AMERICAN'S REVISED OHIO

BASIC CODE OF ORDINANCES

[Current through 1993 Banks-Baldwin p. 5-13]

AMERICAN LEGAL PUBLISHING CORPORATION

432 Walnut Street Cincinnati, Ohio 45202-3909 (513) 421-4248

PUBLISHER'S ACKNOWLEDGMENT

In the publication of this Code, every effort was made to provide easy access to local law by municipal officials, citizens, and members of the business community.

We want to express our grateful appreciation to all municipal officials for their untiring efforts in the preparation of this Code.

This Code is presented for the use and benefit of the citizens and municipal officials.

ANDERSON PUBLISHING COMPANY
Cincinnati, Ohio

John L. Mason, President

AMCODES Division

Carl G. Boltz, Manager
Renell M. Zoellner, Editor-In-Chief

VILLAGE OFFICIALS
OF
MILFORD CENTER, OHIO

Walter Scott, Mayor

Rose Mary Brill, Clerk

Robert O. Hamilton, Solicitor

Members of Council

James E. Caudill, President

Charles Lemaster — Arthur Middleton

Leonard Daum — John Jordan

Cindy Van Hoose

Gary Kronk, Chief of Police

William B. Brill, Administrator

ORDINANCE NO. 430

AN ORDINANCE APPROVING, ADOPTING, AND ENACTING ANDERSON'S REVISED OHIO BASIC CODE AS THE CODIFIED ORDINANCES OF THE VILLAGE.

WHEREAS, The present general and permanent ordinances of the Village are inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety, and welfare of the municipality and for the proper conduct of its affairs.

WHEREAS, The Anderson Publishing Company publishes a Code of Ordinances suitable for adoption by villages in Ohio.

WHEREAS, It is necessary to provide for the usual daily operation of the municipal departments, and for the immediate preservation of the public peace, health, and safety that this ordinance take effect at an early date; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MILFORD CENTER, STATE OF OHIO:

Section 1. Anderson's Revised Ohio Basic Code, as reviewed and approved by Council is adopted and enacted.

Section 2. One copy of Anderson's Revised Ohio Basic Code, certified as correct by the Mayor and Clerk of Council, as required by § 731.23 of the Revised Code of Ohio, shall be kept in its initial form on file in the Office of the Clerk of the Village and retained as a permanent ordinance record of the Village. The Clerk is authorized and directed to publish a summary of all new matters contained in the Code of Ordinances as required by § 731.23.

Section 3. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, and safety of the people of Milford Center, and shall take effect at the earliest date provided by law.

Passed: March 12, 1979

Attest:

/s/ Walter Scott
Mayor

/s/ Rose Mary Brill
Clerk

We Rose Mary Brill, Clerk of Council and Walter Scott Mayor of the Village of Milford Center, Ohio certify as correct these ordinances codified and published in book form.

/s/ Walter Scott
Mayor

/s/ Rose Mary Brill
Clerk

PUBLISHER'S ACKNOWLEDGEMENT

In the publication of this Code, every effort was made to provide easy access to local law by municipal officials, the citizens of this municipality, and members of the business community.

We want to express our grateful appreciation to all municipal officials for their untiring efforts in the preparation of this Code.

AMERICAN LEGAL PUBLISHING CO.

Stephen G. Wolf, Esq.
President

Sharon L. Martin, Esq.
Vice President/Editor-In-Chief

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§ 10.01 SHORT TITLES.

(A) All ordinances of a permanent and general nature of the municipality, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the "municipal code," for which designation "codified ordinances" or "code" may be substituted. Code, title, chapter, and section headings do not constitute any part of the law as contained in the code. (R.C. § 1.01)

(B) All references to codes, titles, chapters, and sections are to such components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the "traffic code." Sections may be referred to and cited by the designation "§" followed by the number, such as "§ 10.01." Headings and captions used in this code other than the title, chapter, and section numbers, are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.02 DEFINITIONS.

For purposes of this code the following words and phrases shall have the following meanings ascribed to them respectively.

"AND." May be read "OR", and "OR" may be read "AND", if the sense requires it. (R.C. § 1.02 (F))

"ANOTHER." When used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property. (R.C. § 1.02 (B))

"CITY," "TOWN," "VILLAGE," "MUNICIPAL CORPORATION," or "MUNICIPALITY." When used in this code, shall denote the municipality irrespective of its population or legal classification.

"COUNCIL." The legislative authority of the municipality.

"COUNTY." The county or counties in which the municipality is located.

"IMPRISONED." Includes the following.

(A) Imprisoned in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse if the offense is a misdemeanor.

(B) Imprisoned in a state penal or reformatory institution if the offense aggravated murder, murder, another offense punishable by life imprisonment, an aggravated felony of the first, second or third degree, or a felony of the first or second degree, or if imprisonment in a state penal or reformatory institution is ordered pursuant to R.C. § 2929.41 (E) (4).

(C) Imprisoned in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse if the offense is a felony of the third or fourth degree and is committed by a person who previously has not pleaded guilty to, pleaded no contest to and been found guilty of, or been convicted of a felony, if the offense is not an offense of violence, if the department of rehabilitation and correction and the local authority that operates the jail or workhouse has entered into an agreement pursuant to R.C. §5120.161 for the housing of such persons in the jail or workhouse, and if the department designates, pursuant to that section, that the person is to be imprisoned in the jail or workhouse.

(D) Imprisoned in a state penal or reformatory institution if the offense is a third or fourth degree felony and the person is not imprisoned in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse as described in division (C) above. (R.C. §1.05)

"KEEPER" or "PROPRIETOR." Includes all persons, whether acting by themselves or as a servant, agent, or employee.

"LAND" or "REAL ESTATE." Includes rights and easements of incorporeal nature. (R.C. § 701.01 (F))

"MAY." Is permissive.

"OATH." Includes affirmation; and "SWEAR" includes affirm. (R.C. § 1.59, § 701.01)

"OWNER." When applied to property, includes any part owner, joint owner, or tenant in common of the whole or part of such property.

"PERSON." Includes an individual, corporation, business trust, estate, trust, partnership, and association. (R.C. § 1.59 (C), § 701.01)

"PERSONAL PROPERTY." Includes all property except real.

"PLAN OF SEWERAGE," "SYSTEM OF SEWERAGE," "SEWER," and "SEWERS." Includes sewers, sewage disposal works and treatment plants, and sewage pumping stations, together with facilities and appurtenances necessary and proper therefor. (R.C. § 701.01)

"PREMISES." As applied to property, includes land and buildings.

"PROPERTY." Includes real, personal, mixed estates, and interests. (R.C. § 701.01 (E))

"PUBLIC AUTHORITY." Includes boards of education; the municipal, county, state, or federal government, its officers, or an agency thereof; or any duly authorized public official.

"PUBLIC PLACE." Includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation, or amusement.

"R.C." or "REVISED CODE." Refers to the Revised Code of Ohio.

"REAL PROPERTY." Includes lands, tenements, and hereditaments.

"REGISTERED MAIL." Includes certified mail; and "CERTIFIED MAIL" includes registered mail. (R.C. § 1.02 (G))

"SHALL." Is mandatory.

"SIDEWALK." That portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.

"STATE." The State of Ohio.

"STREET." Includes alleys, avenues, boulevards, lanes, roads, highways, viaducts, and all other public thoroughfares within the municipality.

"TENANT" or "OCCUPANT." As applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.

"WEEK." 7 consecutive days. (R.C. § 1.44)

"WHOEVER." Includes all persons, natural and artificial; partners; principals, agents, and employees; and all officials, public or private. (R.C. § 1.02 (A))

"WRITTEN" or "IN WRITING." Includes printing and any representation of words, letters, symbols, or figures; this provision does not affect any law relating to signatures. (R.C. § 1.59, § 701.01 (J))

"YEAR." 12 consecutive months. (R.C. § 1.44)

§ 10.03 RULES OF CONSTRUCTION.

(A) Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly. (R.C. § 1.42)

(B) As used in the code, unless the context otherwise requires:

(1) The singular includes the plural, and the plural includes the singular.

(2) Words of one gender include the other genders.

(3) Words in the present tense include the future. (R.C. § 1.43)

(C) Calendar; computation of time.

(1) The time within which an act is required by law to be done shall be computed by excluding the first and including the last day; except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day which is not a Sunday or a legal holiday.

(2) When a public office, in which an act required by law is to be performed, is closed to the public for the entire day which constitutes the last day for doing such act or before its usual closing time on such day, then such act may be performed on the next succeeding day which is not a Sunday or a legal holiday. (R.C. § 1.14)

(3) When an act is to take effect or become operative from and after a day named, no part of that day shall be included. (R.C. § 1.15)

(4) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month. (R.C. § 1.45)

(5) In all cases where the law shall require any act to be done in a reasonable time or reasonable notice to be given, reasonable time or notice shall mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

(D) Authority. When the law requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

(E) Joint authority. All words purporting to give joint authority to 3 or more municipal officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it shall be otherwise expressly declared in the law giving the authority, or inconsistent with state statute or Charter provisions.

(F) Exceptions. The rules of construction shall not apply to any law which shall contain any express provision excluding such construction, or when the subject matter or context of such law may be repugnant thereto.

§ 10.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

(A) The repeal of a repealing statute does not revive the ordinance orginally repealed nor impair the effect of any saving clause therein. (R.C. § 1.57)

(B) The reenactment, amendment, or repeal of an ordinance does not, except as provided in division (C) of this section:

(1) Affect the prior operation of the ordinance or any prior action taken thereunder;

(2) Affect any validation, cure, right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred thereunder;

(3) Affect any violation thereof or penalty, forfeiture, or punishment incurred in respect thereto, prior to the amendment or repeal;

(4) Affect any investigation, proceeding, or remedy in respect of any privilege, obligation, liability, penalty, forfeiture, or punishment; and the investigation, proceeding, or remedy may be instituted, continued, or enforced, and the penalty, forfeiture, or punishment imposed, as if the ordinance had not been repealed or amended.

(C) If the penalty, forfeiture, or punishment for any offense is reduced by a reenactment or amendment of an ordinance, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to the ordinance as amended. (R.C. § 1.58)

§ 10.05 CONSTRUCTION OF SECTION REFERENCES.

(A) Wherever in a penalty section reference is made to a violation of a section or an inclusive group of sections, such reference shall be construed to mean a violation of any provision of the section or sections included in the reference.

(B) References in the code to action taken or authorized under designated sections of the code include, in every case, action taken or authorized under the applicable legislative provision which is superseded by this code. (R.C. § 1.23)

(C) Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered, unless the subject matter be changed or materially altered by the amendment or revision.

§ 10.06 CONFLICTING PROVISIONS.

If the provisions of different codes, chapters, or sections of the codified ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be so construed as to be consistent with the meaning or legal effect of the questions of the subject matter taken as a whole.

§ 10.07 SEVERABILITY.

If any provisions of a section of these codified ordinances or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the section or related sections which can be given effect without the invalid provision or application, and to this end the provisions are severable. (R.C. § 1.50)

§ 10.08 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of the village exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.09 ERRORS AND OMISSIONS.

If a manifest error be discovered consisting of the misspelling of any word or words, the omission of any word or words necessary to express the intention of the provisions affected, the use of a word or words to which no meaning can be attached, or the use of a word or words when another word or words was clearly intended to express the intention, the spelling shall be corrected, and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provision shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

§ 10.10 ORDINANCES REPEALED.

With the exception of legislation covered in chapter 11, this code, from and after its effective date, shall contain all of the

provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code of ordinances.

Cross-reference:
Ordinances not covered by the codification, Chapter 11

§ 10.11 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature, and all other ordinances pertaining to subjects not enumerated and embraced in this code of ordinances, shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.12 ORDINANCES SAVED.

Whenever an ordinance by its nature either authorizes or enables the legislative body, or a certain municipal officer or employee, to make additional ordinances or regulations for the purpose of carrying out the intention of the ordinance, all ordinances and regulations of a similar nature serving the purpose, effected prior to the codification and not inconsistent thereto, shall remain in effect, and are saved.

§ 10.99 GENERAL PENALTY.

Where an act or omission is prohibited or declared unlawful in this code of ordinances, and no penalty of fine or imprisonment is otherwise provided, the offender shall be fined not more than $100 for each offense or violation.

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§ 11.01 ORDINANCES SPECIFICALLY REPEALED.

The following ordinances heretofore adopted are repealed:

ORDINANCE NUMBER	DATE PASSED	BRIEF DESCRIPTION

§ 11.02 ORDINANCES SPECIFICALLY SAVED.

None of the provisions of this code of ordinances shall be deemed in any manner to constitute a repeal of the following ordinances heretofore adopted, or to affect their enforceability:

ORDINANCE NUMBER	DATE PASSED	BRIEF DESCRIPTION

TITLE III: ADMINISTRATION

Chapter

30. GENERAL PROVISIONS

31. EXECUTIVE

32. LEGISLATIVE

33. JUDICIAL

34. POLICE DEPARTMENT

35. FIRE DEPARTMENT

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§ 30.01 APPLICATION OF TITLE III.

Title III of this code of ordinances is designed to include and incorporate, insofar as is practical, all legislation concerning the organization, qualifications, appointment or election, terms of office, compensation, and the powers and duties of the officials, boards, and bodies of the village. Pertinent sections of the Revised Code of Ohio relative to these offices and boards have been assembled and adopted as a part of this title. No material changes of the code sections referred to by annotation have been made. The purpose of including these sections is to afford easy reference to the statutory provisions.

§ 30.02 QUALIFICATIONS; OATHS.

Each officer of the municipality or of any department or board thereof, whether elected or appointed as a substitute for a regular officer, shall be an elector of the corporation, except as otherwise expressly provided, and before entering upon his official duties shall take an oath to support the constitution of the United States and the constitution of the state, and an oath that he will faithfully, honestly, and impartially discharge the duties of the office. These provisions as to official oaths shall extend to deputies, but they need not be electors. (R.C. § 733.68)

§ 30.03 BONDS OF OFFICERS AND EMPLOYEES; AMOUNT OF.

Before entering upon the discharge of his duties, each officer and employee, where such is required by the municipal authority, shall execute a bond approved according to law in the amount set forth for his respective office or position.

§ 30.04 ADDITIONAL BOND; WHERE BONDS RECORDED AND KEPT.

Each officer required by law or ordinance to give bond shall do so before entering upon the duties of the office, except as otherwise provided by law. In its discretion, council at any time may require each officer to give a new or additional bond. Each bond, except that of the auditor or clerk, upon its approval, shall be delivered to the auditor or clerk, who shall immediately record it in a record provided for that purpose, and file and carefully

preserve it in his office. The bond of the auditor or clerk shall be delivered to the treasurer, who shall in like manner record and preserve it. (R.C. § 733.69)

§ 30.05 APPROVAL OF BONDS.

The official bonds of all municipal officers shall be prepared by the solicitor. Except as otherwise provided in this title, they shall be in a sum as the council prescribes by general or special ordinance, and be subject to the approval of the mayor, except that the mayor's bond shall be approved by the council, or, if it is not legally organized, by the clerk of the court of common pleas of the county in which the corporation or the larger part thereof is situated. (R.C. § 733.70)

§ 30.06 SUFFICIENCY OF FORM OF BOND.

In each bond, the condition that the person elected or appointed shall faithfully perform the duties of the office shall be sufficient. The fact that the instrument is without a seal, that blanks like the date or amount have been filled subsequent to its execution but before its acceptance, without the consent of the sureties, that all the obligees named in the instrument have not signed it, that new duties have been imposed on the officers or that any merely formal objection exists shall not be available in any suit on the instrument. (R.C. § 733.71)

§ 30.07 FILLING VACANCIES IN OFFICES.

Unless otherwise provided by law, vacancies arising in appointive and elective offices of villages shall be filled by appointment by the mayor for the remainder of the unexpired term except that:

(A) Vacancies in the office of mayor shall be filled in the manner provided by R.C. § 733.25;

(B) Vacancies in the membership of the legislative authority shall be filled in the manner provided by § 32.06;

(C) Vacancies in the office of president pro tempore of council shall be filled in the manner provided by § 32.03;

(D) Vacancies in the office of clerk or treasurer may be filled in the following manner. The mayor may appoint a person to serve as acting officer to perform the duties of the office until a permanent officer is appointed to fill the vacancy. (R.C. § 733.31)

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§ 31.01 EXECUTIVE POWER; WHERE VESTED.

The executive power and authority of the village shall be vested in the mayor, clerk, treasurer, marshal, street commissioner, and such other officers and departments as are created by law. (R.C. § 733.23)

MAYOR

§ 31.10 TERM OF MAYOR; POWERS AND DUTIES.

The mayor shall be elected for a term of 4 years commencing on the first day of January next after his election. He shall be an elector of the corporation, and shall have resided therein for at least one year immediately preceding his election. He shall be the chief conservator of the peace within the corporation, and shall have the powers and duties provided by law. He shall be the president of the council, and shall preside at all regular and special meetings thereof, but shall have no vote except in case of a tie. (R.C. § 733.24)

Cross-reference:
Vacancy in office, § 30.07

§ 31.11 GENERAL DUTIES OF THE MAYOR.

The mayor shall perform all the duties prescribed by the bylaws and ordinances of the municipal corporation. He shall see that all ordinances, bylaws, and resolutions of the legislative authority are faithfully obeyed and enforced. He shall sign all commissions, licenses, and permits granted by council, or authorized by Title VII of the Revised Code, and such other instruments as by law or ordinance require his certificate. (R.C. § 733.30)

§ 31.12 COMMUNICATIONS TO COUNCIL.

The mayor shall communicate to the council from time to time a statement of the finances of the municipal corporation, and other information relating thereto, and the general condition of the affairs of the municipal corporation as he deems proper, or as is required by the council. (R.C. § 733.32)

§ 31.13 PROTEST AGAINST EXCESS OF EXPENDITURES.

If, in the opinion of the mayor, an expenditure, authorized by the council, exceeds the revenues of the municipal corporation for the current year, he shall protest against the expenditure, and enter the protest, and the reason therefor, on the journal of the council. (R.C. § 733.33)

§ 31.14 SUPERVISION OF CONDUCT OF OFFICERS.

The mayor shall supervise the conduct of all the officers of the municipal corporation, inquire into and examine the grounds of all reasonable complaints against any officers, and cause their violations or neglect of duty to be punished promptly or reported to the proper authority for correction. (R.C. § 733.34)

§ 31.15 ANNUAL REPORT TO COUNCIL.

At the first regular meeting in January of each year, and at

other times as the mayor deems expedient, he shall report to the council concerning the affairs of the municipal corporation, and recommend such measures as seem proper to him. (R.C. § 733.41)

§ 31.16 MAYOR TO FILE CHARGES AGAINST DELINQUENT OFFICERS.

The mayor shall have general supervision over each department and the officers provided for in Title VII of the Revised Code. When the mayor has reason to believe that the head of a department or an officer has been guilty, in the performance of his official duty, of bribery, misfeasance, malfeasance, nonfeasance, misconduct in office, gross neglect of duty, gross immorality, or habitual drunkenness, he shall immediately file with the council, except when the removal of the head of the department or officer is otherwise provided for, written charges against the person, setting forth in detail a statement of alleged guilt, and, at the same time, or as soon thereafter as possible, serve a true copy of the charges upon the person against whom they are made. Service may be made on the person or by leaving a copy of the charges at the office of the person. Return thereof shall be made to the council, as is provided for the return of the service of summons in a civil action. (R.C. § 733.35)

CLERK

§ 31.20 ELECTION, TERM, AND QUALIFICATIONS OF THE CLERK.

The clerk shall be elected for a term of 4 years, commencing on April 1 next after his election. He shall be an elector of the municipality. (R.C. § 733.26)

§ 31.21 POWERS AND DUTIES OF CLERK.

The clerk shall attend all meetings of the council and keep a record of its proceedings and of all rules, bylaws, resolutions, and ordinances passed or adopted, which shall be subject to the inspection of all persons interested. In case of the absence of the clerk, the council shall appoint one of its members to perform his duties. (R.C. § 733.27)

§ 31.22 BOOKS AND ACCOUNTS; MERGER OF OFFICES.

The clerk shall keep the books of the village, exhibit accurate statements of all moneys received and expended, of all the property owned by the municipality and the income derived therefrom, and of all taxes and assessments. The council may, by majority vote, merge the duties of the clerk of the board of trustees of public affairs with those of the clerk, allowing the clerk such additional assistance and compensation in performing the additional duties as the council determines. (R.C. § 733.28)

§ 31.23 SEAL OF CLERK.

The council shall provide a seal for the clerk, in the center of

which shall be the name of the municipality, and around the margin"Village Clerk," an impression of which seal shall be affixed to all transcripts, orders, certificates, or other papers requiring authentication. (R.C. § 733.29)

TREASURER

§ 31.30 ELECTION, TERM, AND QUALIFICATIONS OF THE TREASURER.

The treasurer shall be elected for a term of 4 years, commencing on January 1 next after his election. He shall be an elector of the municipal corporation. (R.C. § 733.42)

§ 31.31 ACCOUNTS OF TREASURER.

(A) The treasurer shall keep an accurate account of:

(1) All moneys received by him, showing the amount thereof, the time received, from whom, and on what account received;

(2) All disbursements made by him, showing the amount thereof, the time made, to whom, and on what account paid.

(B) He shall so arrange his books that the amount received and paid on account of separate funds, or specified appropriations, shall be exhibited in separate accounts. In addition to the ordinary duties of the treasurer, he shall have such powers and perform such duties as are required by any ordinance of the municipal corporation, not inconsistent with Title VII of the Revised Code, and not incompatible with the nature of his office. (R.C. § 733.43)

§ 31.32 POWERS AND DUTIES.

The treasurer shall demand and receive from the county treasurer taxes levied and assessments made and certified to the county auditor by the council, and placed on the tax list by the auditor for collection, moneys from persons authorized to collect or required to pay them, accruing to the municipal corporation from any judgments, fines, penalties, forfeitures, licenses, and costs taxed in mayor's court, and debts due the municipal corporation. These funds shall be disbursed by the treasurer on the order of any person authorized by law or ordinance to issue orders therefor. (R.C. § 733.44)

§ 31.33 QUARTERLY ACCOUNT; ANNUAL REPORT.

The treasurer shall settle and account with the council, quarterly, and at any other time which it by resolution or ordinance requires. At the first regular meeting of the council in January of each year, the treasurer shall report to it the condition of the finances of the municipal corporation, the amount received by him, the sources of the receipts, the disbursements made by him, and on

what account, during the year preceding. This account shall exhibit the balance due on each fund which has come into the treasurer's hands during the year. (R.C. § 733.45)

§ 31.34 RECEIPT AND DISBURSEMENT OF FUNDS.

The treasurer shall receive and disburse all funds of the municipal corporation and such other funds as arise in or belong to any department or part of the municipal corporation. (R.C. § 733.46)

§ 31.35 DUTY OF DELIVERING MONEY AND PROPERTY.

The treasurer, at the expiration of his term of office, or on his resignation or removal, shall deliver to his successor, all moneys, books, papers, and other property in his possession as treasurer. In the case of the death or incapacity of the treasurer, his legal representatives shall, in like manner, deliver the money and property which were in the treasurer's hands to the person entitled thereto. (R.C. § 733.47)

STREET COMMISSIONER

§ 31.40 QUALIFICATIONS.

(A) So long as the village has not provided for the appointment of a village administrator under R.C. § 735.271, a street commissioner shall be appointed by the mayor of a municipal corporation, and confirmed by the council for a term of one year. He need not be a resident of the municipal corporation at the time of his appointment, but shall become a resident thereof within 6 months after his appointment and confirmation, unless the residence requirement is waived by ordinance. Vacancies in the office of street commissioner shall be filled by the mayor for the unexpired term.

(B) The appointment of a street commisssioner shall include a probationary period of 6 months. If an appointment is made for an unexpired term, and if the same village street commissioner is reappointed at the end of that term, the probationary period shall continue into his next term. No appointment is final until the appointee has satisfactorily completed his probationary period. If the service of the appointee is unsatisfactory during the probationary period, he may be removed by the mayor of the village and the reasons for the removal shall be communicated to the council. If a person is appointed to successive terms as street commissioner, he shall serve only one 6-month probationary period during those successive terms.

(C) The marshal shall be eligible to appointment as street commissioner. (R.C. § 735.31)

§ 31.41 GENERAL DUTIES.

Under the direction of the mayor or other chief executive

officer, the street commissioner, or an engineer, when one is provided by the council, shall supervise the improvement and repair of streets, avenues, alleys, lands, lanes, squares, wards, landings, market houses, bridges, viaducts, sidewalks, sewers, drains, ditches, culverts, ship channels, streams, and watercourses. The street commissioner or engineer shall also supervise the lighting, sprinkling, and cleaning of all public places, and shall perform other duties, consistent with the nature of his office, as the mayor or other chief executive officer requires. (R.C. § 735.32)

§ 31.42 ASSISTANTS.

The street commissioner or engineer mentioned in § 31.41 shall have such assistants as the council provides, who shall be employed by the street commissioner, and serve for such time and compensation as is fixed by the council. (R.C. § 735.33)

OTHER OFFICIALS

§ 31.50 LEGAL COUNSEL.

When it deems it necessary, the council of the village may provide legal counsel for the village, or for any department or official thereof, for a period not to exceed 2 years, and provide compensation for such counsel. (R.C. § 733.48)

Cross-reference:
Village marshal, see Chapter 34

CHAPTER 32: LEGISLATIVE

Section

32.01 Members of council; election; terms of office
32.02 President pro tempore of the council
32.03 Vacancy when president pro tempore becomes mayor
32.04 Qualifications of members of council
32.05 Compensation and bonds of village officers and employees
32.06 Vacancy
32.07 Judge of election and qualification of members; quorum and special meetings
32.08 Rules; journal; expulsion of members
32.09 Meetings
32.10 General powers
32.11 Failure to take oath or give bond

§ 32.01 MEMBERS OF COUNCIL; ELECTION; TERMS OF OFFICE.

The legislative power of each village shall be vested in, and exercised by, a legislative authority, composed of 6 members, who shall be elected by the electors of the village at large, for terms of 4 years. (R.C. § 731.09)

§ 32.02 PRESIDENT PRO TEMPORE OF THE COUNCIL.

(A) At the first meeting in January of each year, the council shall immediately proceed to elect a president pro tempore from its own number, who shall serve until the first meeting in January next after his election. The council may provide employees for the village as it determines, and employees may be removed at any regular meeting by a majority of the members elected to the council.

(B) When the mayor is absent from the village, or is unable, for any cause, to perform his duties, the president pro tempore shall be the acting mayor, and shall have the same powers and perform the same duties as the mayor. (R.C. § 731.10)

§ 32.03 VACANCY WHEN PRESIDENT PRO TEMPORE BECOMES MAYOR.

When the president pro tempore of the council becomes the mayor, the vacancy thus created shall be filled as provided in § 32.06, and the council shall elect another president pro tempore from its own number, who shall have the same rights, powers, and duties as his predecessor. (R.C. § 731.11)

§ 32.04 QUALIFICATIONS OF MEMBERS OF COUNCIL.

Each member of the council shall have resided in the village one year next preceding his election, and shall be an elector of the village. No member of the council shall hold any other public office, be interested in any contract with the village, or hold employment with the village, except that the member may be a notary public, a member of the state militia, or a volunteer fireman of the

village, provided that the member shall not receive any compensation for his services as a volunteer fireman of the village, in addition to his regular compensation as a member of the council. Any member who ceases to possess any of these qualifications, or who removes from the village, shall forfeit his office. The purpose of establishing a one-year residency requirement in this section is to recognize that the state has a substantial and compelling interest in encouraging qualified candidacies for election to the office of member of the council by ensuring that a candidate for the office has every opportunity to become knowledgeable with and concerned about the problems and needs of the area he seeks to represent. In enacting this requirement, the general assembly finds that the one-year period is reasonably related to this purpose, while leaving unimpaired a person's right to travel, to vote, and to be a candidate for public office. (R.C. § 731.12)

§ 32.05 COMPENSATION AND BONDS OF VILLAGE OFFICERS AND EMPLOYEES.

The council shall fix the compensation and bonds of all officers, clerks, and employees of the village, except as otherwise provided by law. The council shall, in the case of elective officers, fix their compensation for the ensuing term of office at a meeting held not later than 5 days prior to the last day fixed by law for filing as a candidate for such office. All bonds shall be made with sureties subject to the approval of the mayor. The compensation so fixed shall not be increased or diminished during the term for which any officer is elected or appointed. This section does not prohibit the payment of any increased costs of continuing to provide the identical benefits provided to an officer at the commencement of his term of office. (R.C. § 731.13)

§ 32.06 VACANCY.

When the office of a member of the council becomes vacant, the vacancy shall be filled by election by the council for the unexpired term. If the council fails within 30 days to fill the vacancy, the mayor shall fill it by appointment, except that, when the vacancy occurs because of operation of R.C. § 733.25, the successor shall hold office only for the period the president pro tempore of the council holds the office of mayor. (R.C. § 731.43)

§ 32.07 JUDGE OF ELECTION AND QUALIFICATION OF MEMBERS; QUORUM AND SPECIAL MEETINGS.

The council shall be the judge of the election and qualification of its members. A majority of all the members elected shall be a quorum, but a less number may adjourn from day to day and compel attendance of absent members in a manner and under penalties as are prescribed by ordinance. The legislative authority shall provide rules for the manner of calling special meetings. (R.C. § 731.44)

§ 32.08 RULES; JOURNAL; EXPULSION OF MEMBERS.

The council shall determine its own rules, and keep a journal of its proceedings. It may punish or expel any member for disorderly conduct or violation of its rules, and declare his seat vacant for absence without valid excuse, where the absence has continued for 2 months. No expulsion shall take place without the concurrence of 2/3 of all the members elected, and until the delinquent member has been notified of the charge against him, and has had an opportunity to be heard. (R.C. § 731.45)

§ 32.09 MEETINGS.

