.19 and 4503.191. However, a commercial tractor shall display the license plate on the front of the commercial tractor.
- (2) The license plate shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs its visibility.
- (3) No person to whom a temporary motor vehicle license registration has been issued for the use of a motor vehicle under R.C. § 4503.182, and no operator of that motor vehicle, shall fail to display the temporary motor vehicle license registration in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle.
- (4) No person shall cover a temporary motor vehicle license registration by any material that obstructs its visibility. (R.C. § 4503.21(A))

(b) Except as otherwise provided by R.C. §§ 4503.103, 4503.107, 4503.173, 4503.41, 4503.43 and 4503.46, no person who is the owner or chauffeur of a motor vehicle operated or driven upon the public roads or highways shall fail to file annually the application for registration or to pay the tax therefor. (R.C. § 4503.11(A))

(c)

- (1) Within 30 days of becoming a resident of this state, any person who owns a motor vehicle operated or driven upon the public roads or highways shall register the vehicle in this state. If such a person fails to register a vehicle owned by the person, the person shall not operate any motor vehicle in this state under a license issued by another state.
- (2) For purposes of division (c)(1) of this section, "resident" means any person to whom any of the following applies:
 - A. The person maintains their principal residence in this state and does not reside in this state as a result of the person's active service in the United States armed forces.
 - B. The person is determined by the Registrar of Motor Vehicles to be a resident in

accordance with standards adopted by the Registrar under R.C. § 4507.01. (R.C. § 4503.111(A), (C))

- (d) Upon the transfer of ownership of a motor vehicle, the registration of the motor vehicle expires, and the original owner immediately shall remove the license plates from the motor vehicle, except as otherwise provided in R.C. § 4503.12. (R.C. § 4503.12(A))
- (e) No person shall operate or drive upon the highways of this municipality a motor vehicle acquired from a former owner who has registered the motor vehicle, while the motor vehicle displays the distinctive number or identification mark assigned to it upon its original registration. (R.C. § 4549.11(A))
- (f) No person who is the owner of a motor vehicle and a resident of this state shall operate or drive the motor vehicle upon the highways of this municipality while it displays a distinctive number or identification mark issued by or under the authority of another state, without complying with the laws of this state relating to the registration and identification of motor vehicles. (R.C. § 4549.12(A))
- (g)
 - (1)
 - A. Whoever violates division (a) of this section is guilty of a minor misdemeanor.
 - B. The offenses established under division (a) of this section are strict liability offenses and R.C. § 2901.20 does not apply. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense. (R.C. § 4503.21(B), (C))

- (2) Whoever violates division (b) of this section is guilty of a minor misdemeanor. (R.C. § 4503.11(D))
- (3)
- A. Whoever violates division (c) of this section is guilty of a minor misdemeanor.
- B. The offense established under division (g)(3)A. of this section is a strict liability offense and strict liability is a culpable mental state for purposes of R.C. § 2901.20. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense. (R.C. § 4503.111(B))
- (4) Whoever violates division (d) of this section is guilty of a misdemeanor of the fourth degree. (R.C. § 4503.12(D))
- (5) Whoever violates division (e) of this section is guilty of operation of a motor vehicle bearing license plates or an identification mark issued to another, a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense. (R.C. § 4549.11(B))
- (6) Whoever violates division (f) of this section is guilty of illegal operation by a resident of this state of a motor vehicle bearing the distinctive number or identification mark issued by a foreign jurisdiction, a minor misdemeanor.
(R.C. § 4549.12(B))

438.16 NUMBER OF LIGHTS PERMITTED; RED AND FLASHING LIGHTS

- (a) Whenever a motor vehicle equipped with headlights is also equipped with any auxiliary lights or spotlight or any other light on the front thereof projecting a beam of an intensity greater than 300 candlepower, not more than a total of five of any such lights on the front of a vehicle shall be lighted at any one time when the vehicle is upon a highway.
- (b) Any lighted light or illuminating device upon a motor vehicle, other than headlights, spotlights, signal lights, or auxiliary driving lights, that projects a beam of light of an intensity greater than 300 candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.
- (c)
- (1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing.
- (2) The prohibition in division (c)(1) of this section does not apply to any of the following:
- A. Emergency vehicles, road service vehicles servicing or towing a disabled vehicle, stationary waste collection vehicles actively collecting garbage, refuse, trash, or recyclable materials on the roadside, rural mail delivery vehicles, vehicles as provided in R.C. § 4513.182, highway maintenance vehicles, and similar equipment operated by state or local authorities, provided such vehicles are equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing,

oscillating, or rotating amber light;