The council shall not be required to hold more than one regular meeting in each week. The meetings may be held at a time and place as is prescribed by ordinance, and shall, at all times, be open to the public. The mayor, or any 3 members of the legislative authority, may call special meetings upon at least 12 hours' notice to each member, served personally or left at his usual place of residence. (R.C. § 731.46)

Statutory reference:
Open meetings, R.C. § 121.22

§ 32.10 GENERAL POWERS.

The council shall have the management and control of the finances and property of the municipal corporation, except as otherwise provided. (R.C. § 731.47)

§ 32.11 FAILURE TO TAKE OATH OR GIVE BOND.

The legislative authority of a municipal corporation may declare vacant the office of any person elected or appointed to the office who, within 10 days after he has been notified of his appointment or election, or obligation to give a new or additional bond, fails to take the required official oath or to give any bond required of him. (R.C. § 731.49)

Statutory reference:
Ordinances and resolutions, R.C. §§ 731.17 through 731.27

CHAPTER 33: JUDICIAL

Section

33.01 Jurisdiction in ordinance cases and traffic violations
33.02 Powers of mayor in criminal matters
33.03 Duties of mayor and magistrate; fees; office; seal
33.04 Mayor's court magistrate

§ 33.01 JURISDICTION IN ORDINANCE CASES AND TRAFFIC VIOLATIONS.

(A) In all municipal corporations not being the site of a municipal court nor a place where a judge sits pursuant to R.C. § 1901.021, the mayor of the municipal corporation has jurisdiction, except as provided in division (B) of this section and subject to the limitation contained in R.C. § 1905.03 and the limitation contained in R.C. § 1905.031, to hear and determine any prosecution for the violation of an ordinance of the municipal corporation, to hear and determine any case involving a violation of a vehicle parking or standing ordinance of the municipal corporation unless the violation is required to be handled by a parking violations bureau or joint parking violations bureau pursuant to R.C. Chapter 4521, and to hear and determine all criminal cases involving any moving traffic violation within the boundaries of the municipal corporation, subject to the limitations of R.C. §§ 2937.08 and 2938.04.

(B) (1) The mayor of a municipal corporation has jurisdiction, subject to the limitation contained in R.C. § 1905.03, to hear and determine prosecutions involving a violation of an ordinance of the municipal corporation he serves relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, and to hear and determine criminal causes involving a violation of R.C. § 4511.19 that occur on a state highway located within the boundaries of the municipal corporation he serves, subject to the limitations of R.C. §§ 2937.08 and 2938.04, only if the person charged with the violation, within five years of the date of the violation charged, has not been convicted of or pleaded guilty to any of the following:

(a) A violation of an ordinance of any municipal corporation relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine;

(b) A violation of R.C. § 4511.19;

(c) A violation of any ordinance of any municipal corporation or of any section of the Revised Code that regulates the operation of vehicles, upon the streets, in relation to which all of the following apply:

1. The person, in the case in which the conviction was obtained or the plea of guilty was entered, had been charged with a violation of an ordinance of any municipal corporation

relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, or with a violation of R.C. § 4511.19.

2. The charge of the violation described in division (B)(1)(c)1. of this section was dismissed or reduced;

3. The violation of which the person was convicted or to which he pleaded guilty arose out of the same facts and circumstances and the same act as did the charge that was dismissed or reduced.

(2) The mayor of a municipal corporation does not have jurisdiction to hear and determine any prosecution or criminal cause involving a violation described in division (B)(1)(a) or (b) of this section, regardless of where the violation occurred, if the person charged with the violation, within five years of the violation charged, has been convicted of or pleaded guilty to any violation listed in division (B)(1)(a), (b), or (c) of this section.

(3) If the mayor of a municipal corporation, in hearing a prosecution involving a violation of an ordinance of the municipal corporation he serves relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, or in hearing a criminal cause involving a violation of R.C. § 4511.19, determines that the person charged, within five years of the violation charged, has been convicted of or pleaded guilty to any violation listed in division (B)(1)(a), (b), or (c) of this section, the mayor immediately shall transfer the case to the county court or municipal court with jurisdiction over the violation charged.

(C) If the mayor of a municipal corporation has jurisdiction pursuant to division (B)(1) of this section to hear and determine a prosecution or criminal cause involving a violation described in division (B)(1)(a) or (b) of this section, the authority of the mayor to hear or determine the prosecution or cause is subject to the limitation contained in R.C. § 1905.03(C). If the mayor of a municipal corporation has jurisdiction pursuant to division (A)(1) of this section to hear and determine a prosecution or criminal cause involving a violation other than a violation described in division (B)(1)(a) or (b) of this section, the authority of the mayor to hear or determine the prosecution or cause is subject to the limitation contained in R.C. § 1905.031(D).

(D) In keeping his docket and files, the mayor and a mayor's court magistrate appointed under R.C. § 1905.05 shall be governed by the laws pertaining to county courts. (R.C. § 1905.01)

Cross-reference:
Mayor, see §§ 31.10 through 31.16

§ 33.02 POWERS OF MAYOR IN CRIMINAL MATTERS.

(A) The mayor of a municipal corporation has, within the corporation limits, all the powers conferred upon sheriffs to suppress disorder and keep the peace.

(B) The mayor of a municipal corporation shall award and issue all writs and process that are necessary to enforce the administration of justice throughout the municipal corporation. The mayor shall subscribe his name and affix his official seal to all writs, process, transcripts, and other official papers. A mayor's court magistrate, in hearing and determining prosecutions and criminal causes that are within the scope of his authority under R.C. § 1905.05, has the same powers and duties as are granted to or imposed upon a mayor under this division.

(C) The mayor of a municipal corporation shall be disqualified in any criminal case in which he was the arresting officer, assisted in the arrest, or was present at the time of arrest, and shall not hear the case.
(R.C. § 1905.20)

§ 33.03 DUTIES OF MAYOR AND MAGISTRATE; FEES; OFFICE; SEAL.

The mayor of a municipal corporation and a mayor's court magistrate shall keep a docket. Neither the mayor of a municipal corporation nor a mayor's court magistrate shall retain or receive for his own use any of the fines, forfeitures, fees, or costs he collects. A mayor's court magistrate shall account for all such fines, forfeitures, fees, and costs he collects and transfer them to the mayor. The mayor shall account for and dispose of all such fines, forfeitures, fees, and costs he collects, including all such fines, forfeitures, fees, and costs that are transferred to him by a mayor's court magistrate, as provided in R.C. § 733.40.

(B) The mayor of a municipal corporation shall be paid such fixed annual salary as the council provides under R.C. §§ 731.08 and 731.13, and a mayor's court magistrate shall receive compensation as provided in R.C. § 1905.05.

(C) The mayor of a municipal corporation shall keep an office, provided by the council, at a convenient place in the municipal corporation, and shall be furnished by the council with the corporate seal of the municipal corporation. In the center of such seal shall be the words, "Mayor of the village of....." (R.C. § 1905.21)

§ 33.04 MAYOR'S COURT MAGISTRATE.

(A) A mayor of a municipal corporation that has a mayor's court may appoint a person as mayor's court magistrate to hear and determine prosecutions and criminal causes in the mayor's court that are within the jurisdiction of the mayor's court, as set forth in R.C. § 1905.01. No person shall be appointed as a mayor's court magistrate unless the person has been admitted to the practice of law in this state and, for

a total of at least three years preceding his appointment or the commencement of his service as magistrate, has been engaged in the practice of law in this state or served as a judge of a court of record in any jurisdiction in the United States, or both.

(1) A person appointed as a mayor's court magistrate under this division is entitled to hear and determine prosecutions and criminal causes in the mayor's court that are within the jurisdiction of the mayor's court, as set forth in R.C. § 1905.01. If a mayor is prohibited from hearing or determining a prosecution or cause that charges a person with a violation 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 relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine due to the operation of R.C. § 1905.03(C), or is prohibited from hearing or determining any other prosecution or cause due to the operation of R.C. § 1905.031(D), the prohibition against the mayor hearing or determining the prosecution or causes does not affect and shall not be construed as affecting the jurisdiction or authority of a person appointed as a mayor's court magistrate under this division to hear and determine the prosecution or cause in accordance with this section. In hearing and determining such prosecutions and causes, the magistrate has the same powers, duties, and authority as does a mayor who conducts a mayor's court to hear and determine prosecutions and causes in general, including, but not limited to, the power and authority to decide the prosecution or cause, enter judgement, and impose sentence; the powers, duties, and authority granted to mayors of mayor's courts by this chapter, in relation to the hearing and determination of prosecutions and causes in mayor's courts; and the powers, duties, and authority granted to mayors of mayor's courts by any other provision of the Revised Code, in relation to the hearing and determination of prosecutions and causes in mayor's courts. A judgment entered and a sentence imposed by a mayor's court magistrate do not have to be reviewed or approved by the mayor who appointed him, and have the same force and effect as if they had been entered or imposed by the mayor.

(2) A person appointed as a mayor's court magistrate under this division is not entitled to hear or determine any prosecution or criminal cause other than prosecutions and causes that are within the jurisdiction of the mayor's court, as set forth in R.C. § 1905.01.

(3) The compensation for the services of a mayor's court magistrate shall be a fixed annual salary set by the council that he serves and shall be paid by the municipal corporation.

(B) The appointment of a person as a mayor's court magistrate under division (A) of this section does not preclude the mayor that appointed him, subject to the limitation contained in R.C. § 1905.03 and the limitation contained in R.C. § 1905.031, from also hearing and determining prosecutions and criminal causes in the mayor's court that are within the jurisdiction of the mayor's court, as set forth in R.C. § 1905.01.
(R.C. § 1905.05)

CHAPTER 34: POLICE DEPARTMENT

Section

34.01 Marshal, chief of police, synonymous
34.02 Appointment of marshal; removal; appeal
34.03 Deputy marshals and policemen
34.04 Auxiliary police units
34.05 Probationary period; final appointment
34.06 Removal proceedings; suspension; appeals
34.07 General powers
34.08 Powers and duties of marshal
34.09 Disposition of fines and penalties
34.10 Property recovered by police
34.11 Disposition to claimant
34.12 Sale of unclaimed property; disposition of proceeds

§ 34.01 MARSHAL, CHIEF OF POLICE SYNONYMOUS.

The designation "MARSHAL," wherever used in this code, is defined to include "CHIEF OF POLICE " and "CHIEF OF POLICE" is defined to include "MARSHAL."

Statutory reference:
Power of municipality to establish a police department, R.C. § 715.05

§ 34.02 APPOINTMENT OF MARSHAL; REMOVAL; APPEAL.

(A) Each village shall have a marshal or designated chief of police, appointed by the mayor with the advice and consent of the council, who need not be a resident of the village at the time of his appointment, but shall become a resident thereof within 6 months after his appointment by the mayor and confirmation by the council, unless the residence requirement is waived by ordinance, and who shall continue in office until removed therefrom as provided by § 34.06.

(B) No person shall receive an appointment under this section unless, not more than 60 days prior to receiving an appointment, he has passed a physical examination given by a licensed physician, showing that he meets the physical requirements necessary to perform the duties of village marshal as established by the council. The appointing authority shall, prior to making any appointment, file with the police and firemen's disability and pension fund a copy of the report or findings of this licensed physician. The professional fee for the physical examination shall be paid for by the council.
(R.C. § 737.15)

§ 34.03 DEPUTY MARSHALS AND POLICEMEN.

(A) The mayor shall, when provided for by the council, and subject to its confirmation, appoint all deputy marshals, policemen,

night watchmen, and special policemen. All officers shall continue in office until removed therefrom for the cause and in the manner provided by R.C. § 737.19.

(B) No person shall receive an appointment under this section unless he has, not more than 60 days prior to receiving appointment, passed a physical examination given by a licensed physician, showing that he meets the physical requirements necessary to perform the duties of the position to which he is to be appointed as established by the council. The appointing authority shall, prior to making any appointment, file with the police and firemen's disability and pension fund a copy of the report or findings of the licensed physician. The professional fee for such physical examination shall be paid for by the council. (R.C. § 737.16)

§ 34.04 AUXILIARY POLICE UNITS.

(A) The council may establish, by ordinance, an auxiliary police unit within the police department, and provide for the regulation of auxiliary police officers. The mayor shall be the executive head of the auxiliary police unit, shall make all appointments and removals of auxiliary police officers, subject to any general rules prescribed by the council by ordinance, and shall prescribe rules for the organization, training, administration, control, and conduct of the auxiliary police unit. The village marshal shall have exclusive control of the stationing and transferring of all auxiliary police officers, under such general rules as the mayor prescribes.

(B) (1) The council may establish, by ordinance, a parking enforcement unit within the police department, and provide for the regulation of parking enforcement officers. The mayor shall be the executive head of the parking enforcement unit, shall make all appointments and removals of parking enforcement officers, subject to any general rules prescribed by the council by ordinance, and shall prescribe rules for the organization, training, administration, control, and conduct of the parking enforcement unit. The mayor may appoint parking enforcement officers who agree to serve for nominal compensation, and persons with physical disabilities may receive appointments as parking enforcement officers.

(2) The authority of the parking enforcement officers shall be limited to the enforcement of ordinances governing parking in handicapped parking locations and fire lanes and any other parking ordinances specified in the ordinance creating the parking enforcement unit. Parking enforcement officers shall have no other powers.

(3) The training the parking enforcement officers shall receive shall include instruction in general administrative rules and procedures governing the parking enforcement unit, the role of the judicial system as it relates to parking regulation and enforcement, proper techniques and methods relating to the enforcement of parking ordinance, human interaction skills, and first aid.
(R.C. § 737.161)

§ 34.05 PROBATIONARY PERIOD; FINAL APPOINTMENT.

Any appointments made shall be for a probationary period of 6 months continuous service, and no appointments shall be deemed finally made until the appointee has satisfactorily served his probationary period. At the end of the probationary period the mayor shall transmit to council a record of the employee's service with his recommendations thereon; and with the concurrence of the council, the mayor may remove or finally appoint the employee, as the case may be. (R.C. § 737.17)

§ 34.06 REMOVAL PROCEEDINGS; SUSPENSION; APPEALS.

(A) When the mayor has reason to believe a duly appointed marshal, deputy marshal, policeman, night watchman, or special policeman of the village has been guilty of incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, or any other acts of misfeasance, malfeasance, or nonfeasance in the performance of his official duty, he shall file with the council written charges against the person, setting forth in detail the reason therefor, and immediately serve a true copy thereof upon the person against whom they are made.

(B) Charges filed under this section shall be heard at the next regular meeting of the council occurring not less that 5 days after the date the charges have been served on the person against whom they are made. The person against whom charges are filed may appear in person and by counsel at the hearing, examine all witnesses, and answer all charges against him.

(C) At the conclusion of the hearing, the council may dismiss the charges, suspend the accused from office for not more than 60 days, or remove the accused from office.

(D) Action of the council removing or suspending the accused from office shall require the affirmative vote of 2/3 of all members elected thereto.

(E) In the case of removal from office, the person so removed may appeal on questions of law and fact the decision of the council to the court of common pleas. This appeal shall be taken within 10 days from the date of the finding of the council. (R.C. § 737.17.1)

§ 34.07 GENERAL POWERS.

(A) The marshal shall be the peace officer of the village and the executive head, under the mayor, of the police force. The marshal, and the deputy marshals, policemen, or night watchmen under him shall have the powers conferred by law upon police officers in all villages of the state, and other powers not inconsistent with the nature of their offices as are conferred by ordinance.

(B) A marshal, deputy marshal, or police officer of a village may participate, as the director of an organized crime task force

established under R.C. § 177.02 or as a member of the investigatory staff of such a task force, in an investigation of organized criminal activity in any counties in this state under R.C. §§ 177.01 through 177.03. (R.C. § 737.18)

§ 34.08 POWERS AND DUTIES OF MARSHAL.

(A) The marshal has exclusive authority over the stationing and transfer of all deputies, officers, and employees within the police department under such general rules as the mayor prescribes.

(B) (1) The marshal has the exclusive right to suspend any of the deputies, officers, or employees in the police department who are under his management and control, for incompetence, gross neglect of duty, gross immorality, habitual drunkenness, failure to obey orders given them by the proper authority, or for any other reasonable or just cause.

(2) If an employee is suspended, the marshal shall immediately certify this fact in writing, together with the cause for the suspension, to the mayor, and shall immediately serve a true copy of the charge upon the person against whom they are made. Within five days after receiving this certification, the mayor shall inquire into the cause of the suspension and shall render a judgment on it. If the mayor sustains the charges, his judgment may be for the person's suspension, reduction in rank, or removal from the department.

(3) Suspensions of more than three days, reduction in rank, or removal from the department may be appealed to council within five days from the date of the mayor's judgment. The council shall hear the appeal at its next regularly scheduled meeting. The person against whom the judgment has been rendered may appear in person and by counsel at the hearing, examine all witnesses and answer all charges against him.

(4) At the conclusion of the hearing, the council may dismiss the charges, uphold the mayor's judgment, or modify the judgment to one of suspension for not more than 60 days, reduction in rank, or removal from the department.

(5) Action of the council removing or suspending the accused from the department requires the affirmative vote of two-thirds of all members elected to it.

(6) In the case of removal from the department, the person so removed may appeal on questions of law and fact the decision of the council to the court of common pleas of the county in which the village is situated. The appeal shall be taken within ten days from the date of the finding of the council.

(C) The marshal shall suppress all riots, disturbances, and breaches of the peace, and to that end may call upon the citizens to aid him. He shall arrest all disorderly persons in the village, and pursue and arrest any person fleeing from justice in any part of the state. He shall arrest any person in the act of committing any offense

against the laws of the state or the ordinances of the corporation, and forthwith bring the person before the mayor or other competent authority for examination or trial. He shall receive and execute any proper authority for the arrest and detention of criminals fleeing or escaping from other places or states.

(D) In the discharge of his duties, the marshal shall have the powers and be subject to the responsibilities of constables, and for services performed by him or his deputies the same fees and expenses shall be taxed as are allowed constables. (R.C. § 737.19)

§ 34.09 DISPOSITION OF FINES AND PENALTIES.

All fees, costs, fines, and penalties collected by the marshal shall immediately be paid to the mayor, who shall report to the council monthly the amount thereof, from whom and for what purpose collected, and when paid to the mayor. (R.C. § 737.20)

§ 34.10 PROPERTY RECOVERED BY POLICE.

(A) Stolen or other property recovered by members of the police force shall be deposited and kept in a place designated by the mayor. Each article shall be entered in a book kept for that purpose, with the name of the owner, if ascertained, the person from whom taken, the place where found with general circumstances, the date of its receipt, and the name of the officer recovering it.

(B) An inventory of all money or other property shall be given to the party from whom taken, and, in case it is not claimed by some person within 30 days after arrest and seizure, it shall be delivered to the person from whom taken, and to no other person, either attorney, agent, factor, or clerk, except by special order of the mayor. (R.C. § 737.29)

§ 34.11 DISPOSITION TO CLAIMANT.

If, within 30 days, the money or property recovered under § 34.10 is claimed by any other person, it shall be retained by the custodian thereof until after the discharge or conviction of the person from whom it was taken, and so long as it may be required as evidence in any case in court. If the claimant establishes to the satisfaction of the court that he is the rightful owner, it shall be restored to him; otherwise, it shall be returned to the accused person, personally, and not to any attorney, agent, factor, or clerk of the accused person, except upon special order of the mayor after all liens and claims in favor of the municipality have first been discharged and satisfied. (R.C. § 737.31)

§ 34.12 SALE OF UNCLAIMED PROPERTY; DISPOSITION OF PROCEEDS .

Property, unclaimed for the period of 90 days, shall be sold by the marshal or licensed auctioneer at public auction, after giving due notice thereof by advertisement, published once a week for 3 successive

weeks in a newspaper of general circulation in the county. The proceeds shall be paid to the treasurer, and be credited to the general fund. (R.C. § 737.32)

CHAPTER 35: FIRE DEPARTMENT

Section

35.01 Municipal fire regulations; fire department
35.02 Fire chief; employment of firefighters
35.03 Schooling of officers and firefighters of fire department
35.04 Council may purchase engines and equipment
35.05 Buildings for department
35.06 Records
35.07 Practice drills
35.08 Assistant chief
35.09 Firemen
35.10 Loss of membership
35.11 Maximum consecutive hours for firefighters on duty
35.12 Investigation of cause of fire
35.13 Right to examine buildings, premises, and vehicles

§ 35.01 MUNICIPAL FIRE REGULATIONS; FIRE DEPARTMENT.

The council may establish all necessary regulations to guard against the occurrence of fires and protect the property and lives of its citizens against damage and accidents resulting therefrom, and for that purpose may establish and maintain a fire department, provide for the establishment and organization of fire engine and hose companies and rescue units, establish the hours of labor of the members of its fire department who shall not be required to be on duty continuously more than six days in every seven, and provide bylaws and regulation for the government of companies and their members as is necessary and proper. (R.C. § 737.21)

Cross-reference:
Fireworks, explosives, fire prevention, Chapter 91
False alarms, § 132.09
Driving over fire hose, § 72.61

§ 35.02 FIRE CHIEF; EMPLOYMENT OF FIREFIGHTERS.

(A) Each village establishing a fire department shall have a fire chief as the head thereof, appointed by the Mayor with the advice and consent of the Council, who shall continue in office until removed therefrom as provided by R.C. §§ 733.35 through 733.39.

(B) In each village not having a fire department, the Mayor shall, with the advice and consent of the Council, appoint a fire prevention officer who shall exercise all of the duties of a fire chief, except those involving the maintenance and operation of fire apparatus.

(C) The Council may fix compensation as it deems best. The appointee shall continue in office until removed therefrom as provided by such sections. The provisions of § 35.03 shall extend to the officer.

(D) Council may provide for the employment of such fire fighters as it deems best and fix their compensation; however, no person shall be appointed as a permanent full-time paid member, whose duties include fire fighting, of the fire department of the village, unless such person has received a certificate issued under R.C. § 4765.55 evidencing his satisfactory completion of a firefighter training program.

(E) Council may further provide for the services of volunteer firefighters, who shall be appointed by the Mayor with the advice and consent of the Council, and shall continue in office until removed therefrom as provided by R.C. §§ 733.35 through 733.39; however, no person who is appointed as a volunteer firefighter of a village fire department shall remain in such a position, unless within one year of his appointment he has received a certificate issued under R.C. § 4765.55 evidencing his satisfactory completion of a firefighter training program.

(F) No person shall receive an appointment under this section unless he has, not more than 60 days prior to receiving appointment, passed a physical examination given by a licensed physician, showing that he meets the physical requirements necessary to perform the duties of the position to which he is to be appointed as established by the Council. The appointing authority shall, prior to making any appointment, file with the police and firefighters's disability and pension fund or the local volunteer firefighter's dependents fund a copy of the report or findings of the licensed physician. The professional fee for this physical examination shall be paid for by the Council.
(R.C. § 737.22)

§ 35.03 SCHOOLING OF OFFICERS AND FIREFIGHTERS OF FIRE DEPARTMENT.

The Council may send any of the officers and firefighters of its fire department to schools of instruction designed to promote the efficiency of firefighters, and, if authorized in advance, pay their necessary expenses from the funds used for the maintenance and operation of the fire department. (R.C. § 737.23)

§ 35.04 COUNCIL MAY PURCHASE ENGINES AND EQUIPMENT.

Council of a municipal corporation may purchase the necessary fire engines and other equipment as is necessary for the extinguishment of fires and the saving of lives, and may establish lines of fire alarm telegraph within the limits of the municipal corporation. (R.C. § 737.24)

§ 35.05 BUILDINGS FOR DEPARTMENT.

The Council may provide or erect necessary and suitable buildings containing rooms for fire engines, hose carriages, and fire apparatus and instruments, and provide for the meetings of the fire and hose companies. (R.C. § 737.25)

§ 35.06 RECORDS.

The Fire Chief shall keep in convenient form a complete record of all fires. The record shall include the time of the alarm, location of fire, cause of fire (if known), type of building, name of owner and tenant, purpose for which occupied, value of building and contents, members of the department responding to the alarm, and other information as he may deem advisable, or as may be required from time to time by Council.

§ 35.07 PRACTICE DRILLS.

The Fire Chief shall hold a monthly practice drill of at least one hour's duration for the Fire Department, when the weather permits, and give the firefighters instructions in approved methods of fire fighting and fire prevention.

§ 35.08 ASSISTANT CHIEF.

The Assistant Chief shall, in the absence or disability of the chief, perform all the functions and exercise all of the authority of the Fire Chief.

§ 35.09 FIREFIGHTERS.

The Assistant Chief and firefighters shall be not less than 18, nor more than 55 years of age, and ablebodied. They shall pass a satisfactory mental and physical examination, and shall become members of the Fire Department only after six months' probationary period.

§ 35.10 LOSS OF MEMBERSHIP.

Firefighters absent from three consecutive drills or calls shall forfeit membership in the Department.

§ 35.11 MAXIMUM CONSECUTIVE HOURS FOR FIREFIGHTERS ON DUTY.

(A) Whenever the municipality employs three or more full-time paid firefighters, the Chief of the Fire Department shall divide the uniform force into not less than two platoons, and where the uniform force is so divided into two platoons, the chief shall keep a platoon of the uniform force on duty 24 hours after which the platoon serving 24 consecutive hours shall be allowed to remain off duty for at least 24 consecutive hours, except in cases of extraordinary emergency. Each individual member of the platoons, in addition to receiving a minimum of 24 hours off duty in each period of 48 hours, shall receive an additional period of 24 consecutive hours off duty in each period of eight days, so that no individual member shall be on duty more than a total of 72 hours in any period of eight days. The Chief shall arrange the schedule of working hours to comply with this section. The Chief may, however, in cases of sickness, death, or on other necessary occasions, permit the exchange of working hours

between members of the Department. All employees of the Fire Department shall be given not less than two weeks' leave of absence annually, with full pay. This section, insofar as it relates to off duty periods, does not apply to the municipality if it adopts a 40-hour week, or if it has a three platoon system, the members of which work 24 consecutive hours, immediately followed by 48 consecutive hours off duty, but the provisions relating to the two weeks' leave of absence do apply.

(B) "FULL-TIME PAID FIREFIGHTERS," as used in this section, does not include volunteer firefighters, or firefighters who work part time. (R.C. § 4115.02)

§ 35.12 INVESTIGATION OF CAUSE OF FIRE.

(A) The Chief of the Fire Department, or the Fire Prevention Officer, shall investigate the cause, origin, and circumstances of each major fire, as determined by the rules of the State Fire Marshal, occurring in the municipality by which property has been destroyed or damaged, and shall make an investigation to determine whether the fire was the result of carelessness or design. The investigation shall be commenced within two days, not including Sunday, if the fire occurred on that day. The State Fire Marshal may superintend the investigation.

(B) An officer making an investigation of a fire occurring in the municipal corporation shall notify the State Fire Marshal, and within one week of the occurrence of the fire shall furnish him a written statement of all facts relating to its cause and origin, and other information as is required by forms provided by the State Fire Marshal.

(C) In the performance of the duties imposed by this chapter, the Fire Chief, or Fire Prevention Officer, at any time of day or night, may enter upon and examine any building or premises where a fire has occurred, and other buildings and premises adjoining or near thereto. (R.C. § 3737.24)

§ 35.13 RIGHT TO EXAMINE BUILDINGS, PREMISES, AND VEHICLES.

The Chief of the Fire Department, and other members of the department as may be designated by the Chief or the Fire Prevention Officer, may at all reasonable hours enter into all buildings and upon all premises and vehicles within their jurisdiction, for the purpose of examination.
(R.C. § 3737.14)

CHAPTER 36: CIVIL ACTIONS AGAINST THE MUNICIPALITY

Section

36.01 Definitions
36.02 Nonliability of municipality; exceptions
36.03 Defenses and immunities
36.04 Limitation of actions
36.05 Satisfaction of judgments
36.06 Provision of employees' defense; consent judgments
36.07 Liability insurance
36.08 Certain actions unaffected

§ 36.01 DEFINITIONS.

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

"EMERGENCY CALL." A call to duty including, but not limited to, communications from citizens, police dispatches, and personal observations by peace officers of inherently dangerous situations that demand an immediate response on the part of a peace officer.

"EMPLOYEE." An officer, agent, employee, or servant, whether or not compensated or full-time or part-time, who is authorized to act and is acting within the scope of his employment for a political subdivision. "EMPLOYEE" does not include an independent contractor. "EMPLOYEE" includes any elected or appointed official of a political subdivision. "EMPLOYEE" also includes a person who has been convicted of or pleaded guilty to a criminal offense and who has been sentenced to perform community service work in a political subdivision whether pursuant to R.C. § 2951.02 or otherwise, and a child who is found to be a delinquent child and who is ordered by a juvenile court pursuant to R.C. § 2151.355 to perform community service or community work in a political subdivision.

"GOVERNMENTAL FUNCTION."

(1) A function of a political subdivision that is specified in division (2) of this definition or that satisfies any of the following:

(a) A function that is imposed upon the state as an obligation of sovereignty and that is performed by a political subdivision voluntarily or pursuant to legislative requirement;

(b) A function that is for the common good of all citizens of the state;

(c) A function that promotes or preserves the public peace, health, safety, or welfare, that involves activities that are not engaged in or not customarily engaged in by nongovernmental persons, and that is not specified in this section as a proprietary function.

(2) A "GOVERNMENTAL FUNCTION" includes, but is not limited to, the following:

(a) The provision or nonprovision of police, fire, emergency medical, ambulance, and rescue services or protection;

(b) The power to preserve the peace; to prevent and suppress riots, disturbances, and disorderly assemblages; to prevent, mitigate, and clean up releases of oil and hazardous and extremely hazardous substances as defined in R.C. § 3750.01; and to protect persons and property;

(c) The provision of a system of public education;

(d) The provision of a free public library system;

(e) The regulation of the use of, and the maintenance and repair of, roads, highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, viaducts, and public grounds;

(f) Judicial, quasi-judicial, prosecutorial, legislative, and quasi-legislative functions;

(g) The construction, reconstruction, repair, renovation, maintenance, and operation of buildings that are used in connection with the performance of a governmental function, including, but not limited to, office buildings and courthouses.