- B. Vehicles or machinery permitted by R.C. § 4513.111 to have a flashing red light;
- C. Farm machinery and vehicles escorting farm machinery, provided such machinery and vehicles are equipped with and display, when used on a street or highway, a flashing, oscillating, or rotating amber light. Farm machinery also may display the lights described in R.C. § 4513.111.
- D. A funeral hearse or funeral escort vehicle, provided that the funeral hearse or funeral escort vehicle is equipped with and displays, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating purple or amber light;
- E. (e) A vehicle being used for emergency preparedness, response, and recovery activities, as those terms are defined in section 5502.21 of the Revised Code, that is equipped with and displays, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating amber or red and white light, provided that the vehicle is being operated by a person from one of the following and the vehicle is clearly marked with the applicable agency's or authority's insignia:
 - (i) The Ohio emergency management agency;
 - (ii) A countywide emergency management agency established under section 5502.26 of the Revised Code;
 - (iii) A regional authority for emergency management established under section 5502.27 of the Revised Code;
 - (iv) A program for emergency management established under section 5502.271 of the Revised Code

- (3) Division (c)(1) of this section does not apply to animal-drawn vehicles subject to R.C. § 4513.114.

(d)

- (1) Except a person operating a public safety vehicle, as defined in R.C. § 4511.01(E), an emergency management agency vehicle, as described in division (c)(2)(E) of this section or a school bus, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light.
- (2) Except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, operating a public safety vehicle when on duty, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any street or highway any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white oscillating or rotating light.

(e) This section does not prohibit the use of warning lights required by law or the simultaneous flashing of turn signals on disabled vehicles or on vehicles being operated in unfavorable atmospheric conditions in order to enhance their visibility. This section also does not prohibit the simultaneous flashing of turn signals or warning lights whether on farm machinery or vehicles escorting farm machinery when used on a street or highway. (ORC 4513.17)

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

4513.17)

438.165 LIGHTS AND SOUND-PRODUCING DEVICES ON CORONERS' VEHICLES

(a) Notwithstanding any other provision of law, a motor vehicle operated by a coroner, deputy coroner or coroner's investigator may be equipped with a flashing, oscillating or rotating red or blue light and siren, whistle or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet. Such a vehicle may display the flashing, oscillating or rotating red or blue light and may give the audible signal of the siren, whistle or bell only when responding to a fatality or a fatal motor vehicle accident on a street or highway and only at those locations where the stoppage of traffic impedes the ability of the coroner, deputy coroner or coroner's investigator to arrive at the site of the fatality.

(b) This section does not relieve the coroner, deputy coroner or coroner's investigator operating a motor vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway. (ORC 4513.171)

(c) Whoever violates this section is guilty of a minor misdemeanor ~~on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.~~

(ORC 4513.99)

438.17 VEHICLES TRANSPORTING PRESCHOOL CHILDREN

(a) No person shall operate any motor vehicle owned, leased, or hired by a nursery school, kindergarten, or ~~day-care~~ child care center, while transporting preschool children to or from such an institution unless the motor vehicle is equipped with and displaying two amber flashing lights mounted on a bar attached to the top of the vehicle, and a sign bearing the designation "caution — children," which shall be attached to the bar carrying the amber flashing lights in such a manner as to be legible to persons both in front of and behind the vehicle. The lights and sign shall meet standards and specifications adopted by the Director of Public Safety.