(h) The design, construction, reconstruction, renovation, repair, maintenance, and operation of jails, places of juvenile detention, workhouses, or any other detention facility, as defined in R.C. § 2921.01;

(i) The enforcement or nonperformance of any law;

(j) The regulation of traffic, and the erection or nonerection of traffic signs, signals, or control devices;

(k) The collection and disposal of solid wastes, as defined in R.C. § 3734.01 including, but not limited to, the operation of solid waste disposal facilities as "FACILITIES" is defined in that section, and the collection and management of hazardous waste generated by households. As used in this subsection, "HAZARDOUS WASTE GENERATED BY HOUSEHOLDS" means solid waste originally generated by individual households that is listed specifically as hazardous waste in or exhibits one or more characteristics of hazardous waste as defined by rules adopted under R.C. § 3734.12, but that is excluded from regulation as a hazardous waste by those rules.

(l) The provision or nonprovision, planning or design, construction, or reconstruction of a public improvement, including, but not limited to, a sewer system;

(m) The operation of a human services department or agency, including, but not limited to, the provision of assistance to aged and infirm persons and to persons who are indigent;

(n) The operation of a health board, department, or agency, including, but not limited to, any statutorily required or permissive program for the provision of immunizations or other inoculations to all or some members of the public; provided that a "GOVERNMENTAL FUNCTION" does not include the supply, manufacture, distribution, or development of any drug or vaccine employed in any such immunization or inoculation program by any supplier, manufacturer, distributor, or developer of the drug or vaccine;

(o) The operation of mental health facilities, mental retardation or developmental disabilities facilities, alcohol treatment and control centers, and children's homes or agencies;

(p) The provision or nonprovision of inspection services of all types, including, but not limited to, inspections in connection with building, zoning, sanitation, fire, plumbing, and electrical codes, and the taking of actions in connection with those types of codes, including, but not limited to, the approval of plans for the construction of buildings or structures and the issuance or revocation of building permits or stop work orders in connection with buildings or structures;

(q) Urban renewal projects and the elimination of slum conditions;

(r) Flood control measures;

(s) The design, construction, reconstruction, renovation, operation, care, repair, and maintenance of a township cemetery;

(t) The issuance of revenue obligations under R.C. § 140.66;

(u) The design, construction, reconstruction, renovation, repair, maintenance, and operation of any park, playground, playfield, indoor recreational facility, zoo, zoological park, bath, swimming pool or pond, and the operation and control of any golf course;

(v) The provision of Public Defender services by a county or joint county Public Defender's office pursuant to R.C. Chapter 120.

(w) A function that the General Assembly mandates a political subdivision to perform.

"LAW." Any provision of the Constitution, statutes, or rules of the United States or of this state, provisions of charters, ordinances, resolutions, and rules of political subdivisions, and written policies adopted by boards of education. When used in connection with the "common law," this definition does not apply.

"MOTOR VEHICLE." Has the same meaning as in R.C. § 4511.01.

"POLITICAL SUBDIVISION" or "SUBDIVISION." A municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state. "POLITICAL SUBDIVISION" includes but is not limited to a county hospital commission appointed under R.C. § 339.14, regional planning commission created pursuant to R.C. § 713.21, county planning commission created pursuant to R.C. § 713.22, joint planning council created pursuant to R.C. § 713.231, interstate regional planning commission created pursuant to R.C. § 713.30, port authority created pursuant to R.C. § 4582.02 or 4582.26 or in existence on December 16, 1964, regional council established by political subdivisions pursuant to R.C. Ch. 167, emergency planning district and joint emergency planning district designated under R.C. § 3750.03, joint interstate emergency planning district established by an agreement entered into under that section, and a county solid waste management district and joint solid waste management district established under R.C. §§ 343.01 or 343.012.

"PROPRIETARY FUNCTION."

(1) A function of a political subdivision that is specified in division (2) of this definition or that satisfies both of the following:

(a) The function is not one described in divisions (1)(a) or (1)(b) of the definition of "GOVERNMENTAL FUNCTION" contained in this section, and is not one specified in division (2) of the definition of "governmental function" contained in this section;

(b) The function is one that promotes or preserves the public peace, health, safety, or welfare and that involves activities that are customarily engaged in by nongovernmental persons.

(2) A "PROPRIETARY FUNCTION" includes, but is not limited to, the following:

(a) The operation of a hospital by one or more political subdivisions;

(b) The design, construction, reconstruction, renovation, repair, maintenance, and operation of a public cemetery other than a township cemetery;

(c) The establishment, maintenance, and operation of a utility, including, but not limited to, a light, gas, power, or heat plant, a railroad, a busline or other transit company, an airport, and a municipal corporation water supply system;

(d) The maintenance, destruction, operation, and upkeep of a sewer system;

(e) The operation and control of a public stadium, auditorium, civic or social center, exhibition hall, arts and crafts center, band or orchestra, or off-street parking facility.

"STATE." The State of Ohio, including, but not limited to, the General Assembly, the Supreme Court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, colleges, and universities, institutions, and other instrumentalities of the State of Ohio. "STATE" does not include political subdivisions. (R.C. § 2744.01)

(1) For the purposes of this chapter, the functions of political subdivisions are classified as governmental functions and proprietary functions. Except as provided in division (B) of this section, a political subdivision is not liable in damages in a civil action for injury, death, or loss to persons or property allegedly caused by any act or omission of the political subdivision or an employee of the political subdivision in connection with a governmental or proprietary function.

(2) Subject to statutory limitations upon their monetary jurisdiction, the Courts of Common Pleas, the Municipal Courts, and the County Courts have jurisdiction to hear and determine civil actions governed by or brought pursuant to this chapter.

(B) Exceptions. Subject to § 36.03 and R.C. §§ 2744.03 and 2744.05, a political subdivision is liable in damages in a civil action for injury, death, or loss to persons or property allegedly caused by an act or omission of the political subdivision or of any of its employees in connection with a governmental or proprietary function, as follows:

(1) Except as otherwise provided in this division, political subdivisions are liable for injury, death, or loss to persons or property caused by the negligent operation of any motor vehicle by their employees upon the public roads, highways, or streets when the employees are engaged within the scope of their employment and authority. The following are full defenses to such liability:

(a) A member of a municipal corporation police department or any other police agency was operating a motor vehicle while responding to an emergency call and the operation of the vehicle did not constitute willful or wanton misconduct;

(b) A member of a municipal corporation fire department or any other firefighting agency was operating a motor vehicle while engaged in duty at a fire, proceeding toward a place where a fire is in progress or is believed to be in progress, or in answering any other emergency alarm and the operation of the vehicle did not constitute willful or wanton misconduct.

(c) A member of an emergency medical service owned or operated by a political subdivision was operating a motor vehicle while responding to or completing a call for emergency medical care or treatment, the member was holding a valid commercial driver's license issued pursuant to R.C. Ch. 4506 or a driver's license issued pursuant to R.C. Ch. 4507, the operation of the vehicle did not constitute willful or wanton misconduct, and the operation complies with the precautions of R.C. § 4511.03.

(2) Political subdivisions are liable for injury, death, or loss to persons or property caused by the negligent performance of acts by their employees with respect to proprietary functions of the political subdivisions.

(3) Political subdivisions are liable for injury, death, or loss to persons or property caused by their failure to keep public roads, highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, viaducts, or public grounds within the political subdivisions open, in repair, and free from nuisance, except that it is a full defense to such liability, when a bridge within a municipal corporation is involved, that the municipal corporation does not have the responsibility for maintaining or inspecting the bridge.

(4) Political subdivisions are liable for injury, death, or loss to persons or property that is caused by the negligence of their employees and that occurs within or on the grounds of buildings that are used in connection with the performance of a governmental function, including, but not limited to, office buildings and courthouses, but not including jails, places of juvenile detention, workhouses, or any other detention facility, as defined in R.C. § 2921.01.

(5) In addition to the circumstances described in divisions (B)(1) through (4) of this section, a political subdivision is liable for injury, death, or loss to persons or property when liability is expressly imposed upon the political subdivision by a section of the Revised Code, including, but not limited to, R.C. §§ 2743.02 and 5591.37. Liability shall not be construed to exist under another section of the Revised Code merely because a responsibility is imposed upon a political subdivision or because of a general authorization that a political subdivision may sue and be sued.
(R.C. § 2744.02)

§ 36.03 DEFENSES AND IMMUNITIES.

(A) In a civil action brought against a political subdivision or an employee of a political subdivision to recover damages for injury, death, or loss to persons or property allegedly caused by any act or omission in connection with a governmental or proprietary function, the following defenses or immunities may be asserted to establish nonliability:

(1) The political subdivision is immune from liability if the employee involved was engaged in the performance of a judicial, quasi-judicial, prosecutorial, legislative, or quasi-legislative function.

(2) The political subdivision is immune from liability if the conduct of the employee involved, other than negligent conduct, that gave rise to the claim of liability was required by law or authorized by law, or if the conduct of the employee involved that gave rise to the claim of liability was necessary or essential to the exercise of powers of the political subdivision or employee.

(3) The political subdivision is immune from liability if the action or failure to act by the employee involved that gave rise to the claim of liability was within the discretion of the employee with respect to policy making, planning, or enforcement powers by virtue of the duties and responsibilities of the office or position of the employee.

(4) The political subdivision is immune from liability if the action or failure to act by the political subdivision or employee involved that gave rise to the claim of liability, resulted in injury or death to a person who had been convicted of or pleaded guilty to a criminal offense and who, at the time of the injury or death, was serving any portion of his sentence by performing community service work for or in the political subdivision whether pursuant to R.C. § 2951.02 or otherwise, or resulted in injury or death to a child who was found to be a delinquent child and who, at the time of the injury or death, was performing community service or community work for or in a political subdivision in accordance with the order of a juvenile court entered pursuant to R.C. § 2151.355, and if, at the time of his injury or death, the person or child was covered for purposes of R.C. Ch. 4123 in connection with the community service or community work for or in the political subdivision.

(5) The political subdivision is immune from liability if the injury, death, or loss to persons or property resulted from the exercise of judgment or discretion in determining whether to acquire, or how to use, equipment, supplies, materials, personnel, facilities, and other resources, unless the judgment or discretion was exercised with malicious purpose, in bad faith, or in a wanton or reckless manner.

(6) In addition to any immunity or defense referred to in division (A)(7) of this section and in circumstances not covered by that division, the employee is immune from liability unless one of the following applies:

(a) His acts or omissions were manifestly outside the scope of his employment or official responsibilities;

(b) His acts or omissions were with malicious purpose, in bad faith, or in a wanton or reckless manner;

(c) Liability is expressly imposed upon the employee by a section of the Revised Code.

(7) The political subdivision, and an employee who is the chief legal officer of a political subdivision, an assistant of any such person, or a judge of a court of this state, is entitled to any defense or immunity available at common law or established by the Revised Code.

(B) Any immunity or defense conferred upon, or referred to in connection with, an employee by division (A)(6) or (7) of this section does not affect or limit any liability of a political subdivision for an act or omission of the employee as provided in § 36.02 above. (R.C. § 2744.03)

§ 36.04 LIMITATION OF ACTIONS.

An action against a political subdivision to recover damages for injury, death, or loss to persons or property allegedly caused by any act or omission in connection with a governmental or proprietary function, whether brought as an original action, cross-claim, counterclaim, third-party claim, or claim for subrogation, shall be brought within two years after the cause of action arose, or within any applicable shorter period of time for bringing the action provided by the Revised Code. This section applies to actions brought against political subdivisions by all persons, governmental entities, and the state.
(R.C. § 2744.04(A))

§ 36.05 SATISFACTION OF JUDGMENTS.

Real or personal property, and moneys, accounts, deposits, or investments of a political subdivision are not subject to execution, judicial sale, garnishment, or attachment to satisfy a judgment rendered against a political subdivision in a civil action to recover damages for injury, death, or loss to persons or property caused by an act or omission of the political subdivision or any of its employees in connection with a governmental or proprietary function. Such judgments shall be paid from funds of the political subdivisions that have been appropriated for that purpose, but, if sufficient funds are not currently appropriated for the payment of judgments, the fiscal officer of a political subdivision shall certify the amount of any unpaid judgments to the taxing authority of the political subdivision for inclusion in the next succeeding budget and annual appropriation measure and payment in the next succeeding fiscal year as provided by R.C. § 5705.08, unless any such judgment is to be paid from the proceeds of bonds issued pursuant to R.C. § 133.14 or pursuant to annual installments authorized by R.C. § 2744.06(B) or (C).
(R.C. § 2744.06(A))

Statutory reference:
Damage awards, see R.C. § 2744.05

§ 36.06 PROVISION OF EMPLOYEES' DEFENSE; CONSENT JUDGMENTS.

(A) Defense of actions against employees.

(1) Except as otherwise provided in this division, a political subdivision shall provide for the defense of an employee, in any state or federal court, in any civil action or proceeding to recover damages for injury, death, or loss to persons or property allegedly caused by an act or omission of the employee in connection with a governmental or proprietary function if the act or omission occurred or is alleged to have occurred while the employee was acting in good faith and not manifestly outside the scope of his employment or official responsibilities. Amounts expended by a political subdivision in the defense of its employees shall be from funds appropriated for this purpose or from proceeds of insurance.

The duty to provide for the defense of an employee specified in this division does not apply in a civil action or proceeding that is commenced by or on behalf of a political subdivision.

(2) Except as otherwise provided in this division, a political subdivision shall indemnify and hold harmless an employee in the amount of any judgment, other than a judgment for punitive or exemplary damages, that is obtained against the employee in a state or federal court or as a result of a law of a foreign jurisdiction and that is for damages for injury, death, or loss to persons or property caused by an act or omission in connection with a governmental or proprietary function, if at the time of the act or omission the employee was acting in good faith and within the scope of his employment or official responsibilities.

(B) Consent judgments.

(1) A political subdivision may enter into a consent judgment or settlement and may secure releases from liability for itself or an' employee, with respect to any claim for injury, death, or loss to persons or property caused by an act or omission in connection with a governmental or proprietary function.

(2) No action or appeal of any kind shall be brought by any person, including any employee or a taxpayer, with respect to the decision of a political subdivision pursuant to division (B)(1) of this section whether to enter into a consent judgment or and circumstances of a consent judgment or settlement. Amounts expended for any settlement shall be from funds appropriated for this purpose.

(C) Failure to provide defense. If a political subdivision refuses to provide an employee with a defense in a civil action or proceeding as described in division (A)(1) of this section, the employee may file, in the Court of Common Pleas of the county in which the political subdivision is located, an action seeking a determination as to the appropriateness of the refusal of the political subdivision to provide him with a defense under that division.
(R.C. § 2744.07)

§ 36.07 LIABILITY INSURANCE.

(A) A political subdivision may use public funds to secure insurance with respect to its and its employees' potential liability in damages in civil actions for injury, death, or loss to persons or property allegedly caused by an act or omission of the political subdivision or any of its employees in connection with a governmental or proprietary function in accordance with R.C. § 2744.08.

(B) Regardless of whether a political subdivision procures a policy or policies of liability insurance pursuant to division (A)

of this section or otherwise, the political subdivision may establish and maintain a self-insurance program in accordance with R.C. § 2744.08.

(C) The purchase of liability insurance, or the establishment and maintenance of a self-insurance program, by a political subdivision does not constitute a waiver of any immunity or defense of the political subdivision or its employees, except that the political subdivision may specifically waive any immunity or defense to which lt or its employees may be entitled if a provision to that effect is specifically included in the policy of insurance or in a written plan of operation of the self-insurance program, or, if any, the legislative enactment of the political subdivision authorizing the purchase of the insurance or the establishment and maintenance of the self-insurance program. Such a specific waiver shall be only to the extent of the insurance or self-insurance program coverage.
(R.C. § 2744.08)

Statutory reference:
Joint municipal self-insurance pools, see R.C. § 2744.081

§ 36.08 CERTAIN ACTIONS UNAFFECTED.

This chapter does not apply to, and shall not be construed to apply to, the following:

(A) Civil actions that seek to recover damages from a political subdivision or any of its employees for contractual liability;

(B) Civil actions by an employee, or the collective bargaining representative of an employee, against his political subdivision relative to any matter that arises out of the employment relationship between the employee and the political subdivision;

(C) Civil actions by an employee of a political subdivision against the political subdivision relative to wages, hours, conditions, or other terms of his employment;

(D) Civil actions by sureties, and the rights of sureties, under fidelity or surety bonds;

(E) Civil claims based upon alleged violations of the Constitution or statutes of the United States, except that the provisions of § 36.06 shall apply to such claims or related civil actions.
(R.C. § 2744.09)

TITLE V: PUBLIC WORKS

(This title is reserved for local ordinances dealing with sewer, water, trash collection, etc.)

TITLE VII: TRAFFIC CODE

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GENERAL

§ 70.01 DEFINITIONS.

For the purposes of this title, the following words and phrases shall have the following meanings ascribed to them respectively.

"AGRICULTURAL TRACTOR." Every self-propelled vehicle designed or used for drawing other vehicles or wheeled machinery, but having no provision for carrying loads independently of other vehicles, and used principally for agricultural purposes.

"ALLEY." A street or highway intended to provide access to the rear or side of lots or buildings in urban districts, and not intended for the purpose of through vehicular traffic, and any street or highway that has been declared an "ALLEY" by the legislative authority of the city in which the street or highway is located.

"ARTERIAL STREET." Any United States or state numbered route, controlled-access highway, or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways.

"BICYCLE." Every device, other than a tricycle designed solely for use as a play vehicle by a child, propelled solely by human power, upon which any person may ride having either two tandem wheels, or one wheel in the front and two wheels in the rear, any of which is more than 14 inches in diameter.

"BUS." Every motor vehicle designed for carrying more than 9 passengers, and used for the transportation of persons other than in a ridesharing arrangement, and every motor vehicle, automobile for hire, or funeral car, other than a taxicab or motor vehicle used in a ridesharing arrangement, designed and used for the transportation of persons for compensation.

"BUSINESS DISTRICT." The territory fronting upon a street or highway, including the street or highway, between successive intersections within the city, where 50% or more of the frontage between successive intersections is occupied by buildings in use for business, or where 50% or more of the frontage for a distance of 300 feet or more is occupied by buildings in use for business, and the character of the territory is indicated by official traffic-control devices.

"CHILD DAY-CARE CENTER" and "TYPE A FAMILY DAY-CARE HOME." These terms shall have the same meanings as set forth in R.C. § 5104.01.

"COMMERCIAL TRACTOR." Every motor vehicle having motive power designed or used for drawing other vehicles, and not so constructed as to carry any load thereon, or designed or used for drawing other vehicles while carrying a portion of the other vehicles, or the load thereon, or both.

"CONTROLLED-ACCESS HIGHWAY." Every street or highway in respect to which owners or occupants of abutting lands and other persons have no legal right or access to or from the same except at certain points only and in a manner as may be determined by the public authority having jurisdiction over the street or highway.

"CROSSWALK."

(1) Part of a roadway at intersections ordinarily included within the real or projected prolongation of property lines and curb lines or, in the absence of curbs, the edges of the traversable roadway;

(2) Any portion of a roadway at an intersection or elsewhere, distinctly indicated for pedestrian crossing by lines or other markings on the surface;

(3) Notwithstanding the foregoing provisions of this division, there shall not be a crosswalk where the city council has placed signs indicating no crossing.

"DRIVER" or "OPERATOR." Any person who drives or is in actual physical control of a vehicle.

"EMERGENCY VEHICLE." Emergency vehicles of municipal or county departments or public utility corporations, when identified as such as required by law, the Director of Public Safety, or local authorities, and motor vehicles when commandeered by a police officer.

"EXPLOSIVES." Any chemical compound or mechanical mixture that is intended for the purpose of producing an explosion that contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by a detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, such that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, or of destroying life or limb. Manufactured articles shall not be held to be explosives when the individual units contain explosives in limited quantities, of such nature or in such packing that it is impossible to procure a simultaneous or a destructive explosion of the units, to the injury of life, limb, or property by fire, by friction, by concussion, by percussion, or by a detonator, such as fixed ammunition for small arms, firecrackers, or safety fuse matches.

"EXPRESSWAY." A divided arterial highway for through traffic with full or partial control of access on 50% of all crossroads separated in grade.

"FLAMMABLE LIQUID." Any liquid which has a flash point of 70°F. or less, as determined by a tagliabue or equivalent closed cup test device.

"FREEWAY." A divided multi-lane highway for through traffic with crossroads separated in grade and with full control of access.

"FUNERAL ESCORT VEHICLE." Any motor vehicle, including a funeral hearse, while used to facilitate the movement of a funeral procession.

"GROSS WEIGHT." The weight of a vehicle plus the weight of any load thereon.

"INTERSECTION."

(1) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of 2 highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(2) Where a highway includes 2 roadways 30 feet or more apart, then every crossing of each roadway of the divided highway by an intersecting highway shall be regarded as a separate intersection.

If an intersecting highway also includes 2 roadways 30 feet or more apart, then every crossing of 2 roadways of the highways shall be regarded as a separate intersection.

(3) The junction of an alley with a street or highway, or with another alley, shall not constitute an intersection.

"LANED HIGHWAY." A highway the roadway of which is divided into 2 or more clearly marked lanes for vehicular traffic.

"LOCAL AUTHORITIES." Every county, municipal, and other local board or body having authority to adopt police regulations under the constitution and laws of this state.

"MOTORCYCLE." Every motor vehicle other than a tractor having a saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, including, but not limited to, motor vehicles known as "motor-driven cycle," "motor scooter," or "motorcycle" without regard to weight or brake horsepower.

"MOTORIZED BICYCLE." Any vehicle having either 2 tandem wheels or one wheel in the front and 2 wheels in the rear, that is capable of being pedaled, and is equipped with a helper motor of not more than 50 cubic centimeters piston displacement which produces no more than one-brake horsepower, and is capable of propelling the vehicle at a speed of no greater than 20 miles per hour on a level surface.

"MOTORIZED WHEELCHAIR." Any self-propelled vehicle designed for, and used by, a handicapped person and that is incapable of a speed in excess of eight miles per hour.

"MOTOR BUS." Any motor vehicle having motor power designed and used for carrying more than nine passengers.

"MOTOR VEHICLE." Every vehicle propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires, except motorized bicycles, road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work, and not designed for or employed in general highway transportation, hole-digging machinery, well-drilling machinery, ditch-digging machinery, farm machinery, trailers used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a street or highway at a speed of 25 mph or less, threshing machinery, hay-baling machinery, agricultural tractors and machinery used in the production of horticultural, floricultural, agricultural, and vegetable products and trailers designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of 25 mph or less.

"PARKING" or "PARKED." The standing of a vehicle upon a street, road, alley, highway or public ground, whether accompanied or unaccompanied by a driver.

"PASSENGER CAR." Any motor vehicle designed and used for carrying not more than nine persons.

"PEDESTRIAN." Any natural person afoot.

"POLE TRAILER." Every trailer or semitrailer attached to the towing vehicle by means of a reach, pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregular shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

"POLICE OFFICER." Every officer authorized to direct or regulate traffic, or to make arrests for violations of traffic regulations.

"PRIVATE ROAD OR DRIVEWAY." Every way or place in private ownership used for vehicular travel by the owner, and those having express or implied permission from the owner, but not by other persons.

"PUBLIC SAFETY VEHICLE." Any of the following:

(1) Ambulances, including private ambulance companies under contract to a municipal corporation, township, or county, and private ambulances and nontransport vehicles bearing license plates issued under R.C.§ 4503.49;

(2) Motor vehicles used by public law enforcement officers or other persons sworn to enforce the criminal and traffic laws of the state;

(3) Any motor vehicle when properly identified as required by the Director of Public Safety, when used in response to fire emergency calls or to provide emergency medical service to ill or injured persons, and when operated by a duly qualified person who is a member of a volunteer rescue service or a volunteer fire department, and who is on duty pursuant to the rules or directives of that service. The state fire marshal shall be designated by the Director of Public Safety as the certifying agency for all public safety vehicles described herein;

(4) Vehicles used by fire departments, including motor vehicles when used by volunteer firemen responding to emergency calls in the fire department service when identified as required by the Director of Public Safety;

(5) Any vehicle used to transport or provide emergency medical service to an ill or injured person, when certified as a "PUBLIC SAFETY VEHICLE," shall be considered such a vehicle when transporting an ill or injured person to a hospital, regardless or whether such vehicle has already passed a hospital.

"RAILROAD." A carrier of persons or property operating upon rails placed principally on a private right-of-way.

"RAILROAD SIGN OR SIGNAL." Any sign, signal, or device erected by authority of a public body or official or by a railroad, and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

"RAILROAD TRAIN." A steam engine or an electric or other motor, with or without cars coupled thereto, operated by a railroad.

"RESIDENCE DISTRICT." The territory, not comprising a business district, fronting on a street or highway, including the street or highway, where, for a distance of 300 feet or more, the frontage is improved with residences or residences and buildings in use for business.

"RIDESHARING ARRANGEMENT." The transportation of persons in a motor vehicle where the transportation is incidental to another purpose of a volunteer driver, and includes "RIDESHARING ARRANGEMENTS" known as carpools, vanpools, and buspools.

"RIGHT-OF-WAY." Either of the following, as the context requires:

(1) The right of a vehicle or pedestrian to proceed uninterruptedly in a lawful manner in the direction in which it or he is moving, in preference to another vehicle or pedestrian approaching from a different direction into its or his path;

(2) A general term denoting land, property, or the interest therein, usually in the configuration of a strip, acquired for or devoted to transportation purposes. When used in this context, "RIGHT-OF-WAY" includes the roadway, shoulders or berm, ditch, and slopes extending to the right-of-way limits under the control of the state or local authority.

"ROADWAY." That portion of a highway improved, designed, or ordinarily used for vehicular travel, except the berm or shoulder. If a highway includes 2 or more separate roadways, the term "ROADWAY" means any roadway separately, but not all the roadways collectively.

"RURAL MAIL DELIVERY VEHICLE." Every vehicle used to deliver United States mail on a rural mail delivery route.

"SAFETY ZONE." 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.

"SCHOOL BUS." Every bus designed for carrying more than 9 passengers which 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 municipal corporation, or within the limits and the territorial limits of municipal corporations immediately contiguous to the city, 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.

"SEMITRAILER." Every vehicle designed or used for carrying persons or property with another and separate motor vehicle so that in operation a part of its own weight or that of its load, or both, rests upon and is carried by another vehicle.

"SIDEWALK." That portion of a street between the curb lines, or the lateral line of a roadway, and the adjacent property lines, intended for the use of pedestrians.

"STATE HIGHWAY." A highway under the jurisdiction of the department of transportation, outside the limits of municipal corporations, provided that the authority conferred upon the director of transportation in R.C. § 5511.01 to erect state highway route markers and signs directing traffic shall not be modified by R.C. §§ 4511.01 through 4511.79 and 4511.99.

"STATE ROUTE." Every highway which is designated with an official state route number and so marked.

"STOP INTERSECTION." Any intersection at one or more entrances of which stop signs are erected.

"STREET" or "HIGHWAY." The entire width between the boundary lines of every way open to the use of the public as a thoroughfare for purposes of vehicular travel.

"THROUGH HIGHWAY." Every street or highway as provided in § 72.50.

"THRUWAY." A through highway whose entire roadway is reserved for through traffic and on which roadway parking is prohibited.

"TRAFFIC." Pedestrians, ridden or herded animals, vehicles and other devices, either singly or together, while using any highway for purposes of travel.

"TRAFFIC-CONTROL DEVICES." All flaggers, signs, signals, markings, and devices placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic, including signs denoting names of streets and highways.

"TRAFFIC-CONTROL SIGNAL." Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop, to proceed, to change direction, or not to change direction.

"TRAILER." Every vehicle designed or used for carrying persons or property wholly on its own structure, and for being drawn by a motor vehicle, including any vehicle when formed by or operated as a combination of a "SEMITRAILER" and a vehicle of the dolly type, such as that commonly known as a "TRAILER DOLLY," a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a street or highway at a speed greater than 25 mph and a vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of more than ten miles or at a speed of more than 25 mph.

"TRUCK." Every motor vehicle, except trailers and semitrailers, designed and used to carry property.

"URBAN DISTRICT." The territory contiguous to and including any street or highway which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than 100 feet for a distance of 1/4 of a mile or more, and the character of the territory is indicated by official traffic-control devices.

"U-TURN." A turn that reverses the direction in which the vehicle making the turn is proceeding.

"VEHICLE." Every device, including a motorized bicycle, in, upon, or by which any person or property may be transported or drawn upon a highway, except motorized wheelchairs, devices moved by power collected from overhead electric trolley wires, or used exclusively upon stationary rails or tracks, and devices other than bicycles moved by human power.
(R.C. § 4511.01)

§ 70.02 COMPLIANCE WITH ORDER OF POLICE OFFICER.

(A) No person shall fail to comply with any lawful order or direction of any police officer invested with authority to direct, control, or regulate traffic.

(B) No person shall operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring his motor vehicle to a stop.

(C) Whoever violates this section is guilty of failure to comply with an order or signal of a police officer. A violation of division (A) of this section is a misdemeanor of the first degree. A violation of division (B) of this section is a misdemeanor of the first degree, except that a violation of division (B) of this section is a felony of the fourth degree and shall be prosecuted under appropriate state law if the jury or judge as trier of fact finds any one of the following by proof beyond a reasonable doubt:

(1) In committing the offense, the offender was fleeing immediately after the commission of a felony;

(2) The operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property;

(3) The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.

(D) As used in this section, "POLICE OFFICER" has the same meaning as in R.C.§ 4511.01.
(R.C. § 2921.331)

§ 70.03 EMERGENCY VEHICLES TO PROCEED CAUTIOUSLY PAST RED OR STOP SIGNAL.

The driver of any emergency vehicle or public safety vehicle, when responding to an emergency call, upon approaching a red or stop signal or any stop sign shall slow down as necessary for safety to traffic, but may proceed cautiously past the red or stop sign or signal with due regard for the safety of all persons using the street or highway. (R.C. § 4511.03) Penalty, see § 70.99

§ 70.04 EXCEPTIONS.

(A) The provisions of this traffic code do not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway within an area designated by traffic-control devices, but apply to those persons and vehicles when traveling to or from such work.

(B) The drivers of snow plows, traffic line stripers, road sweepers, mowing machines, tar distributing vehicles, and other vehicles utilized in snow and ice removal or road surface maintenance, while engaged in work upon a highway, provided these vehicles are equipped with flashing lights and other markings as are required by law, and these lights are in operation when the vehicles are so engaged, shall be exempt from criminal prosecution for violations of §§ 72.01, 72.03, 72.04, 72.05, 72.07, 72.08, 72.10, 72.12, 73.11, and 76.01. This exemption shall not apply to the drivers when their

vehicles are not so engaged. This section shall not exempt a driver of such equipment from civil liability arising from the violation of §§ 72.01, 72.03, 72.04, 72.05, 72.07, 72.08, 72.10, 72.12, 73.11, and 76.01. (R.C. § 4511.04) Penalty, see § 70.99

§ 70.05 PERSONS RIDING OR DRIVING ANIMALS UPON ROADWAYS.

Every person riding, driving, or leading an animal upon a roadway is subject to the provisions of this traffic code, applicable to the driver of a vehicle, except those provisions of this traffic code which by their nature are inapplicable. (R.C. § 4511.05) Penalty, see § 70.99

§ 70.06 PROHIBITIONS ON USE OF FREEWAYS.

No person, unless otherwise directed by a police officer, shall:

(A) 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;

(B) 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; a bicycle with motor attached; a motor-driven cycle with a motor which produces not to exceed 5-brake horsepower; an agricultural tractor; farm machinery; except in the performance of public works or official duties.
(R.C. § 4511.051) Penalty, see § 70.99

§ 70.07 USE OF PRIVATE PROPERTY FOR VEHICULAR TRAVEL.

The provisions of this traffic code do not prevent the owner of real property, used by the public for purposes of vehicular travel by permission of the owner and not as a matter of right, from prohibiting such use or from requiring additional conditions to those specified in those sections, or otherwise regulating such use as may seem best to the owner.
(R.C. § 4511.08) Penalty, see § 70.99

§ 70.08 NAMES OF PERSONS DAMAGING REAL PROPERTY BY OPERATION OF VEHICLE TO BE PROVIDED TO OWNER.

(A) As used in this section, "MOTOR VEHICLE" has the same meaning as in R.C. § 4501.01.

(B) If damage is caused to real property by the operation of a motor vehicle in, or during the, violation of any section of the revised code or of any municipal ordinance, the law enforcement agency that investigates the case, upon request of the real property owner, shall provide the owner with the names of the persons who are charged with the commission of the offense. If a request for the names is made, the agency shall provide the names as soon as possible after the persons are charged with the offense.

(C) The personnel of law enforcement agencies who act pursuant to division (B) of this section in good faith are not liable in damages in a civil action allegedly arising from their actions taken pursuant to that division. Political subdivisions and the state are not liable in damages in a civil action allegedly arising from the actions of personnel of their law enforcement agencies if the personnel have immunity under this division. (R.C. § 2935.28)

TRAFFIC-CONTROL DEVICES

§ 70.10 OBEYING TRAFFIC-CONTROL DEVICES.

(A) No pedestrian or driver of a vehicle shall disobey the instructions of any traffic-control device placed in accordance with the provisions of this traffic code, unless at the time otherwise directed by a police officer.

(B) No provision of this traffic code for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section of this traffic code does not state that signs are required, that section shall be effective even though no signs are erected or in place. (R.C. § 4511.12) Penalty, see § 70.99

§ 70.11 SIGNAL LIGHTS.

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red, and yellow shall be used, except for special pedestrian signals carrying words or symbols, and these lights shall indicate and apply to drivers of vehicles and pedestrians as follows.

(A) Green indication.

(1) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left, unless a sign at the place prohibits either turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles, and pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited.

(2) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by the arrow, or such other movement as is permitted by other indications shown at the same time. The vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(3) Unless otherwise directed by a pedestrian-control signal, as provided in § 70.13, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(B) Steady yellow indication.

(1) Vehicular traffic facing a steady circular yellow or yellow arrow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

(2) Pedestrians facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian-control signal as provided in § 70.13, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown, and no pedestrian shall then start to cross the roadway.

(C) Steady red indication.

(1) Vehicular traffic facing a steady red signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection, and shall remain standing until an indication to proceed is shown except as provided in divisions (C) (2) and (3) of this section.

(2) Unless a sign is in place prohibiting a right turn as provided in division (C) (4) of this section, vehicular traffic facing a steady red signal may cautiously enter the intersection to make a right turn after stopping as required by division (C) (1) of this section. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(3) Unless a sign is in place prohibiting a left turn as provided in division (C) (5) of this section, vehicular traffic, streetcars, and trackless trolleys facing a steady red signal on a one-way street on which traffic moves to the left may cautiously enter the intersection to make a left turn into the one-way street after stopping as required by division (C) (1) of this section, and yielding the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(4) Unless otherwise directed by a pedestrian-control signal as provided in § 70.13, pedestrians facing a steady red signal alone shall not enter the roadway.

(5) Local authorities may by ordinance, or the director of transportation on state highways may, prohibit a right or a left turn against a steady red signal at any intersection, which shall be effective when signs giving notice thereof are posted at the intersection.

(D) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but, in the absence of any sign or marking, the stop shall be made at the signal. (R.C. § 4511.13) Penalty, see § 70.99

§ 70.12 SIGNALS OVER REVERSIBLE LANES.

When lane-use control signals are placed over individual lanes of a street or highway, these signals shall indicate and apply to drivers of vehicles and trackless trolleys as follows:

(A) A steady downward green arrow. Vehicular traffic may travel in any lane over which a green arrow signal is shown.

(B) A steady yellow "X." Vehicular traffic is warned to vacate in a safe manner any lane over which such signal is shown to avoid occupying that lane when a steady red "X" signal is shown.

(C) A flashing yellow "X." Vehicular traffic may use with proper caution any lane over which this signal is shown for only the purpose of making a left turn.

(D) A steady red "X." Vehicular traffic shall not enter or travel in any lane over which this signal is shown.
(R.C. § 4511.131) Penalty, see § 70.99

§ 70.121 SIGNALS NOT CLEARLY ASSIGNING THE RIGHT-OF-WAY.

The driver of a vehicle who approaches an intersection where traffic is controlled by traffic-control signals shall do all of the following, if the signal facing him either exhibits no colored lights or colored lighted arrows or exhibits a combination of such lights or arrows that fails to clearly indicate the assignment of right-of-way:

(A) Stop at a clearly marked stop line, but if none, stop before entering the crosswalk on the near side of the intersection, or, if none, stop before entering the intersection;

(B) Yield the right-of-way to all vehicles in the intersection or approaching on an intersecting road, if the vehicles will constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways;

(C) Exercise ordinary care while proceeding through the intersection.
(R.C. § 4511.132) Penalty, see § 70.99

§ 70.13 PEDESTRIAN-CONTROL SIGNALS.

Whenever special pedestrian-control signals exhibiting the words "walk," or "don't walk," or the symbol of a walking person or an upraised palm are in place, these signals shall indicate the following instructions:

(A) "Walk" or the symbol of a walking person. Pedestrians facing this signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the operators of all vehicles.

(B) "Don't walk" or the symbol of an upraised palm. No pedestrian shall start to cross the roadway in the direction of the signal.

(C) Nothing in this section shall be construed to invalidate the continued use of pedestrian-control signals utilizing the word "wait" if those signals were installed prior to the effective date of this section. (R.C. § 4511.14) Penalty, see § 70.99

§ 70.14 FLASHING TRAFFIC SIGNALS.

(A) Whenever an illuminated flashing red or yellow traffic signal is used in a traffic signal or with a traffic sign, it shall require obedience as follows:

(1) Flashing red stop signal. Operators of vehicles shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) Flashing yellow caution signal. Operators of vehicles may proceed through the intersection or past the signal only with caution.

(B) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by §§ 72.45 and 72.46.
(R.C. § 4511.15) Penalty, see § 70.99

§ 70.15 PROHIBITION AGAINST UNAUTHORIZED SIGNS AND SIGNALS.

(A) No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be, or is an imitation of, or resembles a traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any traffic-control device or any railroad sign or signal, and no person shall place or maintain, nor shall any public authority permit, upon any highway any traffic sign or signal bearing thereon any commercial advertising. This section does not prohibit the erection upon private property adjacent to highways of signs giving useful directional information, and of a type that cannot be mistaken for traffic-control devices.

(B) Every prohibited sign, signal, marking, or device is a public nuisance, and the authority having jurisdiction over the highway may remove the same or cause it to be removed.
(R.C. § 4511.16) Penalty, see § 70.99

§ 70.16 PROHIBITION AGAINST ALTERATION, DEFACING, OR REMOVAL.

No person, without lawful authority shall do any of the following:

(A) Knowingly move, deface, damage, destroy, or otherwise improperly tamper with any traffic-control device, any railroad sign or signal, or any inscription, shield, or insignia on the device, sign, or signal, or any part of the device, sign, or signal;

(B) Knowingly drive upon or over any freshly applied pavement marking material on the surface of a roadway while the marking material is in an undried condition, and is marked by flags, markers, signs, or other devices intended to protect it.

(C) Knowingly move, damage, destroy, or otherwise improperly tamper with a manhole cover. (R.C. § 4511.17)

(D) Except as otherwise provided in this division, whoever violates divisions (A) or (C) of this section is guilty of a misdemeanor of the third degree. If a violation of divisions (A) or (C) of this section creates a risk of physical harm to any person, the offender is guilty of a misdemeanor of the first degree. A violation of divisions (A) or (C) of this section that causes serious physical harm to property that is owned, leased, or controlled by a state or local authority is a felony of the fourth degree and shall be prosecuted under appropriate state law. (R.C. § 4511.99 (M))

(E) Whoever violates division (B) of this section shall be subject to the penalty as set forth in § 70.99.

§ 70.99 PENALTY.

(A) Whoever is convicted of or pleads guilty to a misdemeanor, other than a minor misdemeanor, shall be imprisoned for a definite term or fined, or both, which term of imprisonment and fine shall be fixed by the court as provided in this section.

(1) Terms of imprisonment for misdemeanors shall be imposed as follows:

(a) For a misdemeanor of the first degree, not more than 6 months;

(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) Fines for a misdemeanor shall be imposed as follows:

(a) For a misdemeanor of the first degree, not more than $1,000;

(b) For a misdemeanor of the second degree, not more than $750;

(c) For a misdemeanor of the third degree, not more than $500;

(d) For a misdemeanor of the fourth degree, not more than $250.

(3) Whoever is convicted of or pleads guilty to a minor misdemeanor shall be fined not more than $100. (R.C. § 2929.21)

(B) Whoever violates any provision of this traffic code, for which no penalty is otherwise provided, is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, such person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, such person is guilty of a misdemeanor of the third degree. When any person is found guilty of a first offense for a violation of § 73.10 upon a finding that he operated a motor vehicle faster than 35 miles an hour in a business district of the municipal corporation, or faster than 50 miles an hour in other portions, or faster than 35 miles an hour while passing through a school zone during recess or while children are going to or leaving school during the opening or closing hours, such person is guilty of a misdemeanor of the fourth degree. (R.C. § 4511.99 (D))

(C) The court may require a person who is convicted of or pleads guilty to a misdemeanor to make restitution for all or part of the property damage that is caused by his offense. (R.C. § 2929.21)

CHAPTER 71: LICENSING PROVISIONS

Section

71.01 Display of license plates or validation stickers
71.02 License required as driver or commercial driver; prohibition against unlicensed operation on private property

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71.99 Penalty

§ 71.01 DISPLAY OF LICENSE PLATES OR VALIDATION STICKERS.

(A) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the front and rear of the motor vehicle the distinctive number and registration mark, including any county identification sticker and any validation sticker issued under R.C. §§ 4503.19 and 4503.191, furnished by the Director of Public Safety, except that a manufacturer of motor vehicles or dealer therein, the holder of an in-transit permit, and the owner or operator of a motorcycle, motorized bicycle, manufactured home, trailer, or semitrailer shall display on the rear only. An apportioned vehicle receiving an apportioned license plate under the international registration plan shall display the plate only on the front of a semitrailer and on the rear of all other vehicles. These number plates shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs its visibility.

(B) No person to whom a temporary license placard or windshield sticker has been issued for the use of a motor vehicle under R.C. § 4503.182, and no operator of such motor vehicle, shall fail to display such temporary license placard in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle, or fail to display the windshield sticker in plain view on the rear window of the motor vehicle. Such temporary license placard or windshield sticker shall not be covered by any material that obstructs its visibility.
(R.C. § 4503.21)

(C) Whoever violates this section is guilty of a minor misdemeanor. (R.C. § 4503.99 (B)) Penalty, see § 70.99

§ 71.02 LICENSE REQUIRED AS DRIVER OR COMMERCIAL DRIVER; PROHIBITION AGAINST UNLICENSED OPERATION ON PRIVATE PROPERTY.

(A) No person, except those expressly exempted under R.C. §§ 4507.03, 4507.04, and 4507.05, shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this municipality unless the person has a valid driver's license issued under R.C. Chapter 4507 or a commercial driver's license issued under R.C. Chapter 4506.

(B) No person shall permit the operation of a motor vehicle upon any public or private property used by the public for purposes of vehicular travel or parking, knowing the operator does not have a valid driver's license, issued to the operator by the registrar of motor vehicles under R.C. Chapter 4507 or a valid commercial driver's license issued under R.C. Chapter 4506.

(C) No person, except those expressly exempted under R.C. §§ 4507.03, 4507.04, and 4507.05, shall operate any motorcycle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this municipality unless the person has a valid license as a motorcycle operator, that was issued upon application by the registrar under R.C. Chapter 4507. The license shall be in the form of an endorsement, as determined by the registrar, upon a driver's or commercial driver's license, if the person has a valid license to operate a motor vehicle, or commercial motor vehicle or in the form of a restricted license, as provided in R.C. § 4507.14, if the person does not have a valid license to operate a motor vehicle or commercial motor vehicle.

(D) No person shall receive a driver's license, or a motorcycle operator's endorsement of a driver's or commercial driver's license, unless and until he surrenders to the registrar all valid licenses issued to him by another jurisdiction recognized by this state. All surrendered licenses shall be returned by the registrar to the issuing authority, together with information that a license is now issued in this state. No person shall be permitted to have more than one valid license at any time. (R.C. § 4507.02(A))

(E) Whoever violates division (A) or (C) of this section by operating a motor vehicle when his driver's or commercial driver's license has been expired for no more than six months is guilty of a minor misdemeanor. (R.C. § 4507.99(D))

PROHIBITIONS

§ 71.05 PROHIBITED ACTS.

No person shall:

(A) Display or cause or permit to be displayed, or possess any identification card, driver's or commercial driver's license, temporary instruction permit, or commercial driver's license temporary instruction permit knowing the same to be fictitious, or to have been canceled, revoked, suspended, or altered;

(B) Lend to a person not entitled thereto, or knowingly permit him to use any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit issued to the person so lending or permitting the use thereof;

(C) Display, or represent as one's own, any identification card, driver's or commercial driver's license, temporary instruction permit, or commercial driver's license temporary instruction permit not issued to the person so displaying the same;

(D) Fail to surrender to the registrar of motor vehicles, upon his demand, any identification card, driver's or commercial driver's license, temporary instruction permit, or commercial driver's license temporary instruction permit which has been suspended, canceled, or revoked;

(E) In any application for an identification card, driver's or commercial driver's license, temporary instruction permit, or commercial driver's license temporary instruction permit or any renewal or duplicate thereof, knowingly conceal a material fact or present any physician's statement required under R.C. § 4507.08 or 4507.081 when knowing the same to be false or fictitious.
(R.C. § 4507.30) Penalty, see § 71.99

§ 71.06 PROHIBITION AGAINST PERMITTING MINOR TO OPERATE VEHICLE.

No person shall cause or knowingly permit any minor under 18 to drive a motor vehicle upon a highway as an operator, unless the minor has first obtained a license or permit to drive a motor vehicle under R.C. §§ 4507.01 through 4507.39.
(R.C. § 4507.31) Penalty, see § 71.99

§ 71.07 (RESERVED.)

§ 71.08 EMPLOYMENT OF A MINOR TO OPERATE A TAXICAB PROHIBITED.

Notwithstanding the definition of "CHAUFFEUR" in R.C. § 4501.01, no person shall employ, for the purpose of operating a taxicab, any minor under 18 years of age.
(R.C. § 4507.321) Penalty, see § 71.99

§ 71.09 RESTRICTION AGAINST OWNER LENDING VEHICLE FOR USE OF ANOTHER.

(A) No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven by any person if either of the following applies:

(1) The offender knows or has reasonable cause to believe the other person has no legal right to drive the motor vehicle;

(2) The offender knows or has reasonable cause to believe the other person's act of driving the motor vehicle would violate any prohibition contained in R.C. §§ 4507.01 to 4507.39.
(R.C. § 4507.33)

(B) Whoever violates division (A) of this section is guilty of permitting the operation of a vehicle by a person with no legal right to operate a vehicle and shall be punished as follows:

(1) If the offender previously has not been convicted of or pleaded guilty to a violation of division (A), permitting the operation of a vehicle by a person with no legal right to operate a vehicle is a misdemeanor of the first degree. In addition to or independent of any other sentence that it imposes upon the offender and subject to R.C. § 4503.235, the court shall order the immobilization for 30 days of the vehicle involved in the offense and the impoundment for 30 days of the certificate of registration and identification license plates of that vehicle. The order for immobilization and impoundment shall be issued and enforced in accordance with R.C. § 4503.233.

(2) If the offender previously has been convicted of or pleaded guilty to one or more violations of division (A), permitting the operation of a vehicle by a person with no legal right to operate a vehicle is a misdemeanor of the first degree. In addition to or independent of any other sentence that it imposes upon the offender and subject to R.C. § 4503.235, the court shall order the criminal forfeiture to the station of the vehicle involved in the offense. The order of criminal forfeiture shall be issued and enforced in accordance with R.C. § 4503.234.
(R.C. § 4507.99(C)) Penalty, see § 71.99

§ 71.10 LICENSE SUSPENDED OR REVOKED BY COURT OF RECORD.

(A) Whenever a person is found guilty under the laws of this state or any ordinance of any political subdivision thereof, of operating a motor vehicle in violation of such laws or ordinances, relating to reckless operation, the trial court of any court of record may, in addition to or independent of all other penalties provided by law, suspend for any period of time or revoke the driver's license or commercial driver's license of any person so convicted or pleading guilty to such offenses for any period that it determines, not to exceed one year.

(B) Suspension of a commercial driver's license under this section shall be concurrent with any period of disqualification under R.C. § 4506.16. No person who is disqualified for life from holding a commercial driver's license under R.C. § 4506.16 shall be issued a driver's license under this chapter during the period for which the commercial driver's license was suspended under this section. And no person whose commercial driver's license is suspended under this section shall be issued a driver's license under R.C. Chapter 4507 or this chapter during the period of the suspension.
(R.C. § 4507.34) Penalty, see § 71.99

§ 71.11 DISPLAY OF LICENSE.

The driver or commercial driver of a motor vehicle shall display his license, or furnish satisfactory proof that he has a license, upon demand of any peace officer or of any person damaged or injured in any collision in which the licensee may be involved. When a demand is properly made, and the driver or commercial driver has his license on or about his person, he shall not refuse to display the license. Failure to furnish satisfactory evidence that the person is licensed under R.C. §§ 4507.01 through 4507.30, when the person does not have his license on or about his person, shall be prima facie evidence of his not having obtained a license. (R.C. § 4507.35) Penalty, see § 71.99

§ 71.12 PROHIBITION AGAINST FALSE STATEMENTS.

No person shall knowingly make a false statement as to any matter or thing required by the provisions of this traffic code. (R.C. § 4507.36) Penalty, see § 71.99

§ 71.13 OPERATION OF MOTOR VEHICLE PROHIBITED WHEN LICENSE SUSPENDED OR REVOKED; IMPOUNDMENT OF REGISTRATION AND LICENSE PLATES.

(A) (1) No person, whose driver's or commercial driver's license or permit, or nonresident's operating privilege has been suspended or revoked pursuant to R.C. Ch. 4509, shall operate any motor vehicle within this municipality, or knowingly permit any motor vehicle owned by him to be operated by another person in the municipality, during the period of the suspension or revocation, except as specifically authorized by R.C. Ch. 4509.

(2) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this municipality in violation of any restriction of the person's driver's or commercial driver's license imposed under R.C. § 4506.10 (D) or R.C. § 4507.14.

(B) No person, whose driver's or commercial driver's license or permit has been suspended pursuant to § 73.011, or R.C. §§ 4507.16(B) or 4511.191, shall operate any motor vehicle within this municipality until he has paid the license reinstatement fee required pursuant to R.C. § 4511.191(L) and the license or permit has been returned to the person.

(C) (1) No person whose driver's or commercial driver's license, or permit or nonresident operating privilege, has been suspended or revoked, under the provisions of this traffic code or the Ohio Revised Code other than R.C. Ch. 4509, or under any applicable law in any other jurisdiction in which the person's license or permit was issued, shall operate any motor vehicle upon the highways or streets within this municipality during the period of suspension or within one year after the date of the revocation. No person who has been granted occupational driving privileges by any court shall operate any motor vehicle upon the highways or streets in this municipality, except in accordance with the terms of the privileges.

(2) No person, whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under R.C. § 4507.16(B) shall operate any motor vehicle upon the highways or streets within this municipality during the period of suspension. No person who is granted occupational driving privileges by any court shall operate any motor vehicle upon the highways or streets in this municipality except in accordance with the terms of those privileges.

(D) It is an affirmative defense to any prosecution brought pursuant to this section that the alleged offender drove under suspension because of a substantial emergency, provided no other person was reasonably available to drive in response to the emergency. (R.C. § 4507.02 (B)-(E))

(E) (1) Whoever violates division (A)(2) or (C)(1) of this section is guilty of driving under suspension or revocation, or in violation of license restrictions a misdemeanor of the first degree. Whoever violates division (B) of this section is guilty of driving without paying a license reinstatement fee, a misdemeanor of the first degree. Except as otherwise provided in R.C. § 4507.162(D), the court in addition to or independent of all other penalties provided by law, may suspend for a period not to exceed one year the driver's or commercial driver's license or permit or nonresident operating privilege of any person who pleads guilty to or is convicted of a violation of this section. (R.C. § 4507.99 (A))

(2) Whoever violates division (C)(2) of this section is guilty of driving under OMVI suspension or revocation and shall be punished as provided in (2)(a) through (c) of this division (E).

(a) If, within five years of the offense, the offender has not been convicted of or pleaded guilty to any violation of division (C)(2), driving under OMVI suspension or revocation is a misdemeanor of the first degree, and the court shall sentence that offender to a term of imprisonment of not less than three consecutive days and may sentence the offender pursuant to R.C. § 2929.21 to a longer term of imprisonment. As an alternative to the term of imprisonment required to be imposed by this division, but subject to division (E)(2)(f) of this section, the court may sentence the offender to a term of not less than 30 consecutive days of electronically monitored house arrest as defined in R.C. § 2929.23(A)(4). The period of electronically monitored house arrest shall not exceed 6 months. In addition, the court shall impose upon the offender a fine of not less than $250 and not more than $1,000. Regardless of whether the vehicle the offender was operating at the time of the offense is registered in his name or in the name of another person, the court, in addition to or independent of any other sentence that it imposes upon the offender and subject to R.C. § 4503.235, shall order the immobilization for 30 days of the vehicle the offender was operating at the time of the offense and the impoundment for 30 days of the certificate of registration and identification license plates of that vehicle. The order for immobilization and impoundment shall be issued and enforced in accordance with R.C. § 4503.233.

(b) If, within 5 years of the offense, the offender has been convicted of or pleaded guilty to one violation of division (C)(2) of this section, driving under OMVI suspension or revocation is a misdemeanor, and the court shall sentence the offender to a term of imprisonment of not less than 10 consecutive days and may sentence the offender to a longer definite term of imprisonment of not more than one year. As an alternative to the term of imprisonment required to be imposed by this division, but subject to division (E)(2)(f) of this section, the court may sentence the offender to a term of not less than 90 consecutive days of electronically monitored house arrest as defined in R.C. § 2929.23 (A)(4). The period of electronically monitored house arrest shall not exceed one year. In addition, the court shall impose upon the offender a fine of not less than $500 and not more than $2,500. Regardless of whether the vehicle the offender was operating at the time of the offense is registered in his name or in the name of another person, the court, in addition to or independent of any other sentence that it imposes upon the offender and subject to R.C. § 4503.235, shall order the immobilization for 60 days of the vehicle the offender was operating at the time of the offense and the impoundment for 60 days of the certificate of registration and identification license plates of that vehicle. The order for immobilization and impoundment shall be issued and enforced in accordance with R.C. § 4503.233.

(c) If within five years of the offense, the offender has been convicted of or pleaded guilty to two or more violations of division (C)(2) of this section, driving under OMVI suspension or revocation is a misdemeanor. The court shall sentence the offender to a term of imprisonment of not less than 30 consecutive days and may sentence the offender to a longer definite term of imprisonment on not more than one year. The court shall not sentence the offender to a term of electronically monitored house arrest as defined in R.C. § 2929.23 (A)(4). In addition, the court shall impose upon the offender a fine of not less than $500 and not more than $2,500 regardless of whether the vehicle the offender was operating at the time of the offense is registered in his name or in the name of another person, the court, in addition to or independent of any other sentence that it imposes upon the offender and subject to R.C. § 4503.235, shall order the criminal forfeiture to the state of the vehicle the offender was operating at the time of the offense. The order of criminal forfeiture shall be issued and enforced in accordance with R.C. § 4503.234.

(d) In addition to or independent of all other penalties provided by law or ordinance, the trial judge of any court of record or the mayor of a mayor's court shall suspend for a period not to exceed one year the driver's or commercial driver's license or permit or nonresident operating privilege of any offender who is sentenced under subsections (2)(a) through (c) of this division (E).

(e) Fifty per cent of any fine imposed by a court under division (E)(2)(a) through (c) of this section shall be deposited into the indigent driver's alcohol treatment fund of that court, created by the county or municipal corporation pursuant to R.C. § 4511.191 (N).

(f) No court shall impose the alternative sentence of not less than 30 consecutive days of electronically monitored house arrest permitted to be imposed by division (E)(2)(a) of this section, the alternative sentence of a term of not less than 90 consecutive days of electronically monitored house arrest permitted to be imposed by division (E)(2)(b) of this section, unless both of the following conditions apply:

1. The offense for which the offender is sentenced occurs prior to July 1, 1993;

2. Within 60 days of the date of sentencing, the court issues a written finding, entered into the record, that, due to the unavailability of space at the incarceration facility where the offender is required to serve the term of imprisonment imposed upon him, the offender will not be able to begin serving his term of imprisonment within the 60-day period following the date of sentencing. If the court issues such a finding, the court may impose the alternative sentence comprised of or including electronically monitored house arrest permitted to be imposed by division (E)(2)(a) or (b) of this section.

(g) An offender sentenced under this section to a period of electronically monitored house arrest shall be permitted work release during such period. The duration of the work release shall not exceed the time necessary each day for the offender to commute to and from the place of employment and his home or other place specified by the sentencing court and the time actually spent under employment.

(h) Suspension of a commercial driver's license under this section shall be concurrent with any period of disqualification under R.C. § 4506.16. No person who is disqualified for life from holding a commercial driver's license under R.C. § 4506.16 shall be issued a driver's license under R.C. Chapter 4507 during the period for which the commercial driver's license was suspended under this section, and no person whose commercial driver's license is suspended under this section shall be issued a driver's license under R.C. Chapter 4507 during the period of suspension. (R.C. § 4507.99(B))

(F) Whoever violates division (A)(1) of this section is guilty of driving under financial responsibility law suspension or revocation and shall be punished as provided in subsections (1) through (4) of this division (F).

(1) If, within five years of the offense, the offender has not been convicted of or pleaded guilty to a violation of division (A)(1), driving under financial responsibility law suspension or revocation is a misdemeanor of the first degree. Regardless of whether the vehicle the offender was operating at the time of the offense is registered in his name or in the name of another person, the court, in addition to or independent of any other sentence that is imposes upon the offender and subject to R.C. § 4503.235, shall order the immobilization for 30 days of the vehicle the offender was operating at

the time of the offense and the impoundment for 30 days of the certificate of registration and identification license plates of that vehicle. The order for immobilization and impoundment shall be issued and enforced in accordance with R.C. § 4503.233.

(2) If, within five years of the offense, the offender has been convicted of or pleaded guilty to one violation of division (A)(1), driving under financial responsibility law suspension or revocation is a misdemeanor of the first degree. Regardless of whether the vehicle the offender was operating at the time of the offense is registered in his name or in the name of another person, the court, in addition to or independent of any other sentence that it imposes upon the offender and subject to R.C. § 4503.235, shall order the immobilization for 60 days of the vehicle the offender was operating at the time of the offense and the impoundment for 60 days of the certificate of registration and identification license plates of that vehicle. The order for immobilization and impoundment shall be issued and enforced in accordance with R.C. § 4503.233.

(3) If, within five years of the offense, the offender has been convicted of or pleaded guilty to two or more violations of division (A)(1) of this section, driving under financial responsibility law suspension or revocation is a misdemeanor of the first degree. Regardless of whether the vehicle the offender was operating at the time of the offense is registered in his name or in the name of another person, the court, in addition to or independent of any other sentence that it imposes upon the offender and subject to R.C. § 4503.235, shall order the criminal forfeiture to the state of the vehicle the offender was operating at the time of the offense. The order of criminal forfeiture shall be issued and enforced in accordance with R.C. § 4503.234.

(4) Except as otherwise provided in R.C. § 4507.162(D), the court, in addition to or independent of all other penalties provided by law, may suspend for a period not to exceed one year the driver or commercial driver's license or permit or nonresident operating privilege of an offender who is sentenced under subsections (1) through (3) of this division (F). (R.C. § 4507.99(C))

Statutory reference:
Persons under arrest to be advised of consequences, see R.C. § 4507.37
Seizure of vehicles upon arrest, see R.C. § 4507.38

§ 71.99 PENALTY.