(b) No person shall operate a motor vehicle displaying the lights and sign required by this section for any purpose other than the transportation of preschool children as provided in this section. (ORC 4513.182)

(c) Whoever violates this section is guilty of a minor misdemeanor ~~on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.~~

(ORC 4513.99)

438.23 WINDSHIELD REQUIRED; SIGN OR POSTER UPON WINDSHIELD; WINDSHIELD WIPER

- (a) No person shall drive any motor vehicle on a street or highway in this Municipality, other than a motorcycle or motorized bicycle, that is not equipped with a windshield.
- (b)
- (1) No person shall drive any motor vehicle, other than a bus, with any sign, poster or other nontransparent material upon the front windshield, sidewings, side or rear windows of such vehicle other than a certificate or other paper required to be displayed by law, except that there may be in the lower left-hand or right-hand corner of the windshield a sign, poster or decal not to exceed four inches in height by six inches in width. No sign, poster or decal shall be displayed in the front windshield in such a manner as to conceal the vehicle identification number for the motor vehicle when in accordance with federal law, that number is located inside the vehicle passenger compartment and so placed as to be readable through the vehicle glazing without moving any part of the vehicle.
- (2) Subsection (b)(1) of this section does not apply to a person who is driving a passenger car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if ~~the device meets both~~ either of the following apply to the device:
- A. It is a “vehicle safety technology” as defined in 49 C.F.R. 393.5. and complies with 49 C.F.R. 393.60(e)(1)(ii).
- ~~A.~~ B. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals. ~~It, and it~~ it does not conceal the vehicle identification number.
- (3) Subsection (b)(1) of this section does not apply to a person who is driving a commercial car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if ~~the device meets both~~ either of the following apply to the device:
- A. It is a “vehicle safety technology” as defined in 49 C.F.R. 393.5. and complies with 49 C.F.R. 393.60(e)(1)(ii).
- ~~A.~~ B. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals. ~~It is mounted not more than six~~ eight and one-half inches below the upper edge of the windshield ~~and is outside the area swept by the vehicle's windshield wipers.~~
- (c) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield. The device shall be maintained in good working order and so constructed as to be controlled or operated by the operator of the vehicle. (ORC 4513.24)
- (d) Whoever violates this section is guilty of a minor misdemeanor. (ORC

4513.24)

438.28 USE OF CHILD RESTRAINTS

- (a) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor safety standards:
- (1) A child who is less than four years of age;
 - (2) A child who weighs less than forty pounds.
- (b) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab, that is owned, leased or otherwise under the control of a nursery school, or ~~day-care~~ child care center, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:
- (1) A child who is less than four years of age;
 - (2) A child who weighs less than forty pounds.
- (c) When any child who is less than eight years of age and less than four feet nine inches in height, who is not required by subsection (a) or (b) of this section to be secured in a child restraint system, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01 or a vehicle that is regulated under Ohio R.C. 5104.01+015, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions on a booster seat that meets federal motor vehicle safety standards.
- (d) When any child who is at least eight years of age but not older than fifteen years of age and who is not otherwise required by subsection (a), (b) or (c) hereof to be secured in a child restraint system or booster seat, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards or in an occupant restraining device as defined in Ohio R.C. 4513.263.
- (e) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of subsection (c) or (d) of this section or causing the arrest of or commencing a prosecution of a person for a violation of subsection (c) or (d) of this section, and absent another violation of law, a law enforcement officer's view of the interior or visual inspection of a motor vehicle being operated on any street or highway may not be used for the purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed.
- (f) The Ohio Director of Public Safety shall adopt such rules as are necessary to carry out this section.
- (g) The failure of an operator of a motor vehicle to secure a child in a child restraint system, a booster seat or an occupant restraining device as required by this section is not negligence imputable to the child, is not admissible as evidence in any civil action involving the rights of the child against any

other person allegedly liable for injuries to the child, is not to be used as a basis for a criminal prosecution of the operator of the motor vehicle other than a prosecution for a violation of this section, and is not admissible as evidence in any criminal action involving the operator of the motor vehicle other than a prosecution for a violation of this section.