Whoever violates any provision of this chapter for which another penalty is not provided shall be guilty of a misdemeanor of the first degree.
(R.C. § 4507.99 (F))

Cross-reference:
For penalty provisions for misdemeanors, see § 70.99

CHAPTER 72: TRAFFIC RULES

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§ 72.01 LANES OF TRAVEL UPON ROADWAYS.

(A) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction, or when making a left turn under the rules governing such movements;

(2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

(3) When driving upon a roadway divided into 3 or more marked lanes for traffic under the rules applicable thereon;

(4) When driving upon a roadway designated and posted with signs for one-way traffic;

(5) When otherwise directed by a police officer or traffic-control device.

(B) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn.

(C) Upon any roadway having 4 or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic-control devices designating certain lanes to the left of the center of the roadway for use by traffic not otherwise permitted to use the lanes, or except as permitted under division (A) (2) of this section.

(D) Division (C) of this section shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road, or driveway. (R.C. § 4511.25) Penalty, see § 70.99

§ 72.02 (RESERVED).

§ 72.03 VEHICLES TRAVELING IN OPPOSITE DIRECTIONS.

Operators of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction, each operator shall give to the other 1/2 of the main traveled portion of the roadway or as nearly 1/2 as is reasonably possible. (R.C. § 4511.26) Penalty, see § 70.99

§ 72.04 RULES GOVERNING OVERTAKING AND PASSING OF VEHICLES.

The following rules govern the overtaking and passing of vehicles proceeding in the same direction:

(A) The operator of a vehicle overtaking another vehicle proceeding in the same direction shall, except as provided in division (C) of this section, signal to the vehicle to be overtaken, shall pass to the left thereof at a safe distance, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(B) Except when overtaking and passing on the right is permitted, the operator of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle at the latter's audible signal, and he shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

(C) The operator of a vehicle overtaking and passing another vehicle proceeding in the same direction on a divided highway as defined in § 72.12, a limited access highway as defined in

R.C. § 5511.02, or a highway with 4 or more traffic lanes, is not required to signal audibly to the vehicle being overtaken and passed. (R.C. § 4511.27) Penalty, see § 70.99

§ 72.05 PERMISSION TO OVERTAKE AND PASS ON THE RIGHT.

(A) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(1) When the vehicle overtaken is making or about to make a left turn;

(2) Upon a roadway with unobstructed pavement of sufficient width for 2 or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(B) The driver of a vehicle may overtake and pass another vehicle only under conditions permitting the movement in safety. The movement shall not be made by driving off the roadway. (R.C. § 4511.28) Penalty, see § 70.99

§ 72.06 DRIVING TO LEFT OF CENTER LINE.

No vehicle shall be driven to the left of the center of the roadway in overtaking and passing traffic proceeding in the same direction, unless the left side is clearly visible, and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completely made, without interfering with the safe operation of any traffic approaching from the opposite direction or any traffic overtaken. In every event, the overtaking vehicle must return to an authorized lane of travel as soon as practicable, and in the event the passing movement involves the use of a lane authorized for the traffic approaching from the opposite direction, before coming within 200 feet of any approaching vehicle. (R.C. § 4511.29) Penalty, see § 70.99

§ 72.07 PROHIBITION AGAINST DRIVING UPON LEFT SIDE OF ROADWAY.

(A) No vehicle shall be driven upon the left side of the roadway under the following conditions:

(1) When approaching the crest of a grade or upon a curve in the highway, where the operator's view is obstructed within such a distance as to create a hazard in the event traffic might approach from the opposite direction;

(2) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel;

(3) When approaching within 100 feet of or traversing any intersection or railroad grade crossing.

(B) This section does not apply to vehicles upon a one-way roadway, upon a roadway where traffic is lawfully directed to be driven to the left side, or under the conditions described in § 72.01 (A) (2). (R.C. § 4511.30) Penalty, see § 70.99

§ 72.08 HAZARDOUS ZONES.

The department of transportation may determine those portions of any state highway where overtaking and passing other traffic or driving to the left of the center or center line of the roadway would be especially hazardous, and may, by appropriate signs or markings on the highway, indicate the beginning and end of such zones. When signs or markings are in place and clearly visible, every operator of a vehicle shall obey the directions thereof, notwithstanding the distances set out in § 72.07. (R.C. § 4511.31) Penalty, see § 70.99

§ 72.09 ONE-WAY HIGHWAYS 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.

(B) Upon a roadway designated and posted with signs for one-way traffic, a vehicle shall be driven only in the direction designated.

(C) A vehicle passing around a rotary traffic island shall be driven only to the right of the island. (R.C. § 4511.32) Penalty, see § 70.99

§ 72.10 RULES FOR DRIVING IN MARKED LANES.

Whenever any roadway has been divided into 2 or more clearly marked lanes for traffic, or wherever within municipal corporations traffic is lawfully moving in 2 or more substantially continuous lines in the same direction, the following rules apply:

(A) A vehicle shall be driven, as nearly as is practicable, entirely within a single lane or line of traffic and shall not be moved from the lane or line until the driver has first ascertained that the movement can be made with safety.

(B) Upon a roadway which is divided into 3 lanes and provides for the two-way movement of traffic, a vehicle shall not be driven in the center lane, except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or when preparing for a left turn, or where the center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding, and is posted with signs to give notice of such allocation.

(C) Official signs may be erected directing specified traffic to use a designated lane or designating those lanes to be used by

traffic moving in a particular direction, regardless of the center of the roadway, and drivers of vehicles shall obey the directions of such signs.

(D) Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway, and drivers of vehicles shall obey the directions of every such device. (R.C. § 4511.33) Penalty, see § 70.99

§ 72.11 SPACE BETWEEN MOVING VEHICLES.

(A) The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicle and the traffic upon and the condition of the highway.

(B) The driver of any truck, or motor vehicle drawing another vehicle, when traveling upon a roadway outside a business or residence district shall maintain a sufficient space, whenever conditions permit, between the vehicle and another vehicle ahead so an overtaking motor vehicle may enter and occupy the space without danger. Section 72.11 (B) does not prevent overtaking and passing nor does it apply to any lane specially designated for use by trucks.

(C) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade shall maintain a sufficient space between the vehicles so an overtaking vehicle may enter and occupy the space without danger. Section 72.11 (C) shall not apply to funeral processions. (R.C. § 4511.34) Penalty, see § 70.99

§ 72.12 DIVIDED ROADWAYS.

Whenever any highway has been divided into 2 roadways by an intervening space, or by a physical barrier, or a clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway, and no vehicle shall be driven over, across, or within any dividing space, barrier, or section, except through an opening, crossover, or intersection established by public authority. This section does not prohibit the occupancy of the dividing space, barrier, or section for the purpose of an emergency stop, or in compliance with an order of a police officer. (R.C. § 4511.35) Penalty, see § 70.99

§ 72.13 RULES FOR TURNS AT INTERSECTIONS.

(A) The driver of a vehicle intending to turn at an intersection shall be governed by the following rules:

(1) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the center line where it enters the intersection, and, after entering the intersection, the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the vehicle, and, after entering the intersection, the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane of the roadway being entered lawfully available to traffic moving in that lane.

(B) The department of transportation and local authorities may cause markers, buttons, or signs to be placed within or adjacent to intersections, and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when markers, buttons, or signs are so placed, no operator of a vehicle shall turn the vehicle at an intersection other than as directed and required by the markers, buttons, or signs. (R.C. § 4511.36) Penalty, see § 70.99

§ 72.14 TURNING IN ROADWAY PROHIBITED.

No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, if such vehicle cannot be seen within 500 feet by the driver of any other vehicle approaching from either direction. (R.C. § 4511.37) Penalty, see § 70.99

§ 72.15 RULES FOR STARTING AND BACKING VEHICLES.

(A) No person shall start a vehicle which is stopped, standing, or parked, until the movement can be made with reasonable safety.

(B) Before backing, operators of vehicles shall give ample warning, and while backing they shall exercise vigilance not to injure person or property on the street or highway.

(C) No person shall back a motor vehicle on a freeway, except:

(1) In a rest area;

(2) In the performance of public works or official duties;

(3) As a result of an emergency caused by an accident or breakdown of a motor vehicle. (R.C. § 4511.38) Penalty, see § 70.99

§ 72.16 TURN AND STOP SIGNALS.

(A) No person shall turn a vehicle or move right or left upon a highway unless and until the person has exercised due care to ascertain that the movement can be made with reasonable safety, nor without giving an appropriate signal in the manner hereinafter provided.

(B) When required, a signal of intention to turn or move right or left shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning.

(C) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear, when there is opportunity to give a signal.

(D) Any stop or turn signal required by this section shall be given either by means of the hand and arm, or by signal lights that clearly indicate to both approaching and following traffic the intention to turn or move right or left, except that any motor vehicle in use on a highway shall be equipped with, and the required signal shall be given by, signal lights when the distance from the center of the top of the steering post of the rear limit of the body or load thereof exceeds 14 feet, whether a single vehicle or a combination of vehicles.

(E) The signal lights required by this section shall not be flashed on one side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section. (R.C. § 4511.39) Penalty, see § 70.99

§ 72.17 HAND AND ARM SIGNALS.

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:

(A) Left turn, hand and arm extended horizontally;

(B) Right turn, hand and arm extended upward;

(C) Stop or decrease speed, hand and arm extended downward. (R.C. § 4511.40) Penalty, see § 70.99

RIGHT-OF-WAY

§ 72.20 RIGHT-OF-WAY AT INTERSECTIONS.

(A) When 2 vehicles approach or enter an intersection from different streets or highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(B) The right-of-way rule declared in division (A) of this section is modified at through highways and otherwise as stated in this traffic code. (R.C. § 4511.41) Penalty, see § 70.99

§ 72.21 RIGHT-OF-WAY WHEN TURNING LEFT.

The operator of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right-of-way to any vehicle aproaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. (R.C. § 4511.42) Penalty, see § 70.99

§ 72.22 RIGHT-OF-WAY AT THROUGH HIGHWAYS; STOP SIGNS; YIELD SIGNS.

(A) Except when directed to proceed by a law enforcement officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways.

(B) The driver of a vehicle approaching a yield sign shall slow down to a speed reasonable for the existing conditions, and if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways. Whenever a driver is involved in a collision with a vehicle in the intersection or junction of roadways, after driving past a yield sign without stopping, the collision shall be prima facie evidence of the driver's failure to yield the right-of-way. (R.C. § 4511.43) Penalty, see § 70.99

§ 72.23 STOP AT SIDEWALK AREA.

The driver of a vehicle emerging from an alley, building, private road, or driveway within a business or residence district shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across the alley, building entrance, road, or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon. (R.C. § 4511.431) Penalty, see § 70.99

§ 72.24 RIGHT-OF-WAY ON PUBLIC HIGHWAY.

The operator of a vehicle about to enter or cross a highway from any place other than another roadway shall yield the right-of-way to all traffic approaching on the roadway to be entered or crossed. (R.C. § 4511.44) Penalty, see § 70.99

§ 72.25 PEDESTRIAN ON SIDEWALK HAS RIGHT-OF-WAY.

The driver of a vehicle shall yield the right-of-way to any pedestrian on a sidewalk. (R.C. § 4511.441) Penalty, see § 70.99

§ 72.26 RIGHT-OF-WAY OF PUBLIC SAFETY VEHICLES.

(A) Upon the approach of a public safety vehicle, equipped with at least one flashing, rotating, or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle, and the driver is giving audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right-of-way, immediately drive to a position parallel to, and as close as possible to, the right edge or curb of the highway clear of any intersection, and stop and remain in that position until the public safety vehicle has passed, except when otherwise directed by a police officer.

(B) This section does not relieve the driver of a public safety vehicle from the city to drive with due regard for the safety of all persons and property upon the highway. (R.C. § 4511.45) Penalty, see § 70.99

§ 72.27 FUNERAL PROCESSION HAS RIGHT-OF-WAY.

(A) As used in this section, "FUNERAL PROCESSION" means 2 or more vehicles accompanying a body of a deceased person in the daytime when each of such vehicles has its headlights lighted and is displaying a purple and white pennant attached to each vehicle in such a manner as to be clearly visible to traffic approaching from any direction.

(B) Excepting public safety vehicles proceeding in accordance with § 72.26, or when directed otherwise by a police officer, pedestrians and the operators of all vehicles shall yield the right-of-way to each vehicle which is a part of a funeral

procession. Whenever the lead vehicle in a funeral procession lawfully enters an intersection, the remainder of the vehicles in the procession may continue to follow the lead vehicle through the intersection, notwithstanding any traffic-control devices or right-of-way provisions of the Revised Code, provided the operator of each vehicle exercises due care to avoid colliding with any other vehicle or pedestrian upon the roadway.

(C) No person shall operate any vehicle as a part of a funeral procession having the headlights of the vehicle lighted and without displaying a purple and white pennant in such a manner as to be clearly visible to traffic approaching from any direction. (R.C. § 4511.451) Penalty, see § 70.99

§ 72.28 PEDESTRIANS YIELD RIGHT-OF-WAY TO PUBLIC SAFETY VEHICLE.

(A) Upon the immediate approach of a public safety vehicle, as stated in § 72.26, every pedestrian shall yield the right-of-way to the public safety vehicle.

(B) This section shall not relieve the driver of a public safety vehicle from the duty to exercise due care to avoid colliding with any pedestrian. (R.C. § 4511.452) Penalty, see § 70.99

§ 72.29 PEDESTRIAN ON CROSSWALK HAS RIGHT-OF-WAY.

(A) When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(B) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(C) Division (A) of this section does not apply under the conditions stated in § 72.31 (B).

(D) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle. (R.C. § 4511.46) Penalty, see § 70.99

§ 72.30 RIGHT-OF-WAY YIELDED TO BLIND PERSON.

(A) As used in this section "BLIND PERSON" or "BLIND PEDESTRIAN" means a person having not more than 20/200 visual acuity in the better eye with correcting lenses, or visual acuity greater

than 20/200, but with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20°.

(B) The driver of every vehicle shall yield the right-of-way to every blind pedestrian guided by a guide dog, or carrying a cane which is predominantly white or metallic in color, with or without a red tip.

(C) No person, other than a blind person, while on any public highway, street, alley, or other public thoroughfare, shall carry a white or metallic cane, with or without a red tip.
(R.C. § 4511.47) Penalty, see § 70.99

§ 72.31 RIGHT-OF-WAY YIELDED BY PEDESTRIAN.

(A) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(B) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all traffic upon the roadway.

(C) Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(D) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

(E) This section does not relieve the operator of a vehicle from exercising due care to avoid colliding with any pedestrian upon any roadway. (R.C. § 4511.48) Penalty, see § 70.99

§ 72.32 INTOXICATED OR DRUGGED PEDESTRIAN HAZARD ON HIGHWAY.

A pedestrian who is under the influence of alcohol or any drug of abuse, or any combination thereof, to a degree which renders himself a hazard, shall not walk or be upon a highway.
(R.C. § 4511.481) Penalty, see § 70.99

PEDESTRIANS

§ 72.35 PEDESTRIANS.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks. (R.C. § 4511.49) Penalty, see § 70.99

§ 72.36 PEDESTRIAN WALKING ALONG HIGHWAY.

(A) Where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(B) Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.

(C) Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and, if on a 2-way roadway, shall walk only on the left side of the roadway.

(D) Except as otherwise provided in §§ 70.11 and 72.29, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway. (R.C. § 4511.50) Penalty, see § 70.99

§ 72.37 PROHIBITION AGAINST SOLICITING RIDES; RIDING ON OUTSIDE OF VEHICLE.

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

(B) No person shall stand on a highway for the purpose of soliciting employment, business, or contributions from the occupant of any vehicle.

(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 on unroofed cargo storage area of his vehicles 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 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;

(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 his vehicle while the tailgate is unlatched. (R.C. § 4511.51)

(G) Whoever violates divisions (A) through (D) of this section shall be subject to the penalty provided in § 70.99. Whoever violates divisions (E) or (F) of this section is guilty of a minor misdemeanor. (R.C. § 4511.99 (F))

§ 72.38 PEDESTRIAN ON BRIDGE OR RAILROAD CROSSING.

(A) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate, or barrier after a bridge operation signal indication has been given.

(B) No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while the gate or barrier is closed or is being opened or closed. (R.C. § 4511.511) Penalty, see § 70.99

GRADE CROSSINGS

§ 72.45 STOP SIGNS AT GRADE CROSSINGS.

The department of transportation and local authorities, with the approval of the department, may designate dangerous highway crossings over railroad tracks, and erect stop signs thereat. When stop signs are erected, the operator of any vehicle shall stop within 50, but not less than 15 feet from the nearest rail of the railroad tracks, and shall exercise due care before proceeding across the grade crossing. (R.C. § 4511.61) Penalty, see § 70.99

§ 72.46 DRIVING VEHICLE ACROSS RAILROAD GRADE CROSSING.

(A) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, he shall stop within 50 feet but not less than 15 feet from the nearest rail of the railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train;

(2) A crossing gate is lowered;

(3) A human flagman gives or continues to give a signal of the approach or passage of a train;

(4) A train approaching within approximately 1500 feet of the highway crossing emits a signal audible from that distance and the train, by reason of its speed or nearness to the crossing, is an immediate hazard;

(5) An approaching train is plainly visible, and is in hazardous proximity to the crossing.

(B) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed, or is being opened or closed. (R.C. § 4511.62) Penalty, see § 70.99

§ 72.47 VEHICLES REQUIRED TO STOP AT GRADE CROSSINGS.

(A) The operator of any motor vehicle carrying passengers for hire, or of any school bus, or of any vehicle carrying explosives or flammable liquids as a cargo, or such part of a cargo as to constitute a hazard, before crossing at grade any track of a railroad, shall stop the vehicle, and while so stopped he shall listen through an open door or open window, 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 after stopping, looking, and listening as required by this section, and upon proceeding, the operator of any such vehicle shall cross only in a gear of the vehicle that there will be no necessity for changing gears while traversing the crossing, and the operator shall not shift gears while crossing the tracks.

(B) This section does not apply at street railway grade crossings within the municipal corporation, or to abandoned tracks, spur tracks, side tracks, and industrial tracks when the public utilities commission has authorized and approved the crossing of the tracks without making the stop required by this section.
(R.C. § 4511.63)

(C) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense such person is guilty of a misdemeanor of the fourth degree. (R.C. § 4511.99 (C)) Penalty, see § 70.99

§ 72.48 SLOW-MOVING VEHICLES OR EQUIPMENT CROSSING RAILROAD TRACKS.

(A) 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 6 or less miles per hour or a vertical body or load clearance of less than 9 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.

(1) Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same, and while stopped, he 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.

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

(B) If the normal sustained speed of the vehicle, equipment, or structure is not more than 3 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. (R.C. § 4511.64) Penalty, see § 70.99

THROUGH HIGHWAYS

§ 72.50 THROUGH HIGHWAYS.

(A) All state routes are hereby designated as through highways, provided that stop signs, yield signs, or traffic-control signals shall be erected at all intersections with such through highways, by the department of transportation as to highways under its jurisdiction, and by local authorities as to highways under their jurisdiction, except as otherwise provided in this section. Where 2 or more state routes that are through highways intersect, and no traffic-control signal is in operation, stop signs or yield signs shall be erected at one or more entrances thereto by the department or by local authorities having jurisdiction, except as otherwise provided in this section. Whenever the director of transportation determines on the basis of an engineering and traffic investigation that stop signs are necessary to stop traffic on a through highway for safe and efficient operation, nothing in this section shall be construed to prevent such installations. When circumstances warrant, the director also may omit stop signs on roadways intersecting through highways under his jurisdiction. Before the director either installs or removes a stop sign under this division, he shall give notice, in writing, of that proposed action to the affected local authority at least 30 days before installing or removing the stop sign.

(B) Other streets or highways, or portions thereof, are hereby designated as through highways if they are within the municipal corporation, if they have a continuous length of more than one mile between the limits of the street or highway or portion thereof, and if they have stop or yield signs or traffic-control signals at the entrances of the majority of intersecting streets or highways. For purposes of this section, the limits of the street or highway, or portion thereof, shall be the municipal corporation line, the physical terminus of the street or highway, or any point on the streets or

highway at which vehicular traffic thereon is required by regulatory signs to stop or yield to traffic on the intersecting street, provided, that in residence districts, the municipal corporation may by ordinance designate said street or highway, or portion thereof, not to be a through highway and thereafter the affected reesidence district shall be indicated by official traffic-control devices. Where 2 or more through highways designated under this division intersect and no traffic-control signal is in operation, stop signs or yield signs shall be erected at one or more entrances thereto by the department or by local authorities having jurisdiction, except as otherwise provided in this section.

(C) The department or local authorities having jurisdiction need not erect stop signs at intersections they find to be so constructed as to permit traffic to safely enter a through highway without coming to a stop. Signs shall be erected at such intersections indicating that the operator of a vehicle shall yield the right-of-way to or merge with all traffic proceeding on the through highway.

(D) Local authorities, with reference to highways under their jurisdiction, may designate additional through highways, and shall erect stop signs, yield signs, or traffic-control signals at all streets and highways intersecting such through highways, or may designate any intersection as a stop or yield intersection, and shall erect like signs at one or more entrances to the intersection.
(R.C. § 4511.65) Penalty, see § 70.99

PROHIBITIONS

§ 72.55 OBSTRUCTION AND INTERFERENCE AFFECTING VIEW AND CONTROL OF DRIVER.

(A) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, as to obstruct the view of the driver to the front or sides of the vehicle, or to interfere with the driver's control over the driving mechanism of the vehicle.

(B) No passenger in a vehicle shall ride in a position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle.

(C) No person shall open the door of a vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers. (R.C. § 4511.70) Penalty, see § 70.99

§ 72.56 OCCUPYING TRAVEL TRAILER WHILE IN MOTION.

No person shall occupy any travel trailer or nonself-propelled manufactured home while it is being used as a conveyance upon a street or highway. (R.C. § 4511.701) Penalty, see § 70.99

§ 72.57 PROHIBITION AGAINST DRIVING UPON CLOSED HIGHWAY.

No person shall drive upon, along, or across a street or highway, or any part thereof, which has been closed in the process of its construction, reconstruction, or repair, and posted with appropriate signs by the authority having jurisdiction to close the highway. (R.C. § 4511.71) Penalty, see § 70.99

§ 72.58 DRIVING UPON SIDEWALK AREA OR PATHS EXCLUSIVELY FOR BICYCLES.

(A) No person shall drive any vehicle, other than a bicycle, upon a sidewalk or sidewalk area, except upon a permanent or duly authorized temporary driveway.

(B) Nothing in this section shall be construed as prohibiting local authorities from regulating the operation of bicycles. (R.C. § 4511.711)

(C) 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.

(D) 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 his jurisdiction.
(R.C. § 4511.713) Penalty, see § 70.99

§ 72.59 OBSTRUCTING PASSAGE OF OTHER VEHICLES.

No driver shall enter an intersection or marked crosswalk, or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or grade crossing to accommodate the vehicle he is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains, notwithstanding any traffic-control signal indication to proceed. (R.C. § 4511.712) Penalty, see § 70.99

§ 72.60 FOLLOWING AN EMERGENCY OR PUBLIC VEHICLE PROHIBITED.

The driver of any vehicle, other than an emergency vehicle or public safety vehicle on official business, shall not follow any emergency vehicle or public safety vehicle traveling in response to an alarm closer than 500 feet, or drive into or park the vehicle within the block where the fire apparatus has stopped in answer to a fire alarm, unless directed to do so by a police officer or a fireman. (R.C. § 4511.72) Penalty, see § 70.99

§ 72.61 DRIVING OVER UNPROTECTED FIRE HOSE.

No vehicle shall, without the consent of the fire department official in command, be driven over any unprotected hose of a fire department, when the hose is laid down on any street, private driveway, or streetcar track to be used at any fire or alarm of fire. (R.C. § 4511.73) Penalty, see § 70.99

§ 72.62 PROHIBITION AGAINST PLACING INJURIOUS MATERIAL ON HIGHWAY.

(A) No person shall place or knowingly drop upon any part of a highway, lane, road, street, or alley any tacks, bottles, wire, glass, nails, or other articles which may damage or injure any person, vehicle, or animal traveling along or upon the highway, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof.

(B) Any person who drops or permits to be dropped or thrown upon any highway any destructive or injurious material shall immediately remove the same.

(C) Any person authorized to remove a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

(D) No person shall place any obstruction in or upon a highway without proper authority.

(E) No person, with intent to cause physical harm to a person or a vehicle, shall place or knowingly drop upon any part of a highway, lane, road, street, or alley any tacks, bottles, wire, glass, nails, or other articles which may damage or injure any person, vehicle, or animal traveling along or upon such highway, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof. (R.C. § 4511.74)

(F) Whoever violates division (E) of this section is guilty of a misdemeanor of the first degree. (R.C. § 4511.99(K)) Penalty, see § 70.99

§ 72.621 PROHIBITION AGAINST DEPOSITING LITTER FROM MOTOR VEHICLE.

(A) No operator or occupant of a motor vehicle shall, regardless of intent, throw, drop, discard, or deposit litter from any motor vehicle in operation upon any street, road, or highway, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.

(B) No operator of a motor vehicle in operation upon any street, road, or highway shall allow litter to be thrown, dropped, discarded, or deposited from the motor vehicle, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.

(C) As used in this section, "LITTER" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, or anything else of an unsightly or unsanitary nature. (R.C. § 4511.82)

(D) Whoever violates division (A) or (B) above is guilty of a minor misdemeanor. (R.C. § 4511.99(F)) Penalty, see § 70.99

§ 72.63 TRANSPORTING CHILD NOT IN CHILD RESTRAINT SYSTEM PROHIBITED.

(A) When any child who is less than 4 years of age or weighs less than 40 pounds is being transported in a motor vehicle, other than a taxicab, that is owned by his parent or legal guardian and is registered in this state, and the motor vehicle 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 vehicle safety standards.

(B) When any child who is less than one year of age is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in R.C. § 4511.01, that is registered in

this state but is not owned by his parent or legal guardian, and the motor vehicle 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 vehicle safety standards.

(C) When any child who is one year of age or older but is less than 4 years of age or weighs less than 40 pounds is being transported in a motor vehicle, other than a taxicab, that is registered in this state but is not owned by his parent or legal guardian, and the motor vehicle 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 vehicle safety standards, if such a system is available. If such a child restraint system is not available, the operator of the motor vehicle shall have the child properly secured in a lap belt, or if a lap belt is not available, in a seat belt.

(D) When any child who is less than 4 years of age or weighs less than 40 pounds is being transported in a motor vehicle, other than a taxicab, that is registered in this state and is owned, leased, or otherwise under the control of a nursery school, kindergarten, or day-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.

(E) The Director of Public Safety shall adopt such rules as are necessary to carry out this section, and may adopt rules establishing exemptions additional to those established in division (G) below if the director determines that use of a child restraint system, lap belt, or seat belt would be impractical because of a physical handicap of a child and if the additional exemptions are directly related to that impracticality.

(F) The failure of an operator of a motor vehicle to secure a child in a child restraint system, lap belt, or seat belt as required in 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.

(G) This section does not apply when an emergency exists that

threatens the life of any person operating a motor vehicle to whom this section otherwise would apply or the life of any child who otherwise would be required to be restrained under this section.

(H) The court shall dismiss a charge brought against a person who is a resident of this state and is charged with a first violation of division (A), (B), (C), or (D) above, and may waive the costs, if the person proves to the court, by a preponderance of the evidence, that he, prior to the scheduled court appearance indicated on the citation issued to him, purchased, borrowed, or rented for the period of time that the child involved in the alleged violation was or will be in the person's care or custody, a child restraint system that meets federal motor vehicle safety standards. The court shall not dismiss a charge brought against the person and shall impose the applicable fine levied by division (K) below, if the person fails to prove to the court, by a preponderance of the evidence, that he has properly purchased, borrowed, or rented a child restraint system in accordance with this division and is convicted of the offense.

(I) If a person who is a resident of this state is charged with a second violation of division (A), (B), (C), or (D) above, and is convicted but proves to the court by a preponderance of the evidence that he, prior to the scheduled court appearance indicated on the citation issued to him, purchased, borrowed, or rented for the period of time that the child involved in the violation was or will be in the person's care or custody, a child restraint system that meets federal motor vehicle safety standards, the court shall impose the applicable fine levied by division (K) below. If the person fails to prove to the court, by a preponderance of the evidence, that he has properly purchased, borrowed, or rented a child restraint system in accordance with this division, the court shall impose the applicable fine levied by division (K) below.

(J) If a person who is not a resident of this state is charged with a violation of division (A), (B), (C), or (D) above and does not prove to the court, by a preponderance of the evidence, that his use or nonuse of a child restraint system was in accordance with the law of the state of which he is a resident, the court shall impose the fine levied by division (L) below. (R.C. § 4511.81)

(K) Whoever violates division (A), (B), (C), or (D) above shall be fined not less nor more than $35 on a first offense, unless the fine is waived in accordance with division (H) above; on a second offense, that person shall be fined not less nor more than $35, except that if that person fails to prove timely acquisition of a child restraint system as provided by division (I) above, that person shall be fined not less nor more than $70. (R.C. § 4511.99(H))

(L) Whoever violates division (A), (B), (C), or (D) above and fails to prove that his use or nonuse of a child restraint system was in accordance with the law of the state of which he is a resident shall be fined not less nor more than $35. (R.C. §4511.99(I))

§ 72.64 OCCUPANT RESTRAINING DEVICES.

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

(1) "AUTOMOBILE." Any commercial tractor, passenger car, commercial car, or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States secretary of transportation pursuant to the National Traffic and Motor Vehicle Safety Act of 1966.

(2) "COMMERCIAL TRACTOR," "PASSENGER CAR," and "COMMERCIAL CAR" have the same meanings as in R.C. § 4501.01.

(3) "OCCUPANT RESTRAINING DEVICE." A seat safety belt, shoulder belt, harness, or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum federal vehicle safety standards established by the United States Department of Transportation.