- (h) This section does not apply when an emergency exists that threatens the life of any person operating or occupying a motor vehicle that is being used to transport a child who otherwise would be required to be restrained under this section. This section does not apply to a person operating a motor vehicle who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or a chiropractor licensed to practice in this State under Ohio R.C. Chapter 4734 that states that the child who otherwise would be required to be restrained under this section has a physical impairment that makes use of a child restraint system, booster seat or an occupant restraining device impossible or impractical, provided that the person operating the vehicle has safely and appropriately restrained the child in accordance with any recommendations of the physician or chiropractor as noted on the affidavit.
- (i) Nothing in this section shall be construed to require any person to carry with the person the birth certificate of a child to prove the age of the child, but the production of a valid birth certificate for a child showing that the child was not of an age to which this section applies is a defense against any ticket, citation or summons issued for violating this section.
- (j) Whoever violates subsection (a), (b), (c) or (d) of this section shall be punished as follows, provided that the failure of an operator of a motor vehicle to secure more than one child in a child restraint system, booster seat, or occupant restraining device as required by this section that occurred at the same time, on the same day, and at the same location is deemed to be a single violation of this section:
- (1) Except as otherwise provided in subsection (j)(2) of this section, the offender is guilty of a minor misdemeanor and shall be fined not less than twenty-five dollars (\$25.00) nor more than seventy-five dollars (\$75.00).
 - (2) If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a), (b), (c) or (d) of this section or of a state law or municipal ordinance that is substantially similar to any of those subsections, the offender is guilty of a misdemeanor of the fourth degree.

(ORC 4511.81)

440.11 OCCUPYING TRAVEL TRAILER OR MANUFACTURED HOME WHILE IN MOTION

- (a) ~~No~~ Except as provided in division (b) of this section, no person shall occupy any travel trailer, fifth wheel trailer, or manufactured or mobile home while it is being used as a conveyance upon a street or highway.
- (b) Division (a) of this section does not apply to a fifth wheel trailer when both of the following apply:
- (1) Any child riding in the fifth wheel trailer is properly secured in the manner provided in section 4511.81 of the Revised Code.
 - (2) The operator of the vehicle towing the fifth wheel trailer has some means of viable communication with the passengers riding in the trailer.

Codifier: Added material is underlined, deleted material is struck through.

As used in this division, “viable communication” includes a cellular or satellite telephone, a radio, or any other similar electronic wireless communications device.

- (c) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

The offense established under this section is a strict liability offense and section ORC 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(ORC 4511.701)

440.15 CHAUFFEURED LIMOUSINES

- (a) The operator of a chauffeured limousine shall accept passengers only on the basis of prearranged contracts, as defined in Ohio R.C. 4501.01, and shall not cruise in search of patronage unless the limousine is in compliance with any statute or ordinance governing the operation of taxicabs or other similar vehicles for hire.
- (b) The operator of a chauffeured limousine may provide transportation to passengers who arrange for the transportation through an intermediary, including a digital dispatching service. Notwithstanding any law to the contrary, when providing transportation arranged through an intermediary, the operator of a chauffeured limousine may establish the fare and method of fare calculation, so long as the method of fare calculation is provided to the passenger upon request.
- (c) No person shall advertise or hold himself or herself out as doing business as a limousine service or livery service or other similar designation unless each vehicle used by the person to provide the service is registered in accordance with Ohio R.C. 4503.24 and is in compliance with Ohio R.C. 4509.80.
- (d) Whoever violates this section is guilty of a misdemeanor of the first degree.

(ORC 4511.85)

442.01 DEFINITIONS

As used in this chapter:

- (a) "Alcohol concentration" means the concentration of alcohol in a person's blood, breath or urine. When expressed as a percentage, it means grams of alcohol per the following:
- (1) One hundred milliliters of whole blood, blood serum, or blood plasma;
 - (2) Two hundred ten liters of breath;
 - (3) One hundred milliliters of urine.
- (b)
- (1) "Commercial driver's license" means a license issued in accordance with Ohio R.C. Chapter 4506 that authorizes an individual to drive a commercial motor vehicle. Except as otherwise specifically provided, “commercial driver's license” includes an “enhanced

commercial driver's license.”

(2) “Enhanced commercial driver's license” means a commercial driver's license issued in accordance with sections 4507.021 and 4506.072 of the Revised Code that denotes citizenship and identity and is approved by the United States secretary of homeland security or other designated federal agency for purposes of entering the United States.

- (c) "Commercial motor vehicle" means any motor vehicle designed or used to transport persons or property that meets any of the following qualifications:
- (1) Any combination of vehicles with a gross vehicle weight or combined gross vehicle weight rating of 26,001 pounds or more, provided the gross vehicle weight or gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds;
 - (2) Any single vehicle with a gross vehicle weight or gross vehicle weight rating of 26,001 pounds or more;
 - (3) Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport sixteen or more passengers including the driver;
 - (4) Any school bus with a gross vehicle weight or gross vehicle weight rating of less than 26,001 pounds that is designed to transport fewer than sixteen passengers including the driver;
 - (5) Is transporting hazardous materials for which placarding is required under subpart F of 49 C.F.R. part 172, as amended;
 - (6) Any single vehicle or combination of vehicles that is designed to be operated and to travel on a public street or highway and is considered by the Federal Motor Carrier Safety Administration to be a commercial motor vehicle, including, but not limited to, a motorized crane, a vehicle whose function is to pump cement, a rig for drilling wells, and a portable crane.
- (d) "Controlled substance" means all of the following:
- (1) Any substance classified as a controlled substance under the "Controlled Substances Act," 80 Stat. 1242 (1970), 21 U.S.C.A. 802(6), as amended;
 - (2) Any substance included in schedules I through V of 21 C.F.R. part 1308, as amended;
 - (3) Any drug of abuse.
- (e) "Disqualification" means any of the following:
- (1) The suspension, revocation, or cancellation of a person's privileges to operate a commercial motor vehicle;
 - (2) Any withdrawal of a person's privileges to operate a commercial motor vehicle as the result of a violation of state or local law relating to motor vehicle traffic control other than parking, vehicle weight, or vehicle defect violations;
 - (3) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. 391.

- (f) "Drive" means to drive, operate or be in physical control of a motor vehicle.
- (g) "Driver" means any person who drives, operates or is in physical control of a commercial motor vehicle or is required to have a commercial driver's license.
- (h) "Driver's license" means a license issued by the Ohio Bureau of Motor Vehicles that authorizes an individual to drive.
- (i) "Drug of abuse" means any controlled substance, dangerous drug as defined in Ohio R.C. 4729.01, harmful intoxicant as defined in Ohio R.C. 2925.01, or over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes.
- (j) "Employer" means any person, including the Federal Government, any state and a political subdivision of any state, that owns or leases a commercial motor vehicle or assigns a person to drive such a motor vehicle.
- (k) "Endorsement" means an authorization on a person's commercial driver's license that is required to permit the person to operate a specified type of commercial motor vehicle.
- (l) "Farm truck" means a truck controlled and operated by a farmer for use in the transportation to or from a farm, for a distance of not more than one hundred fifty miles, of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm, from a distance of not more than one hundred fifty miles, of supplies for the farm, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock and poultry production, and livestock, poultry and other animals and things used for breeding, feeding, or other purposes connected with the operation of the farm, when the truck is operated in accordance with this subsection and is not used in the operations of a motor carrier, as defined in Ohio R.C. 4923.01.
- (m) "Fatality" means the death of a person as the result of a motor vehicle accident occurring not more than three hundred sixty-five days prior to the date of a death.
- (n) "Felony" means any offense under federal or state law that is punishable by death or specifically classified as a felony under the law of this State, regardless of the penalty that may be imposed.
- (o) "Foreign jurisdiction" means any jurisdiction other than a state.
- (p) "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. The gross vehicle weight rating of a combination vehicle is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of each towed unit.
- (q) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73, as amended.
- (r) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, except that such term does not include a vehicle, machine, tractor, trailer or semitrailer operated exclusively on a rail.
- (s) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, local, Canadian or Mexican jurisdiction declaring that a driver, commercial motor vehicle or commercial motor carrier operation is out of service as defined in 49 C.F.R. 390.5.
- (t) "Public safety vehicle" has the same meaning as in divisions (E)(1) and (3) of Ohio R.C. 4511.01.