(4) "PASSENGER." Any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.

(5) "VEHICLE" and "MOTOR VEHICLE." As used in the definitions of the terms set forth in division (A)(2) above, "VEHICLE" and "MOTOR VEHICLE" have the same meanings as in R.C. § 4501.01.

(B) Prohibited acts. No person shall do any of the following:

(1) Operate an automobile on any street or highway unless he is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless he is wearing all of the available elements of the device, as properly adjusted;

(2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in division (B)(3) of this section is wearing all of the available elements of a properly adjusted occupant restraining device;

(3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless he is wearing all of the available elements of a properly adjusted occupant restraining device.

(C) Exceptions. Division (B)(3) of this section does not apply to a person who is required by § 72.63 to be secured in a child

restraint device. Division (B)(1) of this section does not apply to a person who is an employee of the United States Postal Service or of a newspaper home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees. Divisions (B)(1) and (3) of this section do not apply to a person who has an affidavit signed by a physician licensed to practice in this state under R.C. Ch. 4731 or a chiropractor licensed to practice in this state under R.C. Ch. 4734 that states that the person has a physical impairment that makes use of an occupant restraining device impossible or impractical.

(D) Officers not permitted to stop cars to determine violation. 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 division (B) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for the violation or for causing the arrest of or commencing a prosecution of a person for the violation. 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 the violation has been or is being committed.

(E) Use of fines for educational program. All fines collected for violations of division (B) of this section, or for violations of any municipal ordinance that is substantively comparable to that division shall be forwarded to the Treasurer of State for deposit in the seat belt education fund and emergency medical services fund as set forth in R.C. § 4513.263(E).

(F) Penalty.

(1) Whoever violates division (B)(1) shall be fined $25.

(2) Whoever violates division (B)(3) shall be fined $15.

(3) Whoever violates division (B)(4) is guilty of a minor misdemeanor on a first offense; on a second or subsequent offense the person is guilty of a misdemeanor of the third degree.
(R.C. § 4513.99) Penalty, see § 70.99

Cross-reference:
Child restraint systems, see § 72.63
Installation and sale of seat safety belts, see § 74.33
School bus operators, requirement of restraining devices, see § 72.73

Statutory reference:
Evidentiary use of failure to use occupant restraining devices, see R.C. § 4513.263(F)

§ 72.641 FAILURE TO USE OR ILLEGAL USE OF REQUIRED IGNITION INTERLOCK DEVICE.

(A) As used in this section:

(1) "IGNITION INTERLOCK DEVICE" means a device that connects a breath analyzer to a motor vehicle's ignition system, that is constantly available to monitor the concentration by weight of alcohol in the breath of any person attempting to start that motor vehicle by using its ignition system, and that deters starting the motor vehicle by use of its ignition system unless the person attempting to so start the vehicle provides an appropriate breath sample for the device and the device determines that the concentration by weight of alcohol in the person's breath is below a preset level.

(2) "OFFENDER WITH RESTRICTED DRIVING PRIVILEGES" means an offender who is subject to an order that was issued under R.C. § 4507.16 (E)(2),(3), or (4) as a condition of the granting of occupational driving privileges or an offender whose driving privilege is restricted as a condition of probation pursuant to R.C. § 2951.02(I).

(B) (1) Except in cases of a substantial emergency when no other person is reasonably available to drive in response to the emergency, no person shall knowingly rent, lease, or lend a motor vehicle to any offender with restricted driving privileges, unless the vehicle is equipped with a functioning ignition interlock device that is certified pursuant to R.C. § 4511.83(D).

(2) Any offender with restricted driving privileges who rents, leases, or borrows a motor vehicle from another person shall notify the person who rents, leases, or lends the motor vehicle to him that the offender has restricted driving privileges and of the nature of the restriction.

(3) Any offender with restricted driving privileges who is required to operate a motor vehicle owned by his employer in the course and scope of his employment may operate that vehicle without the installation of an ignition interlock device, provided that the employer has been notified that the offender has restricted driving privileges and of the nature of the restriction and provided further that the offender has proof of the employer's notification in his possession while operating the employer's vehicle for normal business duties. A motor vehicle owned by a business that is partly or entirely owned or controlled by an offender with restricted driving privileges is not a motor vehicle owned by an employer, for purposes of this division.

(C) (1) No offender with restricted driving privileges, during any period that he is required to operate only a motor vehicle equipped with an ignition interlock device, shall request or permit any other person to breathe into the device or start a motor vehicle equipped with the device for the purpose of providing the offender with an operable motor vehicle.

(2) (a) Except as provided in R.C. § 4511.83(E)(2)(b), no person shall breathe into an ignition interlock device or start a motor vehicle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle to an offender with restricted driving privileges.

(b) R.C. § 4511.83(E)(2)(b) does not apply to an offender with restricted driving privileges who breathes into an ignition interlock device or starts a motor vehicle equipped with an ignition interlock device for the purpose of providing himself with an operable motor vehcile.

(3) No unauthorized person shall tamper with or circumvent the operation of an ignition interlock device. (R.C. § 4511.83)

(D) Whoever violates this section is guilty of a misdemeanor of the first degree. (R.C. § 4511.99(K))

§ 72.642 OPERATING MOTOR VEHICLE WHILE WEARING EARPHONES OR EARPLUGS.

(A) No person shall operate a motor vehicle while wearing earphones over, or earplugs in, both ears. As used in this section, "EARPHONES" means any headset, radio, tape player, or other similar device that provides the listener with radio programs, music, or other recorded information through a device attached to the head and that covers all or a portion of both ears. "EARPHONES" does not include speakers or other listening devices that are built into protective headgear.

(B) This section does not apply to:

(1) Any person wearing a hearing aid;

(2) Law enforcement personnel while on duty;

(3) Fire department personnel and emergency medical service personnel while on duty;

(4) Any person engaged in the operation of equipment for use in the maintenance or repair of any highway;

(5) Any person engaged in the operation of refuse collection equipment. (R.C. § 4511.84) Penalty, see § 70.99

SCHOOL BUSES

§ 72.65 REGULATIONS CONCERNING SCHOOL BUSES.

(A) The driver of a vehicle, streetcar, or trackless trolley upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child, or person attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities shall stop at least 10 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 division that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by division (B) of this section.

(B) (1) Every school bus shall be equipped with amber and red visual signals meeting the requirements of § 72.72, and an automatically extended stop warning sign of a type approved by the state board of education, 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 or persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities. 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 mental retardation and developmental disabilities are loading or unloading at curbside. The visual signals and stop warning sign shall be synchronized or otherwise operated as required by rule of the board.

(2) The requirement of division (B) (1) above that every school bus be equipped with amber visual signals that meet the requirements of § 72.72 and an automatically extended stop warning sign shall apply to all new school buses contracted for on or after June 1, 1979, and to all other school buses on and after August 1, 1980.

(C) Where a highway has been divided into 4 or more traffic lanes, a driver of a vehicle, streetcar, or trackless trolley 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 or persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities. The driver of any vehicle, streetcar, or trackless trolley overtaking the school bus shall comply with division (A) above.

(D) School buses operating on divided highways or on highways with 4 or more traffic lanes shall receive and discharge all school children or persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities on their residence side of the highway.

(E) No school bus driver shall start his bus until after any child or person attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities who may have alighted therefrom has reached a place of safety on his residence side of the road. (R.C. § 4511.75)
Penalty, see § 70.99

(F) Whoever violates division (A) above may be fined an amount not to exceed $500. A person who is issued a citation for a violation of division (A) of this section is not permitted to enter a written plea of guilty and waive his right to contest the citation in a trial, but instead must appear in person in the proper court to answer the charge. (R.C. § 4511.99(G))

(G) The trial judge of any court of record or mayor's court may, in addition to all other penalties provided by law, suspend for not more than one year the license of any person who is convicted of or pleads guilty to a violation of division (A) above. When an operator's or chauffeur's license has been suspended under this section, the trial court shall cause the offender to deliver the license to the court, and the court or clerk of the court shall forthwith forward the license to

the registrar of motor vehicles, together with notice of the action of the court.
(R.C. § 4507.165)

§ 72.651 VIOLATION OF REGULATIONS; REPORT; INVESTIGATION; CITATION; WARNING.

(A) As used in this section, "LICENSE PLATE" includes, but is not limited to, any temporary license placard issued under R.C. § 4503.182 or similar law of another jurisdiction.

(B) When the operator of a school bus believes that a motorist has violated division (A) of § 72.65, the operator shall report the license plate number and general description of the vehicle and of the operator of the vehicle to the law enforcement agency exercising jurisdiction over the area where the alleged violation occurred. The information contained in the report relating to the license plate number and to the general description of the vehicle and the operator of the vehicle at the time of the alleged violation may be supplied by any person with first-hand knowledge of the information. Information of which the operator of the school bus has first-hand knowledge also may be corroborated by any other person.

(C) Upon receipt of the report of the alleged violation of division (A) of § 72.65 the law enforcement agency shall conduct an investigation to attempt to determine the identity of the operator of the vehicle at the time of the alleged violation. If the identity of the operator at the time of the alleged violation is established, the reporting of the license plate number of the vehicle shall establish probable cause for the law enforcement agency to issue a citation for the violation of division (A) of § 72.65. However, if the identity of the operator of the vehicle at the time of the alleged violation cannot be established, the law enforcement agency shall issue a warning to the owner of the vehicle at the time of the alleged violation, except in the case of a leased or rented vehicle when the warning shall be issued to the lessee at the time of the alleged violation.
(R.C. § 4511.751)

§ 72.66 SCHOOL BUS REGULATIONS BY DEPARTMENT OF EDUCATION AND DEPARTMENT OF HIGHWAY SAFETY.

(A) The department of education, by and with the advice and consent of the Director of Public Safety, shall adopt and enforce regulations relating to the construction, design, equipment, including lighting equipment required by § 72.72, and operation of all school buses owned and operated by any school district, or privately owned and operated under contract with any school district in this state. When such buses are privately owned and operated under contract with any school district in this state, these regulations shall, by reference, be made a part of any contract with a school district. Every school district, its officers, and employees, and every person employed under contract by a school district, shall be subject to such regulations.

(B) Any officer or employee of any school district who violates any regulation, or who fails to include the obligation to comply with the regulations in any contract executed by him on behalf of a school district, is guilty of misconduct, and subject to removal from office or employment. Any person operating a school bus under contract with a school district who fails to comply with any regulation is guilty of a breach of contract, and the contract shall be canceled by the responsible officers of the school district.

(C) No person shall operate a school bus within this city in violation of the regulations of the department of education. No person, being the owner thereof, or having the supervisory responsibility therefor, shall permit the operation of a school bus within this state in violation of the regulations of the department of education.

(D) No person shall operate a school bus within this state in violation of the regulations of the Department of Public Safety. No person, being the owner thereof, or having the supervisory responsibility therefor, shall permit the operation of a school bus within this city in violation of the regulations of the Department of Public Safety.
(R.C. §4511.76)

(E) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense, the person is guilty of a misdemeanor of the fourth degree.
(R.C. § 4511.99 (C)) Penalty, see § 70.99

§ 72.67 SCHOOL BUS INSPECTION.

(A) No person shall operate, nor shall any person being the owner thereof, or having supervisory responsibility therefor, permit the operation of, a school bus within this city, unless there is displayed thereon the decals issued by the state highway patrol bearing a date of inspection prior to October 15 in the calendar year in which the decals were issued, except for a bus licensed by the Department of Public Safety, pursuant to R.C. § 4511.763, which shall display decals bearing a date of inspection between July 16 and September 1 of the calendar year in which the inspection was made, but if a bus is purchased after September 1, it shall display decals bearing a date of inspection later than the date the bus is purchased, and prior to the date of its use for the transportation of pupils.
(R.C. § 4511.761)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense, the person is guilty of a misdemeanor of the fourth degree. Whenever a person is found guilty in a court of record of a violation of this section, the trial judge, in addition to, or independent of, all other penalties provided by law, may suspend for any period of time not exceeding 3 years, or revoke, the license of any person, partnership, association, or corporation, issued under R.C. § 4511.763.
(R.C. § 4511.99 (C), (E)) Penalty, see § 70.99

§ 72.68 SCHOOL BUS NOT USED FOR SCHOOL PURPOSES.

(A) No person who is the owner of a school bus which is used or is to be used exclusively for purposes other than the transportation of children, shall operate such bus or permit it to be operated within this state unless such bus has been painted a color different from that prescribed for school buses by § 72.71 and painted in such a way that the letters "stop" and "school bus" are obliterated. (R.C. § 4511.762)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense such person is guilty of a misdemeanor of the fourth degree. Whenever a person is found guilty in a court of record of a violation of this section, the trial judge, in addition to, or independent of, all other penalties provided by law, may suspend for any period of time not exceeding 3 years, or revoke, the license of any person, partnership, association, or corporation, issued under § 72.69.
(R.C. § 4511.99 (C) (E)) Penalty, see § 70.99

§ 72.69 LICENSING BY DEPARTMENT OF HIGHWAY SAFETY.

No person, partnership, association, or corporation shall engage in the transportation of pupils to or from school, for profit, or enter into a contract with a board of education of any school district, without being licensed by the department of highway safety.
(R.C. § 4511.763) Penalty, see § 70.99

§ 72.70 REGISTRATION AND IDENTIFICATION OF SCHOOL BUSES.

(A) No person shall operate, nor shall any person, being the owner thereof or having supervisory responsibility therefor, permit the operation of a school bus within this city unless there is displayed thereon an identifying number in accordance with R.C. § 4511.764. (R.C. § 4511.764)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense such person is guilty of a misdemeanor of the fourth degree.
(R.C. § 4511.99 (C)) Penalty, see § 70.99

§ 72.71 SCHOOL BUS MARKING.

(A) No person shall operate, nor shall any person being the owner thereof or having supervisory responsibility therefor permit the operation of, a school bus within this state unless it is painted national school bus chrome number 2 and is marked on both front and rear with the words "school bus" in black lettering not less than 8 inches in height and on the rear of the bus with the word "stop" in black lettering not less than 10 inches in height. (R.C. § 4511.77)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense such person is guilty of a misdemeanor of the fourth degree. Whenever a person is found guilty in a court of record of a violation of this section, the trial judge, in addition to, or independent of, all other penalties provided by law, may suspend for any period of time not exceeding 3 years, or revoke, the license of any person, partnership, association, or corporation, issued under R.C. § 4511.763.
(R.C. § 4511.99 (C) (E)) Penalty, see § 70.99

§ 72.72 FLASHING LIGHT SIGNAL LAMPS.

Every school bus shall, in addition to any other equipment and distinctive markings required pursuant to §§ 72.66, 72.67, 72.70, and 72.71, be equipped with signal lamps mounted as high as practicable, which shall display to the front 2 alternately flashing red lights and 2 alternately flashing amber lights located at the same level and to the rear 2 alternately flashing red lights and alternately flashing amber lights located at the same level, and these lights shall be visible at 500 feet in normal sunlight. The alternately flashing red lights shall be spaced as widely as practicable, and the alternately flashing amber lights shall be located next to them. (R.C. § 4511.771)
Penalty, see § 70.99

§ 72.73 OCCUPANT RESTRAINING DEVICE FOR OPERATOR.

(A) On and after May 6, 1986, no person, school board, or governmental entity shall purchase, lease, or rent a new school bus unless the school bus has an occupant restraining device, as defined in § 72.64, installed for use in its operator's seat. (R.C. § 4511.772)

(B) Whoever violates this section is guilty of a minor misdemeanor. (R.C. § 4511.99(F))
Penalty, see § 70.99

CHAPTER 73: MOTOR VEHICLE CRIMES

Section

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§ 73.01 DRIVING WHILE INTOXICATED OR DRUGGED.

(A) No person shall operate any vehicle within this municipality if any of the following apply:

(1) The person is under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse.

(2) The person has a concentration of .10 of 1% or more by weight of alcohol in his blood.

(3) The person has a concentration of ten-hundredths of one gram or more by weight of alcohol per 210 liters of his breath.

(4) The person has a concentration of fourteen-hundredths of one gram or more by weight of alcohol per 100 milliliters of his urine.

(B) No person under 18 years of age shall operate any vehicle within this municipality, if any of the following apply:

(1) The person has a concentration of at least .02 of 1% but less than .10 of 1% by weight of alcohol in his blood;

(2) The person has a concentration of at least two-hundredths of one gram but less than ten-hundredths of one gram by weight of alcohol per 210 liters of his breath;

(3) The person has a concentration of at least twenty-eight-one thousandths of one gram but less than fourteen-hundredths of one gram by weight of alcohol per 100 milliliters of his urine.

(C) In any proceeding arising out of one incident, a person may be charged with a violation of division (A)(1) and a violation of division (B) (1), (2), or (3) of this section, but he may not be convicted of more than one violation of these divisions.

(D) In any criminal prosecution for a violation 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 in the blood, breath, or urine, the court may admit evidence on the concentration of alcohol, drugs of abuse, or alcohol and drugs of abuse in the defendant's blood, breath, urine, or other bodily substance at the time of the alleged violation as shown by chemical analysis of the defendant's blood, urine, breath, or other bodily substance withdrawn within 2 hours of the time of the alleged violation. When a person submits to a blood test at the request of a police officer under §73.011 or R.C. § 4511.191, only a physician, a registered nurse, or a qualified technician or chemist shall withdraw blood for the purpose of determining its alcohol, drug, or alcohol and drug content. This limitation does not apply to the taking of breath or urine specimens. A physician, a registered nurse, or a qualified technician or chemist may refuse to withdraw blood for the purpose of determining the alcohol, drug, or alcohol and drug content of the blood, if in his opinion the physical welfare of the person would be endangered by the withdrawing of blood.

(E) Such bodily substance shall be analyzed in accordance with methods approved by the director of health by an individual possessing a valid permit issued by the director of health pursuant to R.C. § 3701.143. If there was at the time the bodily substance was

withdrawn a concentration of less than .10 of 1% by weight of alcohol, in the defendant's blood, less than ten-hundredths of one gram by weight of alcohol per 210 liters of his breath, or less than fourteen-hundredths of one gram by weight of alcohol per 100 milliliters of his urine, such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.

(F) Upon the request of the person who was tested, the results of the chemical test shall be made available to him, his attorney, or his agent, immediately upon the completion of the chemical test analysis.

(G) The person tested may have a physician, a registered nurse, or a qualified technician or chemist of his own choosing administer a chemical test or tests in addition to any administered at the request of a police officer, and shall be so advised. 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 police officer.

(H) Any physician, registered nurse, or qualified technician or chemist who withdraws blood from a person pursuant to this section, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section, is immune from criminal liability, and from civil liability that is based upon a claim of assault and battery or based upon any other claim that is not in the nature of a claim of malpractice, for any act performed in withdrawing blood from the person. (R.C. §4511.19)

(I) Whoever violates this section in addition to the license suspension or revocation provided in R.C. § 4507.16, and any disqualification imposed under R.C. § 4506.16, shall be punished as provided in division (I)(1), (2), (3), or (4) below.

(1) If, within five years of the offense, the offender has not been convicted of or pleaded guilty to any violation of this section, or R.C. § 4511.19; 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; a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, R.C. § 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section or R.C. §§ 2903.06, 2903.07 or 2903.08 or a municipal ordinance that is substantially similar to R.C. § 2903.07 in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, the offender is guilty of a misdemeanor of the first degree and the court shall sentence the offender to a term of imprisonment of three consecutive days and may sentence the offender pursuant to R.C. § 2929.21 to a longer term of imprisonment. In addition, the court shall impose upon the offender a fine of not less than $200 nor more than $1,000. The court may suspend the execution of the mandatory three consecutive days of imprisonment that it is required to impose by this division, if the court, in lieu of the suspended term of imprisonment, places the offender on probation and requires the offender to attend, for three consecutive days, a drivers' intervention program that is

certified pursuant to R.C. § 3793.10. The court also may suspend the execution of any part of the mandatory 3 consecutive days of imprisonment that it is required to impose by this division, if the court places the offender on probation for part of the 3 consecutive days; requires the offender to attend, for that part of the 3 consecutive days, a drivers' intervention program that is certified pursuant to R.C. § 3793.10; and sentences the offender to a term of imprisonment equal to the remainder of the 3 consecutive days that the offender does not spend attending the drivers' intervention program. The court may require the offender, as a condition of probation, to attend and satisfactorily complete any treatment or education programs, that comply with the minimum standards adopted pursuant to R.C. Chapter 3793 by the director of alcohol and drug addiction services, in addition to the required attendance at a 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 his progress in the programs. The court also may impose any other conditions of probation on the offender that it considers necessary. Of the fine imposed pursuant to this division, $25 shall be paid to an enforcement and education fund established by the legislative authority of the law enforcement agency in this state that primarily was responsible for the arrest of the offender, as determined by the court that imposes the fine. This share shall be used by the agency to pay only those costs it incurs in enforcing this section, R.C. § 4511.19 or a substantially similar municipal ordinance and in informing the public of the laws governing operation of a motor vehicle while under the influence of alcohol, the dangers of operation of a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. Twenty-five dollars of the fine imposed pursuant to this division shall be deposited into the county or municipal indigent drivers alcohol treatment fund of that court, created by the county or municipal corporation pursuant to R.C. § 4511.191(N). The balance of the fine shall be disbursed as otherwise provided by law. Twenty-five dollars of any fine imposed for violation 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 relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine shall be deposited into the municipal indigent drivers alcohol treatment fund created pursuant to § 73.011(N) and R.C. § 4511.191(N) that is under the control of the municipal court in which violations of the ordinances of the municipal corporation that enacted the ordinance for which the fine was imposed are prosecuted.

(2) (a) If, within five years of the offense, the offender has been convicted of or pleaded guilty to one violation of this section or R.C. § 4511.19; 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, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, R.C. § 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section, or R.C. §§ 2903.06, 2903.07, or 2903.08 or a municipal ordinance that is substantially similar to R.C. § 2903.07 in a case in which the jury

or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, the offender is guilty of a misdemeanor of the first degree and except as provided in this division, the court shall sentence the offender to a term of imprisonment of ten consecutive days and may sentence the offender pursuant to R.C. § 2929.21 to a longer term of imprisonment. As an alternative to the term of imprisonment required to be imposed by this division, but subject to division (I)(8) of this section, the court may impose upon the offender a sentence consisting of both a term of imprisonment of five consecutive days and not less than 18 consecutive days of electronically monitored house arrest as defined in R.C. § 2929.23(A). The five consecutive days of imprisonment and the period of electronically monitored house arrest shall not exceed six months. The five consecutive days of imprisonment do not have to be served prior to or consecutively with the period of electronically monitored house arrest. In addition, the court shall impose upon the offender a fine of not less than $300 and not more than $1,500. In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to R.C. § 3793.10. If the officials of the drivers intervention program determine that the offender is alcohol dependent, they shall notify the court, and the court shall order the offender to obtain treatment through an alcohol and drug addiction program authorized by R.C. § 3793.02. The cost of the treatment shall be paid by the offender. Of the fine imposed pursuant to this division, $35 shall be paid to an enforcement and education fund established by the legislative authority of the law enforcement agency in this state that primarily was responsible for the arrest of the offender, as determined by the court that imposes the fine. This share shall be used by the agency to pay only those costs it incurs in enforcing this section, R.C. § 4511.19, or a substantially similar municipal ordinance and in informing the public of the laws governing operation of a motor vehicle while under the influence of alcohol, the dangers of operation of a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. Sixty-five dollars of the fine imposed pursuant to this division shall be paid to the political subdivision responsible for housing the offender during his term of incarceration. This share shall be used by the political subdivision to pay or reimburse incarceration costs it incurs in housing persons who violate this section, R.C.§ 4511.19 or a substantially similar municipal ordinance and to pay for ignition interlock devices and electronic house arrest equipment for persons who violate that section, and shall be paid to the credit of the fund that pays the cost of the incarceration. Fifty dollars of the fine imposed pursuant to this division shall be deposited into the indigent drivers alcohol treatment fund of that court, created by the county or municipal corporation pursuant to R.C. § 4511.191(N). The balance of the fine shall be disbursed as otherwise provided by law.

(b) Regardless of whether the vehicle the offender was operating at the time of the offense is registered in his name or in the name of another person, the court, in addition to the penalties

imposed under division (I)(2)(a) of this section and all other penalties provided by law and subject to R.C. § 4503.235, shall order the impoundment for 90 days of the certificate of registration and identification license plates of the vehicle the offender was operating at the time of the offense. The order for the impoundment shall be issued and enforced in accordance with R.C. § 4503.232.

(3) (a) If, within five years of the offense, the offender has been convicted of or pleaded guilty to two violations of this section or R.C. § 4511.19; 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; a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, R.C. § 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section, or R.C. §§ 2903.06, 2903.07, or R.C. § 2903.08 or a municipal ordinance that is substantially similar to R.C. § 2903.07 in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, except as provided in this division, the court shall sentence the offender to a term of imprisonment of 30 consecutive days and may sentence the offender to a longer definite term of imprisonment of not more than one year. As an alternative to the term of imprisonment required to be imposed by this division, but subject to division (I)(8) of this section, the court may impose upon the offender a sentence consisting of both a term of imprisonment of 15 consecutive days and not less than 55 consecutive days of electronically monitored house arrest as defined in R.C. § 2929.23(A). The 15 consecutive days of imprisonment and the period of electronically monitored house arrest shall not exceed one year. The 15 consecutive days of imprisonment do not have to be served prior to or consecutively with the period of electronically monitored house arrest. In addition, the court shall impose upon the offender a fine of not less than $500 and not more than $2,500. In addition to any other sentence that it imposes upon the offender, the court shall require the offender to attend an alcohol and drug addiction program authorized by R.C. § 3793.02. The cost of the treatment shall be paid by the offender. If the court determines that the offender is unable to pay the cost of his attendance at the treatment program, the court may order that payment of the cost of the offender's attendance at the treatment program be made from that court's indigent drivers alcohol treatment fund. Of the fine imposed pursuant to this division, $123 shall be paid to an enforcement and education fund established by the legislative authority of the law enforcement agency in this state that primarily was responsible for the arrest of the offender, as determined by the court that imposes the fine. This share shall be used by the agency to pay only those costs it incurs in enforcing this section, R.C.§ 4511.19, or a substantially similar municipal ordinance and in informing the public of the laws governing operation of a motor vehicle while under the influence of alcohol, the dangers of operation of a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. Two hundred twenty-seven dollars

of the fine imposed pursuant to this division shall be paid to the political subdivision responsible for housing the offender during his term of incarceration. This share shall be used by the political subdivision to pay or reimburse incarceration costs it incurs in housing persons who violate this section, R.C.§ 4511.19, or a substantially similar municipal ordinance and to pay for ignition interlock devices and electronic house arrest equipment for persons who violate that section, and shall be paid to the credit of the fund that pays the cost of incarceration. The balance of the fine shall be disbursed as otherwise provided by law.

(b) Regardless of whether the vehicle the offender was operating at the time of the offense is registered in his name or in the name of another person, the court, in addition to the penalties imposed under division (I)(3)(a) of this section and all other penalties provided by law and subject to R.c. § 4503.235, shall order the immobilization for 180 days of the vehicle the offender was operating at the time of the offense and the impoundment for 180 days of the certificate of registration and identification license plates of that vehicle. The order for the immobilization and impoundment shall be issued and enforced in accordance with R.C. § 4503.233.

(4) (a) If, within five years of the offense, the offender has been convicted of or pleaded guilty to three more violations of this section, R.C. § 4511.19, 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, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, R.C. § 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section, or R.C. § 2903.06, 2903.07, or 2903.08 or a municipal ordinance that is substantially similar to R.C.§ 2903.07 in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, the court shall sentence the offender to a term of imprisonment of 60 consecutive days and may sentence the offender to a longer definite term of imprisonment of not more than one year. In addition and notwithstanding R.C. § 2929.11, the court shall impose upon the offender a fine of not less than $750 nor more than $10,000. In addition to any other sentence that it imposes upon the offender, the court shall require the person to attend an alcohol and drug addiction program authorized by R.C.§ 3793.02. The cost of the treatment shall be paid by the offender. If the court determines that the offender is unable to pay the cost of his attendance at the treatment program, the court may order that payment of the cost of the offender's attendance at the treatment program be made from the court's indigent drivers alcohol treatment fund. Of the fine imposed pursuant to this division, $210 shall be paid to an enforcement and education fund established by the legislative authority of the law enforcement agency in this state that was primarily responsible for the arrest of the offender, as determined by the court that imposes the fine. This share shall be used by the agency to pay only those costs it incurs in enforcing this section, R.C.§ 4511.19 or a substantially similar municipal ordinance and in informing the public of the laws governing operation of a motor

vehicle while under the influence of alcohol, the dangers of operation of a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. Three hundred ninety dollars of the fine imposed pursuant to this division shall be paid to the political subdivision responsible for housing the offender during his term of incarceration. This share shall be used by the political subdivision to pay or reimburse incarceration costs it incurs in housing persons who violate this section, R.C.§ 4511.19 or a substantially similar municipal ordinance and to pay for ignition interlock devices and electronic house arrest equipment for persons who violate that section, and shall be paid to the credit of the fund that pays the cost of incarceration. The balance of the fine shall be disbursed as otherwise provided by law.

(b) Regardless of whether the vehicle the offender was operating at the time of the offense is registered in his name or in the name of another person, the court, in addition to the penalties imposed under division (I)(4)(a) of this section and all other penalties provided by law and subject to R.C. § 4503.235, shall order the criminal forfeiture to the state of the vehicle the offender was operating at the time of the offense. The order of criminal forfeiture shall be issued and enforced in accordance with R.C. § 4503.234.

(5) (a) Except as provided in division (I)(5)(b) of this section, upon a showing that imprisonment would seriously affect the ability of an offender sentenced pursuant to division (I)(1), (2), (3), or (4) above to continue his employment, the court may authorize that the offender be granted work release from imprisonment after the offender has served the 3, 10, 30 or 60 consecutive days of imprisonment that the court is required by division (I)(1), (2), (3), or (4) above to impose. No court shall authorize work release from imprisonment during the 3, 10, 30 or 60 consecutive days of imprisonment that the court is required by division (I)(1), (2), (3), or (4) above to impose. The duration of the work release shall not exceed the time necessary each day for the offender to commute to and from the place of employment and the place of imprisonment and the time actually spent under employment.