- (u) "Recreational vehicle" includes every vehicle that is defined as a recreational vehicle in Ohio R.C. 4501.01 and is used exclusively for purposes other than engaging in business for profit.
- (v) "School bus" has the same meaning as in Ohio R.C. 4511.01.
- (w) "State" means a state of the United States and includes the District of Columbia.
- (x) "Tester" means a person or entity acting pursuant to a valid agreement entered into pursuant to Ohio R.C. 4506.09.
- (y) "United States" means the fifty states and the District of Columbia.
- (z) "Vehicle" has the same meaning as in Ohio R.C. 4511.01. (ORC

4506.01)

442.04 PROHIBITIONS

- (a) No person shall do any of the following:
 - (1) Drive a commercial motor vehicle while having in the person's possession or otherwise under the person's control more than one valid driver's license issued by this State, any other state or by a foreign jurisdiction;
 - (2) Drive a commercial motor vehicle on a highway in this Municipality in violation of an out-of-service order, while the person's driving privilege is suspended, revoked or canceled, or while the person is subject to disqualification;
 - (3) Drive a motor vehicle on a highway in this Municipality under authority of a commercial driver's license issued by another state or a foreign jurisdiction, after having been a resident of this State for thirty days or longer.
 - (4) Knowingly provide false statements or engage in any fraudulent act related to testing for a commercial driver's license as required in section 4506.09 of the Revised Code.

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

(c) Whoever violates division (A)(4) of this section is guilty of falsification, a misdemeanor

of the third degree. In addition, the provisions of section 4507.19 of the Revised Code apply.

(d) (ORC 4506.04)

442.05 CRIMINAL OFFENSES

- (a) No person who holds a commercial driver's license, or commercial driver's license temporary instruction permit or who operates a motor vehicle for which a commercial driver's license or permit is required shall do any of the following:
 - (1) Drive a commercial motor vehicle while having a measurable or detectable amount of alcohol or of a controlled substance in the person's blood, breath or urine;
 - (2) Drive a commercial motor vehicle while having an alcohol concentration of four-hundredths of one percent or more by whole blood or breath;

Codifier: Added material is underlined, deleted material is struck through.

- (3) Drive a commercial motor vehicle while having an alcohol concentration of forty-eight-thousandths of one percent or more by blood serum or blood plasma;
- (4) Drive a commercial motor vehicle while having an alcohol concentration of fifty-six-thousandths of one percent or more by urine;
- (5) Drive a motor vehicle while under the influence of a controlled substance;
- (6) Drive a motor vehicle in violation of Ohio R.C. 4511.19 or a municipal OVI ordinance as defined in Ohio R.C. 4511.181;
- (7) Use a motor vehicle in the commission of a felony;
- (8) Refuse to submit to a test under Ohio R.C. 4506.17 or 4511.191;
- (9) Operate a commercial motor vehicle while the person's commercial driver's license or permit or other commercial driving privileges are revoked, suspended, canceled, or disqualified;
- (10) Cause a fatality through the negligent operation of a commercial motor vehicle, including, but not limited to, the offenses of aggravated vehicular homicide, vehicular homicide, and vehicular manslaughter;
- (11) Fail to stop after an accident in violation of Sections 436.11 to 436.13;
- (12) Drive a commercial motor vehicle in violation of any provision of Ohio R.C. 4511.61 to 4511.63 or any federal or local law or ordinance pertaining to railroad-highway grade crossings;
- (13) Use a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance as defined in Ohio R.C. 3719.01 or the possession with intent to manufacture, distribute, or dispose a controlled substance.
- (14) Use a commercial motor vehicle in the commission of a violation of section Ohio R.C. 2905.32 or any other substantially equivalent offense established under federal law or the laws of another state.

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

(c) The offenses established under this section are strict liability offenses and Ohio R.C. section 2901.20 does not apply. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(ORC 4506.15)

476.01 DEFINITIONS

As used in this chapter:

- (a) "All-purpose vehicle." Any self-propelled vehicle designed primarily for cross- country travel on land and water, or on more than one type of terrain, and steered by wheels or caterpillar treads, or

any combination thereof, including vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all season vehicles, mini-bikes and trail bikes. The term does not include a utility vehicle as defined in Ohio R.C. 4501.01 or any vehicle principally used in playing golf, any motor vehicle or aircraft required to be registered under Ohio R.C. Chapter 4503 or Ohio R.C. Chapter 4561, and any vehicle excepted from definition as a motor vehicle by Ohio R.C. 4501.01(B).

- (b) "Dealer." Any person or firm engaged in the business of manufacturing or selling snowmobiles, off-highway motorcycles, or all-purpose vehicles at wholesale or retail, or who rents, leases or otherwise furnishes snowmobiles, off-highway motorcycles, or all-purpose vehicles for hire.
- (c) "Electronic" and "electronic record." Have the same meanings as in Ohio R.C. 4501.01.
- (d) "Electronic dealer." A dealer whom the Registrar of Motor Vehicles designates under Ohio R.C. 4519.511.
- (e) "Interstate highway." Any part of the interstate system of highways as defined in subsection (e), 90 Stat. 431 (1976), 23 U.S.C. 103, as amended.
- (f) "Limited access highway" or "freeway." Have the same meanings as in Ohio R.C. 5511.02.
- (g) "Off-highway motorcycle." Every motorcycle, as defined in Ohio R.C. 4511.01, that is designed to be operated primarily on lands other than a street or highway.
- (h) "Operator." Any person who operates or is in actual physical control of a snowmobile, off-highway motorcycle, or all-purpose vehicle.
- (i) "Owner." Any person or firm, other than a lienholder or dealer, having title to a snowmobile, off-highway motorcycle, or all-purpose vehicle, or other right to the possession thereof.
- (j) "Snowmobile." Any self-propelled vehicle designed primarily for use on snow or ice, and steered by skis, runners or caterpillar treads.
- (k) "Street" or "highway." Have the same meaning as in Ohio R.C. 4511.01.

(l) "Mini-truck" means a vehicle that has four wheels, is propelled by an electric motor with a rated power of seven thousand five hundred watts or less or an internal combustion engine with a piston displacement capacity of six hundred sixty cubic centimeters or less, has a total dry weight of nine hundred to two thousand two hundred pounds, contains an enclosed cabin and a seat for the vehicle operator, resembles a pickup truck or van with a cargo area or bed located at the rear of the vehicle, and was not originally manufactured to meet federal motor vehicle safety standards.

(m) "State highway" and "state route" have the same meanings as in section 4511.01 of the Revised Code.

(n) “Proof of financial responsibility” has the same meaning as in section 4509.01 of the Revised Code.

(ORC 4519.01)

476.03 CODE APPLICATION; PROHIBITED OPERATION

- (a) The applicable provisions of this Traffic Code ~~shall be applied~~ apply to the operation of snowmobiles, off-highway motorcycles, and all-purpose vehicles, except that no person shall operate a snowmobile, off-highway motorcycle, or all-purpose vehicle shall be operated as follows:
- (1) On any street, ~~state highway, including a~~ limited access highway or freeway or the right-of-way thereof, except for emergency travel ~~only~~ during such time and in such manner as the Ohio Director of Public Safety or local authority having jurisdiction ~~shall designate, designates or~~ and except as provided in Section 476.04;
 - (2) On any private property, or in any nursery or planting area, without the permission of the owner or other person having the right to possession of the property;
 - (3) On any land or waters controlled by the State, except at those locations where a sign has been posted permitting such operation;
 - (4) On the tracks or right-of-way of any operating railroad;
 - (5) While transporting any firearm, bow or other implement for hunting that is not unloaded and securely encased;
 - (6) For the purpose of chasing, pursuing, capturing or killing any animal or wild fowl; or
 - (7) During the time from sunset to sunrise, unless displaying lighted lights as required by Ohio R.C. 4519.20 or a substantially similar municipal ordinance.
- (b) Whoever violates this section shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or imprisoned not less than 3 nor more than 30 days, or both.