(b) An offender who is sentenced pursuant to division (I)(2) or (3) of this section to a term of imprisonment followed by a period of electronically monitored house arrest is not eligible for work release from imprisonment, but that person shall be permitted work release during the period of electronically monitored house arrest. The duration of the work release shall not exceed the time necessary each day for the offender to commute to and from the place of employment and his home or other place specified by the sentencing court and the time actually spent under employment.

(6) Notwithstanding any other section of the Revised Code that authorizes the suspension of the imposition or execution of a sentence or the placement of an offender in any treatment program in lieu of imprisonment, no court shall suspend the 10, 30, or 60 consecutive days of imprisonment required to be imposed by division

(I)(2), (3), or (4) above or place an offender who is sentenced pursuant to division (I)(2), (3), or (4) above in any treatment program in lieu of imprisonment until after the offender has served the 10, 30 or 60 consecutive days of imprisonment required to be imposed pursuant to division (I)(2), (3), or (4) above, and no court that imposes a sentence of imprisonment and a period of electronically monitored house arrest upon an offender under division (I)(2) or (3) of this section shall suspend any portion of the sentence or place the offender in any treatment program in lieu of imprisonment or electronically monitored house arrest. Notwithstanding any section of the Revised Code that authorizes the suspension of the imposition or execution of a sentence or the placement of an offender in any treatment program in lieu of imprisonment, no court, except as specifically authorized by division (I)(1) above, shall suspend the 3 consecutive days of imprisonment required to be imposed by division (I)(1) above or place an offender who is sentenced pursuant to division (I)(1) above in any treatment program in lieu of imprisonment until after the offender has served the 3 consecutive days of imprisonment required to be imposed pursuant to division (I)(1) above.

(7) No court shall sentence an offender to an alcohol treatment program pursuant to division (I)(1), (2), (3), or (4) above, unless the treatment program complies with the minimum standards adopted pursuant to R.C. Chapter 3793 by the director of alcohol and drug addiction services.

(8) No court shall impose the alternative sentence of a term of imprisonment of five consecutive days plus not less than 18 consecutive days of electronically monitored house arrest permitted to be imposed by division (I)(2) of this section, or the alternative sentence of a term of imprisonment of 15 consecutive days plus not less than 55 consecutive days of electronically monitored house arrest permitted to be imposed pursuant to division (I)(3) of this section, unless both of the following conditions apply:

(a) The offense for which the offender is sentenced occurs prior to July 1, 1993;

(b) Within 60 days of the date of sentencing, the court issues a written finding, entered into the record, that due to the unavailability of space at the incarceration facility where the offender is required to serve the term of imprisonment imposed upon him, the offender will not be able to commence serving his term of imprisonment within the 60-day period following the date of sentencing. If the court issues such a finding, the court may impose the alternative sentence comprised of a term of imprisonment and a term of electronically monitored house arrest permitted to be imposed by division (I)(2) or (3) of this section.
(R.C. § 4511.99 (A)) Penalty, see § 70.99

Statutory reference:
Trial judge to suspend or revoke driver's license or the like, see R.C. §4507.16
Mayor of mayor's court to suspend or revoke driver's license or the like, see R.C. § 1905.201

§ 73.011 IMPLIED CONSENT.

(A) Any person who operates a vehicle upon a highway or any public or private property used by the public for vehicular travel or parking within this municipality shall be deemed to have given consent to a chemical test or tests of his blood, breath, or urine for the purpose of determining the alcohol, drug, or alcohol and drug content of his blood, breath, or urine if arrested for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine. The chemical test or tests shall be administered at the request of a police officer having reasonable grounds to believe the person to have been operating a vehicle upon a highway or any public or private property used by the public for vehicular travel or parking in this municipality while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or with a prohibited concentration of alcohol in the blood, breath, or urine. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(B) Any person who is dead or unconscious, or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn consent provided by division (A) above and the test or tests may be administered, subject to R.C. §§313.12 through 313.16.

(C) (1) Any person under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine shall be advised at a police station, or at a hospital, first-aid station, or clinic to which the person has been taken for first-aid or medical treatment, of both of the following:

(a) The consequences of his refusal to submit upon request to a chemical test designated by the law enforcement agency as provided in division (A);

(b) The consequences, as specified in division (F) of this section, of his submission to the designated chemical test if he is found to have a prohibited concentration of alcohol in the blood, breath, or urine.

(2) (a) The advice given pursuant to division (C(1) of this section shall be in a written form containing the information described in division (C(2)(b) of this section and shall be read to the person. The form shall contain a statement that the form was shown to the person under arrest and read to him in the presence of the arresting officer and either another police officer, civilian police employee, or an employee of a hospital, first-aid station, or clinic, if any, to which the person has been taken for first-aid or medical treatment. The witnesses shall certify to this fact by signing the form.

(b) The form required by division (C)(2)(a) of this section shall read as follows:

"You now are under arrest for operating a vehicle while under the influence alcohol, a drug of abuse, or both alcohol and a drug of abuse and will be requested by a police officer to submit to a chemical test or tests, as designated by the officer's law enforcement agency, to determine the concentration of alcohol, drugs of abuse, or alcohol and drugs of abuse in your blood, breath, or urine.

If you refuse to submit to the requested test or tests, or if you submit to the requested test or tests and are found to have a concentration of ten-hundredths of one percent or more by weight of alcohol in your blood, a concentration of ten-hundredthds of one gram or more by weight of alcohol per 210 liters of your breath, or a concentration of fourteen-hundredths of one gram or more by weight of alcohol per 100 milliliters of your urine, your driver's or commercial driver's license or permit or nonresident operating privilege will be suspended 15 days from now. You may appeal this suspension. You may be subject to other penalties upon conviction. A refusal to submit to the requested test or tests will result in the suspension of your license, permit, or operating privilege for a period of one year to five years, depending upon the number of times you previously refused, within the preceding five years, to submit to such a test. If you submit to the test or tests and are found to have the specified prohibited concentration of alcohol in your blood, breath, or urine, your license, permit, or operating privilege will be suspended for a period of 90 days to three years, depending upon the number of times you were convicted, within the preceding five years, of a state or municipal OMVI offense, involuntary manslaughter involving the operation of a vehicle and alcohol, or a state or municipal vehicular homicide or vehicular assault offense involving alcohol.

In either case, if your license, permit, or operating privilege is suspended, the suspension may be terminated as provided by law."

(D) (1) If a person under arrest as described in division (C)(1) of this section is asked by a police officer to submit to a chemical test designated as provided in division (A) above and is advised of the consequences of his refusal or submission as provided in division (C) above, and if either the person refuses to submit to the designated chemical test and the test results indicate that his blood contained a concentration of ten-hundredths of one percent or more by weight of alcohol, his breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per 210 liters of his breath, or his urine contained a concentration of fourteen-hundredths of one gram or more by weight of alcohol per 100 milliliters of his urine at the time of the alleged offense the arresting officer shall do all of the following:

(a) On behalf of the registrar of motor vehicles, serve a notice of suspension upon the person stating that his driver's or commercial driver's license or permit or nonresident operating privilege will be suspended on the 15th day after the date of the service of the notice of suspension, seize the state or out-of-state driver's or commercial driver's license or permit of the person, and issue a temporary license valid for the period until the suspension becomes effective. If the arrested person does not have his driver's or commercial driver's license or permit on his person or in his vehicle, the arresting officer shall order him to surrender it to the law enforcement agency that employs the officer within 24 hours after the service of the notice of suspension.

(b) Give the person a written notification prepared by the registrar that informs him that he may request a hearing on the suspension as provided in division (H) of this section;

(c) Verify the current residence of the person and, if it differs from that on the person's driver's or commercial driver's license or permit, notify the registrar of motor vehicles of the change;

(d) Within 48 hours after the arrest of the person, send the person's driver's or commercial driver's license or permit to the registrar of motor vehicles, accompanied by the arresting officer's sworn report that includes all of the following statements:

1. That he had reasonable grounds to believe the arrested person had been operating a vehicle upon a highway or public or private property used by the public for vehicular travel or parking within this municipality while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or with a prohibited concentration of alcohol in the blood, breath, or urine;

2. That the officer asked the person to take the designated chemical test, advised the person of the consequences of submitting to the chemical test or refusing to take the chemical test, and gave the person the form described in division (C)(2) of this section;

3. That the person refused to submit to the chemical test or that the person submitted to the chemical test and the test results indicate that his blood contained a concentration of ten-hundredths of one percent or more by weight of alcohol, his breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per 210 liters of his breath, or his urine contained a concentration of fourteen-hundredths of one gram or more by weight of alcohol per 100 milliliters of his urine at the time of the alleged offense;

4. That the officer gave the person the written notification described in division (D)(1)(b) of this section;

5. If the arresting officer was unable to serve notice upon the arrested person, the reasons why he was unable to do so.

(2) The sworn report of an arresting officer completed under division (D)(1)(d) of this section shall be given by the officer to the arrested person at the time of the arrest or shall be mailed to the arrested person or his attorney by the registrar. If the report is mailed to the arrested person, it shall be mailed to him by regular mail at the address that is indicated on his driver's or commercial driver's license or permit or that is provided to the registrar by the arresting officer. If the person has requested a hearing under division (H)(1) of this section relative to a suspension that is related to the arrest, the report shall be mailed to the person at least three calendar days before the date scheduled for the hearing.

(3) The sworn report of an arresting officer completed and sent to the registrar under division (D)(1)(d) of this section is prima facie proof of the information and statements that it contains and shall be admitted and considered as prima facie proof of the information and statements that it contains in any hearing under division (H) of this section relative to any suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege that results from the arrest covered by the report.

(E) (1) Upon receipt of the sworn report of an arresting officer completed and sent pursuant to division (D)(1)(d) of this section in regard to a person who refused to take the designated chemical test, the registrar of motor vehicles shall suspend the person's driver's or commercial driver's license or permit, or nonresident operating privilege, subject to review as provided in this section, for whichever of the following periods applies:

(a) If the arrested person, within five years of the date on which he refused the request of consent to the chemical test had not refused a previous request to consent to a chemical test of his blood, breath, or urine to determine its alcohol content, the period of suspension shall be one year. If the person is a resident without a license or permit to operate a vehicle within this state, the registrar shall deny to the person the issuance of a driver's or commercial driver's license or permit for a period of one year after the date of the alleged violation.

(b) If the arrested person, within five years of the date on which he refused the request to consent to the chemical test had refused one previous request to consent to a chemical test of his blood, breath, or urine to determine its alcohol content, the period of suspension or denial shall be two years.

(c) If the arrested person, within five years of the date on which he refused the request to consent to the chemical test had refused two previous requests to consent to a chemical test of his blood, breath, or urine to determine its alcohol content, the period of suspension or denial shall be three years.

(d) If the arrested person, within five years of the date on which he refused the request to consent to the chemical test had refused three or more previous requests to consent to a chemical test of his blood, breath, or urine to determine its alcohol content, the period of suspension or denial shall be five years.

(2) The suspension or denial imposed under division (E)(1) of this section shall continue for the entire one-year, two-year, three-year, or five-year period, subject to review as provided in this section and subject to termination as provided in division (K) of this section.

(F) Upon receipt of the sworn report of an arresting officer completed and sent pursuant to division (D)(1)(d) of this section in regard to a person whose test results indicate that his blood contained a concentration of ten-hundredths of one percent or more by weight of alcohol, his breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per 210 liters of his breath, or his urine contained a concentration of fourteen-hundredths of one gram or more by weight of alcohol per 100 milliliters of his urine at the time of the alleged offense, the registrar of motor vehicles shall suspend the driver's or commercial driver's license or permit or nonresident operating privilege of the person for whichever of the following periods applies:

(1) If the person has not been convicted, within five years of the date the test was conducted of a violation of § 73.01 or R.C. § 4511.19, 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, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, R.C. § 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section, or R.C. §§ 2903.06, 2903.07, or 2903.08 or a municipal ordinance that is substantially similar to R.C. § 2093.07 in a case in which the jury or judge found that at the time of the commission of the offense the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, the registrar shall suspend the person's driver's or commercial driver's license or permit or nonresident operating privilege for 90 days.

(2) If the person has been convicted, within five years of the date the test was conducted, of one violation of a statute or ordinance described in division (F)(1) of this section, the registrar shall suspend the person's driver' or commercial driver's license or permit or nonresident operating privilege for one year.

(3) If the person has been convicted, within five years of the date the test was conducted, of two violations of a statute or ordinance described in division (F)(1) of this section, the registrar shall suspend the person's driver's or commercial driver's license or permit or nonresident operating privilege for one year.

(4) If the person has been convicted, within five years of the date the test was conducted, of more than two violations of a statute or ordinance described in division (F)(1) of this section, the registrar shall suspend the person's driver's or commercial driver's license or permit or nonresident operating privilege for three years.

(G) A suspension under division (E) or (F) of this section is effective 15 days after the date on which the arresting officer serves the notice of suspension upon the arrested person or the registrar of motor vehicles notifies the arrested person of the suspension pursuant to this division. If the arresting officer indicated in his sworn report that he did not serve the notice of suspension on the arrested person, the registrar of motor vehicles, immediately upon receipt of the report, shall notify the person of the suspension in writing, inform him that the suspension is effective 15 days after the date of the letter of notification, and inform him of his right to request a hearing and of the procedure for doing so.

(H) (1) Any person whose license, permit, or operating privilege is suspended under division (E) or (F) of this section may request a hearing on the suspension in the court in which the person will appear on the criminal charge for which the suspension was imposed. The request shall be submitted to the court in writing not later than 15 days after the person is served with the notice of suspension as described in division (G) of this section. The person requesting the hearing shall notify the registrar of motor vehicles of the filing of the request and send the registrar a copy of the request. If the appeal of the suspension is denied, the person requesting the hearing shall pay the cost of the hearing. The submission or making of a request for a hearing does not stay the operation of a suspension under division (E) or (F) of this section.

The court shall hold a hearing under this division within 30 days after the submission or making of a request for the hearing, provided that the court may grant a reasonable continuance of the hearing beyond the 30-day period upon the request prior to the hearing of the person who was arrested and who requested the hearing. If the court grants a continuance on the request of the person, the person waives his right to have the hearing conducted within 30 days after the making of the request for the hearing.

The scope of the hearing is limited to the following issues:

(a) Whether the law enforcement officer had reasonable ground to believe the arrested person was operating a vehicle upon a highway or public or private property used by the public for vehicular travel or parking within this state while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or with a prohibited concentration of alcohol in the blood, breath, or urine and whether the arrested person was placed under arrest;

(b) Whether the law enforcement officer requested the arrested person to submit to the chemical test designated pursuant to division (A) of this section;

(c) Whether the arresting officer informed the arrested person of the consequences of refusing to be tested or of submitting to the test;

(d) Whichever of the following is applicable:

1. Whether the arrested person refused to submit to the chemical test requested by the officer;

2. Whether the chemical test results indicate that his blood contained a concentration of ten-hundredths of one per cent or more by weight of alcohol, his breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per 210 liters of his breath, or his urine contained a concentration of fourteen-hundredths of one gram or more by weight of alcohol per 100 milliliters of his urine at the time of the alleged offense.

(2) At the hearing, the court shall determine whether the conditions for the suspension specified in divisions (H)(1)(a) to (d) of this section have been met. If the court determines that these conditions for the suspension have been met, the court shall uphold the suspension and notify the registrar of his decision. Except as otherwise provided in division (H)(2) of this section, if the suspension is upheld or if the person does not request a hearing under division (H) of this section, the suspension shall continue. The suspension shall end if the person is found not guilty of the charge that resulted in his being required to take a test or tests under division (A) of this section. If the court determines that the conditions for suspension have not been met, the court shall terminate the suspension and order the registrar to return the driver's or commercial driver's license or permit to the person.

At the hearing, the registrar shall be represented by the prosecuting attorney of the county in which the arrest occurred if the request is filed in the juvenile court or county court, except that if the arrest occurred within a city or village within the jurisdiction of the county court in which the request is filed, the city director of law or village solicitor of that city or village shall represent the registrar. If the request is filed in the municipal court, the registrar shall be represented as provided in R.C. § 1901.34.

(I) (1) A person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspend pursuant to division (E) of this section may file a petition requesting occupational driving privileges in the municipal court, county court, or, if the person is a minor, juvenile court with jurisdiction over the place at which the arrest occurred. The petition may be filed at any time subsequent to the date on which the arresting officer serves the notice of suspension upon the arrested person or the registrar of motor vehicles notifies the arrested person of the suspension pursuant to division (G) of this section. The person shall pay the costs of the proceeding, notify the registrar of motor vehicles of the filing of the petition, and send the registrar of motor vehicles a copy of the petition.

In the proceedings, the registrar shall be represented by the prosecuting attorney of the county in which the arrest occurred if the petition is filed in the juvenile court or county court, except that, if the arrest occurred within a city or village within the jurisdiction of the county court, in which the petition is filed, the city director of law or village solicitor of that city or village shall represent the registrar. If the petition is filed in the municipal court, the registrar shall be represented as provided in R.C. § 1901.34.

The court, if it finds reasonable cause to believe that suspension would seriously affect the person's ability to continue in his employment, may grant the person occupational driving privileges during the period of suspension imposed pursuant to division (E) of this section, subject to the limitations contained in this division and division (I)(2) of this section. The court may grant the occupational driving privileges, subject to the limitations contained in this division and division (I)(2) of this section, regardless of whether the person requests a hearing regarding the suspension under division (H)(1) of this section or an appeal of a decision of the court under division (H)(2) of this section, and, if the person has requested a hearing or appeal under any of those divisions, regardless of whether the matter at issue has been heard or decided by the court. The court shall not grant occupational driving privileges for employment as a driver of commercial motor vehicles to any person who is disqualified from operating a commercial motor vehicle under R.C. § 4506.16.

(2) (a) In granting occupational driving privileges under division (I)(1) of this section, the court may impose any condition it considers reasonable and necessary to limit the use of a vehicle by the person. The court shall deliver to the person a permit card, in a form to be prescribed by the court, setting forth the time, place, and other conditions limiting the defendant's use of a vehicle. The grant of occupational driving privileges shall be conditioned upon the person's having the permit in his possession at all times during which he is operating a vehicle.

A person granted occupational driving privileges who operates a vehicle for other than occupational purposes, in violation of any condition imposed by the court, or without having the permit in his possession, is guilty of a violation of R.C. § 4507.02.

(b) The court may not grant a person occupational driving privileges under division (I)(1) of this section during any of the following periods of time:

1. The first 30 days of suspension imposed upon a person who, within 5 years of the date on which he refused the request to consent to a chemical test of his blood, breath, or urine to determine its alcohol content and for which refusal the suspension was imposed, had not refused a previous request to consent to a chemical test of his blood, breath, or urine to determine its alcohol content;

2. The first 90 days of suspension imposed upon a person who, within 5 years of the date on which he refused the request to consent to a chemical test of his blood, breath, or urine to determine its alcohol content and for which refusal the suspension was imposed, had refused one previous request to consent to a chemical test of his blood, breath, or urine to determine its alcohol content;

3. The first year of suspension imposed upon a person who, within 5 years of the date on which he refused the request to consent to a chemical test of his blood, breath, or urine to determine its alcohol content and for which refusal the suspension was imposed, had refused two previous requests to consent to a chemical test of his blood, breath, or urine to determine its alcohol content;

4. The first 3 years of suspension imposed upon a person who, within 5 years of the date on which he refused the request to consent to a chemical test of his blood, breath, or urine to determine its alcohol content and for which refusal the suspension was imposed, had refused 3 or more previous requests to consent to a chemical test of his blood, breath, or urine to determine its alcohol content.

(3) The court shall give information in writing of any action taken under this section to the registrar of motor vehicles.

(4) A person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended pursuant to division (F) of this section may file in the court specified in division (I)(1) of this section a petition requesting occupational driving privileges in accordance with R.C. § 4507.16. The petition may be filed at any time subsequent to the date on which the arresting officer serves the notice of suspension upon the arrested person or the registrar of motor vehicles notifies the arrested person of the suspension pursuant to division (G) of this section. Upon the making of the request, occupational driving privileges may be granted in accordance with that section. The court may grant the occupational driving privileges, subject to the limitations contained in R.C. § 4507.16, regardless of whether the person requests a hearing regarding the suspension under division (H)(1) of this section or an appeal of a decision of the court under division (H)(2) of this section, and, if the person has requested a hearing or appeal under either of those divisions, regardless of whether the matter at issue has been heard or decided by the court.

(J) When it finally has been determined under the procedures of this section that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license.

(K) A suspension of the driver's or commercial driver's license or permit of a resident, the suspension of the operating privilege of a nonresident, or the denial of a driver's or commercial driver's license or permit for refusal to submit to a chemical test to determine the alcohol, drug, or alcohol and drug content of the person's blood, breath, or urine pursuant to division (E) of this section, shall be terminated by the registrar upon receipt of notice of the person's entering a plea of guilty or of his conviction after entering a plea of no contest under Criminal Rule 11, to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or with a prohibited concentration of alcohol in the blood, breath, or urine, if the offense for which the plea is entitled arose from the same incident that led to the suspension or denial.

The registrar shall credit any time during which a person was subject to a judicial suspension of his driver's or commercial driver's license or permit or nonresident operating privileges imposed pursuant to R.C. § 4507.16 (B) against the time to be served under a related suspension imposed pursuant to division (F) of this section.

(L) At the end of a suspension period under this section or R.C. § 4507.16 (B) and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, revocation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the following:

(1) A showing by the person that he had proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in R.C. § 4509.51, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in R.C. § 4509.51.

(2) Payment by the person of a license reinstatement fee of $225 to the bureau of motor vehicles, which fee shall be deposited in the state treasury and credited as follows:

(a) Seventy-five dollars shall be credited to the drivers' treatment and intervention fund, which is hereby established. The fund shall be used to pay the costs of driver treatment and intervention programs operated pursuant to R.C. §§ 3793.02 and 3793.10. The director of alcohol and drug addiction services shall determine the share of the fund that is to be allocated to alcohol and drug addiction programs authorized by R.C. § 3793.02, and the share of the fund that is to be allocated to drivers' intervention programs authorized by R.C. § 3793.10.

(b) Twenty-five dollars shall be credited to the reparations fund created by R.C. § 2743.191.

(c) Twenty-five dollars shall be credited to the indigent drivers' alcohol treatment fund, which is hereby created in the state treasury. Except as otherwise proved in division (L)(2)(c) of

this section moneys in the fund shall be distributed by the department of alcohol and drug addiction services to the county and municipal indigent drivers treatment funds which are required to be established by counties and municipal corporations pursuant to division (N) of this section, and shall be used only to pay the cost of an alcohol and drug addiction treatment program attended by an offender who is ordered to attend such a program by a county, juvenile, or municipal court judge and who is determined by such county or municipal court judge not to have the means to pay for his attendance at such program. The department shall retain those moneys in the fund that are not distributed to a county or municipal indigent drivers alcohol treatment fund under division (M) of this section. The department may use the amounts retained for administrative purposes or distribute them to treatment programs.

(d) Fifty dollars shall be credited to the Ohio Rehabilitation Services Commission established by R.C. § 3304.12, to the services for Rehabilitation Fund, which is hereby established. The fund shall be used to match available federal matching funds where appropriate, and for any other purpose or program of the commission to rehabilitate people with disabilities to help them become employed and independent.

(e) Fifty dollars shall be deposited into the state treasury and credited to the Drug Abuse Resistance Education Programs Fund, to be used by the attorney general for the purposes specified in division (L)(2)(e) of this section.

The attorney general shall use amounts in the drug abuse resistance education programs fund to award grants to law enforcement agencies to establish and implement drug abuse resistance education programs in public schools. Grants awarded to a law enforcement agency under division(L)(2)(e) of this section shall be used by the agency to pay for not more than 50% of the amount of the salaries of law enforcement officers who conduct drug abuse resistance education programs in public schools. The attorney general shall not use more than 6% of the amounts his office receives under division (L)(2)(e) of this section to pay the costs it incurs in administering the grant program established by division (L)(2)(e) of this section and in providing training and materials relating to drug abuse resistance education programs.

The attorney general shall report to the governor and the general assembly each fiscal year on the progress made in establishing and implementing drug abuse resistance education programs. These reports shall include an evaluation of the effectiveness of these programs.

(M) Suspension of a commercial driver's license under division (E) or (F) of this section shall be concurrent with any period of disqualification under R.C. § 4506.16. No person who is disqualified for life from holding a commercial driver's license under R.C. § 4506.16 shall be issued a driver's license under R.C. Chapter 4507 during the period for which the commercial driver's license was

suspended under division (E) or (F) of this section, and no person whose commercial driver's license is suspended under division (E) or (F) of this section shall be issued a driver's license under R.C. Chapter 4511 during the period of suspension.

(N) Each county shall establish an indigent drivers alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers alcohol treatment fund. All revenue that the general assembly appropriates to the indigent drivers alcohol treatment fund for a county or municipal corporation, and all portions of fees that are paid under division (L) of this section and that are credited under that division to the indigent drivers alcohol treatment fund in the state treasury for a county or municipal indigent drivers alcohol treatment fund shall be deposited into that county's or municipal corporation's indigent drivers alcohol treatment fund. That portion of the fee paid under division (L) of this section by a person whose driver's or commercial driver's license or permit was suspended by a county court or by a juvenile court and which is credited to the indigent drivers alcohol treatment fund shall be deposited in that county's indigent drivers alcohol treatment fund, and that portion of the fee paid under division (L) of this section by a person whose driver's or commercial driver's license or permit was suspended by a municipal court and which is credited to the indigent drivers alcohol treatment fund shall be deposited in that municipal corporation's indigent drivers alcohol treatment fund. Expenditures from a county or municipal indigent drivers alcohol treatment fund shall be made only upon order of a county or municipal court judge and only for payment of the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of a violation of § 73.01, R.C. § 4511.19 or a substantially similar municipal ordinance, who is ordered by the court to attend the alcohol and drug addiction treatment program, and who is determined by the court to be unable to pay the cost of his attendance at the treatment program. The board of alcohol, drug addiction, and mental health services established pursuant to R.C. § 340.02 serving the alcohol, drug addiction, and mental health service district in which the court is located shall administer the indigent drivers alcohol treatment program of the court. When a court orders an offender to attend an alcohol and drug addiction treatment program, the board shall determine which program is suitable to meet the needs of the offender, and when a suitable program is located and space is available at the program, the offender shall attend the program designated by the board. A reasonable amount not to exceed 5% of the amounts credited to and deposited into the county or municipal indigent drivers alcohol treatment fund of every court whose program is administered by that board shall be paid to the board to cover the costs it incurs in administering the indigent drivers alcohol treatment programs of the courts located in its district. (R.C. § 4511.191)

(O) No person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under R.C. § 4511.191 shall operate a vehicle upon the highways or streets within

this municipality. However, it is an affirmative defense to any prosecution brought pursuant to this section that the alleged offender drove under suspension because of a substantial emergency, provided that no other person was reasonably available to drive in response to the emergency. (R.C. §4511.192)

(P) Whoever violates divisions (A) through (K) above of this section shall be subject to the penalty as set forth in § 70.99(A). Whoever violates division (O) above of this section is guilty of a misdemeanor of the first degree. The Court in addition to or independent of all other penalties provided by law, may suspend for a period not to exceed one year the driver's or commercial driver's license or permit or nonresident operating privilege of any person who pleads guilty to or is convicted of a violation of division (O) above. (R.C. § 4511.99(B)).

Statutory reference:
Persons under arrest to be advised of consequences, see R.C. § 4511.194
Seizure of vehicles upon arrest, see R.C. § 4511.195

§ 73.02 DRIVING WITH IMPAIRED ALERTNESS OR ABILITY; USE OF DRUGS.

(A) No person shall drive a "COMMERCIAL MOTOR VEHICLE" as defined in R.C. § 4506.01 or a "COMMERCIAL CAR" or "COMMERCIAL TRACTOR," as defined in R.C. § 4501.01, while his ability or alertness is so impaired by fatigue, illness, or other causes that it is unsafe for him to drive such vehicle. No driver shall use any drug which would adversely affect his ability or alertness.

(B) No owner, as defined in R.C. § 4501.01, of a "COMMERCIAL MOTOR VEHICLE", "COMMERCIAL CAR" or "COMMERCIAL TRACTOR," or a person employing or otherwise directing the driver of such vehicle, shall require or knowingly permit a driver in any such condition described in division (A) of this section to drive such vehicle upon any street or highway. (R.C. § 4511.79)

(C) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense such person is guilty of a misdemeanor of the fourth degree. (R.C. § 4511.99 (C)) Penalty, see § 70.99

§ 73.03 PHYSICAL CONTROL.

(A) No person who is under the influence of alcohol or any drug of abuse or the combined influence of alcohol or any drug of abuse, shall be in physical control of any vehicle. The provisions of § 73.01 insofar as they provide for tests to determine whether that person in physical control of a vehicle is under the influence of alcohol and a drug of abuse shall apply to this section.

(B) Whoever violates this section is guilty of a misdemeanor of the first degree. Penalty, see § 70.99

RECKLESS OPERATION

§ 73.05 RECKLESS OPERATION OF VEHICLES.

No person shall operate a vehicle on any street or highway in willful or wanton disregard of the safety of persons or property. (R.C. § 4511.20) Penalty, see § 70.99

§ 73.06 RECKLESS OPERATION OFF STREETS AND HIGHWAYS; COMPETITIVE OPERATION.

(A) No person shall operate a vehicle on any public or private property other than streets or highways, in willful or wanton disregard of the safety of persons or property.

(B) This section does not apply to the competitive operation of vehicles on public or private property when the owner of such property knowingly permits such operation thereon.
(R.C. § 4511.201) Penalty, see § 70.99

§ 73.07 OPERATOR TO BE IN REASONABLE CONTROL.