(ORC 4519.40)

476.04 PERMITTED OPERATION

Snowmobiles, off-highway motorcycles, and all-purpose vehicles may be operated as follows:

- (a) To make a crossing of a highway, other than a highway as designated in Ohio R.C. 4519.40(A)(1) or a substantially similar municipal ordinance, whenever the crossing can be made in safety and will not interfere with the movement of vehicular traffic approaching from any direction on the highway, and provided that the operator yields the right-of-way to any approaching traffic that presents an immediate hazard;
- (b) On highways in the county or township road systems whenever the local authority having jurisdiction over such highways so permits;
- (c) Off and alongside street or highway for limited distances from the point of unloading from a conveyance to the point at which the snowmobile, off-highway motorcycle, or all-purpose vehicle is intended and authorized to be operated;
- (d) On the berm or shoulder of a highway, other than a highway as designated in Ohio R.C.

4519.40(A)(1) or a substantially similar municipal ordinance, when the terrain permits such operation to be undertaken safely and without the necessity of entering any traffic lane;

(e) On the berm or shoulder or a county or township road, while traveling from one area of operation of the snowmobile, off-highway motorcycle, or all-purpose vehicle to another such area-;

(f) For snowmobiles without metal studded tracks and all-purpose vehicles, on state highways located on an island in Lake Erie, including limited access highways and freeways, between the first day of November and the thirtieth day of April, provided that all of the following conditions apply:

(1) The operator has a valid driver's license as required under section 4519.44 of the Revised Code.

(2) The snowmobile or all-purpose vehicle is in compliance with rules governing safety equipment adopted under section 4519.20 of the Revised Code.

(3) The owner of the snowmobile or all-purpose vehicle maintains proof of financial responsibility for both on-road and off-road use of the snowmobile or all-purpose vehicle.

(4) The operator obeys all traffic rules and regulations.

(ORC 4519.41)

476.08 REGISTRATION OF VEHICLES

(a) (1) Except as provided in division (b), (c) and (d) of this section, no person shall operate any snowmobile, off-highway motorcycle, or all-purpose vehicle within this Municipality unless the snowmobile, off-highway motorcycle, or all-purpose vehicle is registered and numbered in accordance with Ohio R.C. 4519.03 and 4519.04.

(2) Except as provided in Ohio R.C. section 4511.215, no registration is required for a mini-truck that is operated within this state. A mini-truck may be operated only in accordance with that section and Ohio R.C. section 4519.401.

(b) No registration is required for a snowmobile, off-highway motorcycle, or all- purpose vehicle that is operated exclusively upon lands owned by the owner of the snowmobile, off-highway motorcycle, or all-purpose vehicle, or on lands to which the owner has a contractual right.

(c) Any snowmobile, off-highway motorcycle, or all-purpose vehicle owned and used in this Municipality by a person who is not a resident of this State shall comply with Ohio R.C. 4519.09.

(d) No registration is required for a snowmobile, off-highway motorcycle, or all- purpose vehicle owned and used in this Municipality by the United States, another state or a political subdivision thereof, but the snowmobile, off-highway motorcycle, or all-purpose vehicle shall display the name of the owner thereon.

(e) The owner or operator of any all-purpose vehicle operated or used upon the waters in this Municipality shall comply with Ohio R.C. Chapter 1547 and Ohio R.C. Chapter 1548 relative to the operation of watercraft.

(f) Except as provided in this division, whoever violates division (a) of this section shall be fined not more than twenty-five dollars (\$25.00). If the offender previously has been convicted of or pleaded guilty to a violation of division (a) of this section or of Ohio R.C. 4519.02(A), whoever violates division (a) of this section shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00).

(ORC 4519.02)

SECTION 7. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule, or regulation adopted or issued in pursuance thereof 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 months.

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

SECTION 9. All ordinances and parts of ordinances in conflict herewith are expressly repealed.

SECTION 10. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were conducted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in accordance with all legal requirements, including §121.22 of the Ohio Revised Code.

SECTION 11. This Ordinance is hereby declared to be an emergency measure, the emergency being the immediate necessity to update the code for the health, safety and welfare of the Citizens of the City of North Ridgeville. Wherefore, this Ordinance shall take effect and be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: December 4, 2023



Jason R. Jacobs
PRESIDENT OF COUNCIL

ATTEST :



Nicholas Ciofani
CLERK OF COUNCIL

APPROVED: Dec 07, 2023



Kevin Corcoran
MAYOR