(A) No person shall operate a motor vehicle on any street, highway, or property open to the public for vehicular traffic without being in reasonable control of the vehicle. (R.C. §4511.202)

(B) Whoever violates this section is guilty of operating a motor vehicle without being in control of it, a minor misdemeanor.
(R.C. §4511.99(J))

SPEED REGULATIONS

§ 73.10 SPEED LIMITS.

(A) No person shall operate a motor vehicle at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface, and width of the street or highway and any other conditions, and no person shall drive any motor vehicle, or streetcar in and upon any street or highway at a greater speed than will permit him 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 pursuant to this section by the director of transportation or local authorities, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:

(1) 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 20 mph 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.

(a) As used in this section, "SCHOOL" means any school chartered under R.C. § 3301.16 and any nonchartered school that during the preceding year filed with the department of education in compliance with rule 3301-35-08 of the Ohio Administrative Code, a copy of the school's report for the parents of the school's pupils certifying that the school meets Ohio 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.

(b) As used in this section and in R.C. § 4511.212, "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)(b) 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:

1. 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;

2. The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of 300 feet on each approach direction;

3. 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.

(c) 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) and (B)(1)(b) of this section.

(2) Twenty-five miles per hour in all other portions of the municipal corporation, except on state routes, through highways outside business districts, and alleys;

(3) Thirty-five miles per hour on all state routes or through highways within the municipal corporation outside business districts, except as provided in § 73.10(B)(4) and (5);

(4) Fifty miles per hour on controlled-access highways and expressways within the municipal corporation;

(5) Fifty miles per hour on state routes 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;

(7) Fifty-five miles per hour at all times on freeways with paved shoulder inside the municipal corporations other than freeways as provided in division (B)(8);

(8) Sixty-five miles per hour at all times on all portions of freeways that are part of the interstate system and are eligible for such speed in accordance with criteria issued by the federal highway administration and on all portions of freeways greater than five miles in length that are eligible for such speed in accordance with criteria issued by the federal highway administration or established by the "Intermodal Surface Transportation Efficiency Act of 1991," 105 Stat. 1968, 23 U.S.C.A. 154(a), for any motor vehicle weighing 8,000 pounds or less empty weight and any commercial bus, except 55 miles per hour for operators of any motor vehicle weighing in excess of 8,000 pounds empty weight and any noncommercial bus.

(C) It is prima facie unlawful for any person to exceed any of the speed limitations in division (B) of this section or any declared pursuant to this section by the director or local authorities and it is unlawful for any person to exceed either of the speed limitations in § 73.10 (D). 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 55 miles per hour, except upon a freeway as provided in division (B)(8) of this section;

(2) At a speed exceeding 65 miles per hour upon a freeway as provided in division (B)(8) of this section except as otherwise provided in division (D)(3) of this section;

(3) If a motor vehicle weighing in excess of 8,000 pounds empty weight or a noncommercial bus as prescribed in division (B)(8) of this section, at a speed exceeding 55 miles per hour upon a freeway as provided in that division.

(E) Whenever, in accordance with R.C. § 4511.21 (E) through

(K), the maximum prima facie 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.

(F) 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.
(R.C. § 4511.21) Penalty, see § 70.99

§ 73.11 SLOW SPEED.

(A) No person shall stop or operate a vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when stopping or reduced speed is necessary for safe operation or to comply with law.

(B) Whenever the director of transportation or local authorities determine on the basis of an engineering and traffic investigation that slow speeds on any part of a controlled-access highway, expressway, or freeway consistently impede the normal and reasonable movement of traffic, the director or such local authority may declare a minimum speed limit below which no person shall operate a motor vehicle, except when necessary for safe operation or in compliance with the law. No minimum speed limit established hereunder shall be less than 30 miles per hour, greater than 50 miles per hour, nor effective until the provisions of § 73.10, relating to appropriate signs, have been fulfilled and local authorities have obtained the approval of the director.
(R.C. § 4511.22) Penalty, see § 70.99

§ 73.12 EMERGENCY VEHICLES EXCEPTED FROM SPEED LIMITATION.

The prima facie speed limitations set forth in § 73.10 do not apply to emergency vehicles or public safety vehicles when they are responding to emergency calls and are equipped with and displaying at least one flashing, rotating, or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle, and when the drivers thereof sound audible signals by bell, siren, or exhaust whistle. This section does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons using the street or highway. (R.C. § 4511.24) Penalty, see § 70.99

§ 73.13 DRAG RACING DEFINED; PROHIBITED ON PUBLIC HIGHWAYS.

(A) "DRAG RACING" is defined as the operation of 2 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 2 or more vehicles side by side either at speeds in excess of prima facie lawful speeds established by § 73.10 (B) (1) through (7), 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 drag racing.

(B) No person shall participate in a drag race as defined in § 73.13 (A) upon any public road, street, or highway in this state. (R.C. S 4511.251)

(C) Whoever violates this section is guilty of a misdemeanor of the first degree. (R.C. § 4511.99 (B)) Penalty, see § 70.99

RESISTING OFFICER

§ 73.15 PROHIBITION AGAINST RESISTING OFFICER.

No person shall resist, hinder, obstruct, or abuse any sheriff, constable, or other official while such official is attempting to arrest offenders under the provisions of this title. No person shall interfere with any person charged under such sections with the enforcement of the law relative to public highways. (R.C. § 4513.36) Penalty, see § 70.99

STOPPING AFTER ACCIDENT

§ 73.20 STOPPING AFTER ACCIDENT; EXCHANGE OF IDENTITY AND VEHICLE REGISTRATION.

(A) In case of accident to or collision with persons or property upon any of the public roads or highways, due to the driving or operation thereon of any motor vehicle, the person so driving or operating such motor vehicle, having knowledge of such accident or collision, shall immediately stop his motor vehicle at the scene of the accident or collision and shall remain at the scene of such accident or collision until he has given his name and address and, if he is not the owner, the name and address of the owner of such motor vehicle, together with the registered number of such motor vehicle, to any person injured in the accident or collision, to the operator, occupant, owner, or attendant of any motor vehicle damaged in the accident or collision, or to any police officer at the scene of the accident or collision.

(B) In the event the injured person is unable to comprehend and record the information required to be given by this section, the other driver involved in the accident or collision shall forthwith notify the nearest police authority concerning the location of the accident or collision, and his name, address, and the registered number of the motor vehicle he was operating, and then remain at the scene of the accident or collision until a police officer arrives, unless removed from the scene by an emergency vehicle operated by a political subdivision or an ambulance.

(C) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator so colliding with such motor vehicle shall securely attach the information required to be given in this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle. (R.C. § 4549.02)

(D) Whoever violates this section is guilty of a misdemeanor of the first degree. (R.C. S 4549.99(B)) Penalty, see § 70.99

§ 73.21 STOPPING AFTER ACCIDENT INVOLVING INJURY TO PERSONS OR PROPERTY.

(A) In case of accident or collision resulting in injury or damage to persons or property upon any public or private property other than public roads or highways, due to the driving or operation thereon of any motor vehicle, the person so driving or operating such motor vehicle, having knowledge of the accident or collision, shall stop, and, upon request of the person injured or damaged, or any other person, shall give such person his name and address, and, if he is not the owner, the name and address of the owner of the motor vehicle, together with the registered number of the motor vehicle, and, if available, exhibit his driver's or commercial driver's license.

(B) If the owner or person in charge of the damaged property is not furnished such information, the driver of the motor vehicle involved in the accident or collision shall within 24 hours after the accident or collision, forward to the police department of the municipality the same information required to be given to the owner or person in control of the damaged property and give the date, time, and location of the accident or collision.

(C) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator so colliding with such motor vehicle shall securely attach the information required to be given in this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle. (R.C. § 4549.021)

(D) Whoever violates this section is guilty of a misdemeanor of the first degree. (R.C.§ 4549.99 (B) Penalty, see § 70.99

(D) Whoever violates this section is guilty of a misdemeanor of the first degree. (R.C.§ 4549.99 (B) Penalty, see § 70.99

§ 73.22 STOPPING AFTER ACCIDENT INVOLVING DAMAGE TO REALTY.

(A) The driver of any vehicle involved in an accident resulting in damage to real property, or personal property attached to such real property, legally upon or adjacent to a public road or highway shall immediately stop and take reasonable steps to locate and notify the owner or person in charge of the property of such fact, of his name and his address, and of the registration number of vehicle he is driving and shall, upon request and if available, exhibit his driver's or commercial driver's license.

(B) If the owner or person in charge of such property cannot be located after reasonable search, the driver of the vehicle involved in the accident resulting in damage to such property shall, within 24 hours after such accident, forward to the police department of the municipality the same information required to be given to the owner or person in control of such property and give the location of the accident and a description of the damage insofar as it is known.
(R.C. § 4549.03)

(C) Whoever violates this section is guilty of a misdemeanor of the first degree. (R.C. § 4549.99 (B)) Penalty, see § 70.99

ILLEGAL USE OF LICENSES AND IDENTITY

§ 73.25 [RESERVED].

§ 73.26 OFFICER MAY REMOVE IGNITION KEY.

A law enforcement officer may remove the ignition key left in the ignition switch of an unlocked and unattended motor vehicle parked on a street or highway. The officer removing the key shall place notification upon the vehicle detailing his name and badge number, the place where the key may be reclaimed, and the procedure for reclaiming the key. The key shall be returned to the owner of the motor vehicle upon presentation of proof of ownership.
(R.C. § 4549.05)

§ 73.27 USE OF UNAUTHORIZED PLATES.

(A) No person shall operate or drive a motor vehicle upon the highways of this state if it displays a distinctive number or identification mark which:

(1) Is fictitious;

(2) Is a counterfeit or an unlawfully made copy of any distinctive number or identification mark;

(3) Belongs to another motor vehicle, provided that this section does not apply to a person who fails to comply with the transfer of registration provisions of R.C. § 4503.12.
(R.C. § 4549.08)

(B) Whoever violates this section is guilty of a misdemeanor of the fourth degree on a first offense; on each subsequent offense such person is guilty of a misdemeanor of the third degree.
(R.C. § 4549.99 (D)) Penalty, see § 70.99

§ 73.28 OPERATING WITHOUT LICENSE PLATES.

(A) No person shall operate or cause to be operated upon a public road or highway a motor vehicle of a manufacturer or dealer unless such vehicle carries and displays 2 placards, except as provided ln R.C. § 4503.21 issued by the Director of Public Safety, bearing the registration number of its manufacturer or dealer.
(R.C. § 4549.10)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense on each subsequent offense such person is guilty of a misdemeanor of the fourth degree.
(R.C. § 4549.99 (A)) Penalty, see § 70.99

§ 73.29 OPERATING WITH NUMBER OF FORMER OWNER.

(A) No person shall operate or drive upon the highways of this state a motor vehicle acquired from a former owner who has registered the same, while such vehicle displays the distinctive number or identification mark assigned to it upon its original registration.
(R.C. § 4549.11)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on each subsequent offense such person is guilty of a misdemeanor of the fourth degree. (R.C. § 4549.99 (A)) Penalty, see § 70.99

§ 73.30 RESIDENT OPERATING WITH NUMBER ISSUED BY FOREIGN STATE.

(A) No person who is the owner of a motor vehicle and a resident of this state shall operate or drive such motor vehicle upon the highways of this state, 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)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on each subsequent offense such person is guilty of a misdemeanor of the fourth degree.
(R.C. § 4549.99 (A)) Penalty, see § 70.99

CHAPTER 74: EQUIPMENT AND LOADS

Section

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EQUIPMENT

§ 74.01 UNSAFE VEHICLES, PROHIBITION AGAINST OPERATION.

(A) No person shall drive or more, or cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person. (R.C. § 4513.02)

(B) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second or subsequent offense such person is guilty of a misdemeanor of the third degree. (R.C. § 4513.99(B)) Penalty, see § 70.99

§ 74.02 BUMPERS ON MOTOR VEHICLES.

(A) As used in this section:

(1) "GROSS VEHICLE WEIGHT RATING" means the manufacturer's gross vehicle weight rating established for that vehicle.

(2) "MANUFACTURER" has the same meaning as in R.C. § 4501.01.

(3) "MULTIPURPOSE PASSENGER VEHICLE" means a motor vehicle with motive power, except a motorcycle, designed to carry ten persons or less, that is constructed either on a truck chassis or with special features for occasional off-road operation.

(4) "PASSENGER CAR" means any motor vehicle with motive power, designed for carrying ten persons or less, except a multipurpose passenger vehicle or motorcycle.

(5) "TRUCK" means every motor vehicle, except trailers and semitrailers, designed and used to carry property and having a gross vehicle weight rating of 10,000 pounds or less.

(B) The Director of Public Safety, in accordance with R.C. Chapter 119, shall adopt rules in conformance with standards of the vehicle equipment safety commission, that shall govern the maximum bumper height or, in the absence of bumpers and in cases where bumper height have been lowered or modified, the maximum height to the bottom of the frame rail, of any passenger car, multipurpose passenger vehicle, or truck.

(C) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this state that does not conform to the requirements of this section or any applicable rule adopted pursuant to R.C. § 4513.021.

(D) No person shall modify any motor vehicle registered in this state in such a manner as to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body

under normal operation, and no person shall disconnect any part of the original suspension system of the vehicle to defeat the safe operation of that system.

(E) Nothing contained in this section or in the rules adopted pursuant to R.C. § 4513.021 shall be construed to prohibit either of the following:

(1) The installation upon a passenger car, multipurpose passenger vehicle or truck registered in this state of heavy duty equipment, including shock absorbers and overload springs:

(2) The operation on a street or highway of a passenger car, multipurpose passenger vehicle, or truck registered in this state with normal wear to the suspension system if the normal wear does not adversely affect the control of the vehicle.

(F) This section and the rules adopted pursuant to R.C. § 4513.021 do not apply to any specially designed or modified passenger car, multipurpose passenger vehicle, or truck when operated off a street or highway in races and similar events.
(R.C. § 4513.021)

(G) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second or subsequent offense such person is guilty of a misdemeanor of the third degree.
(R.C. § 4513.99(B))
Penalty, see § 70.99

§ 74.03 LIGHTED LIGHTS REQUIRED.

(A) Every vehicle upon a street or highway within this state during the time from 1/2 hour after sunset to 1/2 hour before sunrise, and at any other time when there are unfavorable atmospheric conditions or when there is not sufficient natural light to render discernible persons, vehicles, and substantial objects on the highway at a distance of 1,000 feet ahead, shall display lighted lights and illuminating devices as required by the provisions of this chapter, for different classes of vehicles; except that every motorized bicycle shall display at such times lighted lights meeting the rules adopted by the Director of Public Safety. No motor vehicle, during such times, shall be operated upon a street or highway within this state using only parking lights as illumination.

(B) Whenever in this chapter a requirement is declared as to the distance from which certain lamps and devices shall render objects visible, or within which such lamps or devices shall be visible, this distance shall be measured upon a straight level unlighted highway under normal atmospheric conditions unless a different condition is expressly stated.

(C) Whenever in this chapter a requirement is declared as to the mounted height of lights or devices, it shall mean from the center of such light or device to the level ground upon which the vehicle stands.
(R.C. § 4513.03) Penalty, see § 70.99

§ 74.04 HEADLIGHTS.

(A) Every motor vehicle, other than a motorcycle, shall be equipped with at least two headlights with at least one near each side of the front of the motor vehicle.

(B) Every motorcycle shall be equipped with at least one and not more than two headlights. (R.C. § 4513.04) Penalty, see § 70.99

§ 74.05 TAILLIGHTS AND ILLUMINATION OF REAR LICENSE PLATE.

(A) Every motor vehicle, trailer, semitrailer, pole trailer or vehicle which is being drawn at the end of a train of vehicles shall be equipped with at least one taillight mounted on the rear which, when lighted, shall emit a red light visible from a distance of 500 feet to the rear, provided that in the case of a train of vehicles only the taillight on the rearmost vehicle need be visible from the distance specified.

(B) Either a taillight or a separate light shall be so constructed and placed as to illuminate with a white light the rear registration plate, when such registration plate is required, and render it legible from a distance of 50 feet to the rear. Any taillight, together with any separate light for illuminating the rear registration plate, shall be so wired as to be lighted whenever the headlights or auxiliary driving lights are lighted, except where separate lighting systems are provided for trailers for the purpose of illuminating such registration plate. (R.C. § 4513.05) Penalty, see § 70.99

§ 74.06 RED REFLECTORS REQUIRED.

(A) Every new motor vehicle sold after September 6, 1941, and operated on a highway, other than a commercial tractor, to which a trailer or semitrailer is attached shall carry at the rear, either as a part of the tail lamps or separately, two red reflectors meeting the requirements of this section, except that vehicles of the type mentioned in § 74.07 shall be equipped with reflectors as required by the regulations provided for in that section.

(B) Every such reflector shall be of such size and characteristics and so maintained as to be visible at night from all distances within 300 feet to 50 feet from such vehicle. (R.C. § 4513.06) Penalty, see § 70.99

§ 74.07 SAFETY LIGHTING OF COMMERCIAL VEHICLES.

(A) When the Director of Public Safety prescribes and promulgates regulations relating to clearance lights, marker lights, reflectors and stop lights on buses, trucks, commercial tractors, trailers, semitrailers and pole trailers, when operated upon any highway, these vehicles shall be equipped as required by such regulations, and such equipment shall be lighted at all times

mentioned in § 74.03, except that clearance lights and side marker lights need not be lighted on any such vehicle when it is operated within the village corporation where there is sufficient light to reveal any person or substantial object on the highway at a distance of 500 feet.

(B) Such equipment shall be in addition to all other lights specifically required by §§ 74.03 through 74.17.

(C) Vehicles operated under the jurisdiction of the Public Utilities Commission are not subject to this section.
(R.C. § 4513.07) Penalty, see § 70.99

§ 74.08 STOPLIGHT REGULATIONS.

(A) All motor vehicles when operated upon a highway shall be equipped with at least one stoplight mounted on the rear of the vehicle which shall be actuated upon application of the service brake, and which may be incorporated with other rear lights. Such stoplights when actuated shall emit a red light visible from a distance of 500 feet to the rear; provided that in the case of a train of vehicles only the stoplights on the rearmost vehicle need be visible from the distance specified.

(B) Such stoplights when actuated shall give a steady warning light to the rear of a vehicle or train of vehicles to indicate the intention of the operator to diminish the speed of or stop a vehicle or train of vehicles.

(C) When stoplights are used as required by this section, they shall be constructed or installed so as to provide adequate and reliable illumination and shall conform to the appropriate rules and regulations established under § 74.22.
(R.C. § 4513.071) Penalty, see § 70.99

§ 74.09 OBSCURED LIGHTS ON VEHICLES.

Whenever motor and other vehicles are operated in combination during the time that lights are required, any light, except taillights, which by reason of its location on a vehicle of the combination would be obscured by another vehicle of the combination need not be lighted, but this section does not affect the requirement that lighted clearance lights be displayed on the front of the foremost vehicle required to have clearance lights or that all lights required on the rear of the rearmost vehicle of any combination shall be lighted.
(R.C. § 4513.08) Penalty, see § 70.99

§ 74.10 RED LIGHT OR FLAG REQUIRED.

Whenever the load upon any vehicle extends to the rear 4 feet or more beyond the bed or body of this vehicle, there shall be displayed at the extreme rear end of the load, at the times specified in § 74.03, a red light or lantern plainly visible from a distance of at least 500 feet to the sides and rear. The red light

or lantern required by this section is in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than 16 inches square.
(R.C. § 4513.09) Penalty, see § 70.99

§ 74.11 LIGHTS ON PARKED VEHICLES.

Except in case of an emergency, whenever a vehicle is parked or stopped upon a roadway open to traffic or a shoulder adjacent thereto, whether attended or unattended, during the times mentioned in § 74.03, such vehicle shall be equipped with one or more lights which shall exhibit a white or amber light on the roadway side visible from a distance of 500 feet to the front of such vehicle, and a red light visible from a distance of 500 feet to the rear. No lights need be displayed upon any such vehicle when it is stopped or parked within a village corporation where there is sufficient light to reveal any person or substantial object within a distance of 500 feet upon such highway. Any lighted headlights upon a parked vehicle shall be depressed or dimmed.
(R.C. § 4513.10) Penalty, see § 70.99

§ 74.12 LIGHTS ON SLOW-MOVING VEHICLES; SLOW-MOVING VEHICLE EMBLEM.

(A) All vehicles other than bicycles, including animal-drawn vehicles and vehicles referred to in R.C. § 4513.02(G), not specifically required to be equipped with lamps or other lighting devices by §§ 74.03 through 74.11, shall, at the times specified in § 74.03, be equipped with at least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of the vehicle and shall also be equipped with two lamps displaying red light visible from a distance of not less than 1,000 feet to the rear of the vehicle, or as an alternative, one lamp displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 feet to 100 feet to the rear when illuminated by the lawful lower beams of headlamps. Lamps and reflectors required by this section shall meet standards adopted by the Director of Public Safety.

(B) All boat trailers, farm machinery and other machinery, including all road construction machinery, upon a street or highway, except when being used in actual construction and maintenance work in an area guarded by a flagman, or where flares are used, or when operating or traveling within the limits of a construction area designated by the Director of Transportation, a village engineer, or the county engineer of the several counties, when such construction area is marked in accordance with requirements of the Director and the manual of uniform traffic-control devices, as set forth in R.C. § 4511.09, which is designed for operation at a speed of 25 mph or less, shall be operated at a speed not exceeding 25 mph, and shall display a triangular slow-moving vehicle emblem (SMV). The emblem shall be mounted so as

to be visible from a distance of not less than 500 feet to the rear. The Director of Public Safety shall adopt standards and specifications for the design and position of mounting the SMV emblem. The standards and specifications for SMV emblems referred to in this section shall correlate with and, so far as possible, conform with those approved by the American Society of Agricultural Engineers. As used in this division, "MACHINERY" does not include any vehicle designed to be drawn by an animal.

(C) The use of the SMV emblem shall be restricted to animal-drawn vehicles, and to the slow-moving vehicles specified in division (B) of this section operating or traveling within the limits of the highway. Its use on slow-moving vehicles being transported upon other types of vehicles or on any other type of vehicle or stationary object on the highway is prohibited.

(D) No person shall sell, lease, rent or operate any boat trailer, farm machinery or other machinery defined as a slow-moving vehicle in division (B) of this section, except those units designed to be completely mounted on a primary power unit, which is manufactured or assembled on or after April 1, 1966, unless the vehicle is equipped with a slow-moving vehicle emblem mounting device as specified in division (B) of this section.

(E) Any boat trailer, farm machinery or other machinery defined as a slow-moving vehicle in division (B) of this section may, in addition to the use of the slow-moving vehicle emblem, be equipped with a red flashing light which shall be visible from a distance of not less than 1,000 feet to the rear at all times specified in § 74.03. When a double-faced light is used, it shall display amber light to the front and red light to the rear.

(F) (1) Every animal-drawn vehicle upon a street or highway shall at all times be equipped in one of the following ways:

(a) With a slow-moving vehicle emblem complying with division (B) of this section;

(b) With alternate reflective material complying with rules adopted under division (F)(2) below;

(c) With both a slow-moving vehicle emblem and alternate reflective material as specified in division (F)(2) below.

(2) The Director of Public Safety, subject to R.C. Ch. 119, shall adopt rules establishing standards and specifications for the position of mounting of the alternate reflective material authorized by this division. The rules shall permit, as a minimum, the alternate reflective material to be black, gray, or silver in color. The alternate reflective material shall be mounted on the animal-drawn vehicle so as to be visible, at all times specified in R.C. § 4513.03, from a distance of not less than 500 feet to the rear when illuminated by the lawful lower beams of headlamps.

(G) As used in this section, "BOAT TRAILER" means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of 25 mph or less.
(R.C. § 4513.11) Penalty, see § 70.99

§ 74.13 SPOTLIGHT AND AUXILIARY DRIVING LIGHTS.

(A) Any motor vehicle may be equipped with not more than one spotlight and every lighted spotlight shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle, nor more than 100 feet ahead of the vehicle.

(B) Any motor vehicle may be equipped with not more than three auxiliary driving lights mounted on the front of the vehicle. The Director of Public Safety shall prescribe specifications for auxiliary driving lights and regulations for their use, and any such lights which do not conform to these specifications and regulations shall not be used.
(R.C. § 4513.12) Penalty, see § 70.99

§ 74.14 COWL, FENDER, AND BACK-UP LIGHTS.

(A) Any motor vehicle may be equipped with side cowl or fender lights which shall emit a white or amber light without glare.

(B) Any motor vehicle may be equipped with lights on each side thereof which shall emit a white or amber light without glare.

(C) Any motor vehicle may be equipped with back-up lights, either separately or in combination with another light. No back-up lights shall be continuously lighted when the motor vehicle is in forward motion. (R.C. § 4513.13) Penalty, see § 70.99

§ 74.15 TWO LIGHTS DISPLAYED.

At all times mentioned in § 74.03 at least 2 lighted lights shall be displayed, one near each side of the front of every motor vehicle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles. (R.C. § 4513.14) Penalty, see § 70.99

§ 74.16 HEADLIGHTS REQUIRED.

Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in § 74.03, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons, vehicles, and substantial objects at a safe distance in advance of the vehicle, subject to the following requirements:

(A) Whenever the driver of a vehicle approaches an oncoming vehicle, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver.

(B) Every new motor vehicle registered in this state, which has multiple-beam road lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the headlights is in use, and shall not otherwise be lighted. This indicator shall be so designed and located that, when lighted, it will be readily visible without glare to the driver of the vehicle. (R.C. § 4513.15) Penalty, see § 70.99

§ 74.17 LIGHTS OF LESS INTENSITY.

Any motor vehicle may be operated under the conditions specified in § 74.03 when it is equipped with 2 lighted lights upon the front thereof capable of revealing persons and substantial objects 75 feet ahead, in lieu of lights required in § 74.15, provided that such vehicle shall not be operated at a speed in excess of 20 miles per hour. (R.C. § 4513.16) Penalty, see § 70.99

§ 74.18 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 5 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, which 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) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing. This prohibition does not apply to emergency vehicles, road service vehicles servicing or towing a disabled vehicle, traffic line stripers, snow plows, rural mail delivery vehicles, vehicles as provided in § 74.21, department of transportation maintenance vehicles, funeral hearses, funeral escort vehicles, and similar equipment operated by the department or local authorities, which shall be 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, but shall not display a flashing, oscillating, or rotating light of any other color, nor to vehicles or machinery permitted by § 74.12 to have a flashing red light.

(D) Except a person operating a public safety vehicle, as defined in division (E) of R.C. § 4511.01, 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 which 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; and 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 which 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. This section shall not prohibit the use of warning lights required by law or the simultaneous flashing of turn signals on disabled vehicles. (R.C. § 4513.17) Penalty, see § 70.99

§ 74.19 STANDARDS FOR LIGHTS ON SNOW REMOVAL EQUIPMENT AND OVERSIZE VEHICLES.

It is unlawful to operate snow removal equipment on a highway unless the lights thereon comply with and are lighted when and as required by the standards and specifications adopted by the state director of transportation. (R.C. § 4513.18) Penalty, see § 70.99

§ 74.20 FLASHING LIGHTS PERMITTED FOR CERTAIN TYPES OF VEHICLES.

Rural mail delivery vehicles, state highway survey vehicles, and funeral escort vehicles are permitted to use flashing lights. (R.C. § 4513.181)

§ 74.21 LIGHTS AND SIGN ON TRANSPORTATION FOR PRESCHOOL CHILDREN.

(A) No person shall operate any motor vehicle, owned, leased, or hired by a nursery school, kindergarten, or daycare 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. (R.C. § 4513.182) Penalty, see § 70.99

§ 74.22 FOCUS AND AIM OF HEADLIGHTS.

No person shall use any lights mentioned in §§ 74.03 through 74.17, upon any motor vehicle, trailer or semitrailer unless these lights are equipped, mounted and adjusted as to focus and aim in accordance with regulations which are prescribed by the Director of Public Safety.
(R.C. § 4513.19) Penalty, see § 70.99

§ 74.23 BRAKE EQUIPMENT; SPECIFICATIONS.

The following requirements govern as to brake equipment on vehicles:

(A) Every motor vehicle, other than a motorcycle, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold the motor vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, then on such motor vehicles, manufactured or assembled after January 1, 1942, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.

(B) Every motorcycle, when operated upon a highway shall be equipped with at least one adequate brake, which may be operated by hand or by foot.

(C) Every motorized bicycle shall be equipped with brakes meeting the rules adopted by the Director of Public Safety under R.C. § 4511.521.

(D) Every trailer or semitrailer, except a pole trailer, of a gross weight of 2,000 pounds or more, manufactured or assembled on or after January 1, 1942, when operated upon the highways of this state shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and the brakes shall be so designed and connected that, in case of a breakaway of the towed vehicle, the brakes shall be automatically applied.

(E) In any combination of motor-drawn trailers or semitrailers equipped with brakes, means shall be provided for applying the rearmost brakes in approximate synchronism with the brakes on the towing vehicle, and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost brakes; or both of the above means, capable of being used alternatively, may be employed.

(F) Every vehicle and combination of vehicles, except motorcycles and motorized bicycles, and except trailers and semitrailers of a gross weight of less than 2,000 pounds, and pole trailers, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice, or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind.

(G) The same brake drums, brake shoes and lining assemblies, brake shoe anchors, and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.

(H) Every motor vehicle, or combination of motor-drawn vehicles shall be capable at all times and under all conditions of loading of being stopped on a dry, smooth, level road free from loose material, upon application of the service or foot brake, within the following specified distances, or shall be capable of being decelerated at a sustained rate corresponding to these distances:

(1) Vehicles, or combinations of vehicles having brakes on all wheels shall come to a stop in 30 feet or less from a speed of 20 miles per hour.

(2) Vehicles or combinations of vehicles not having brakes on all wheels shall come to a stop in 40 feet or less from a speed of 20 miles per hour.

(I) All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle.
(R.C. § 4513.20) Penalty, see § 70.99

§ 74.24 BRAKE FLUID.

(A) No hydraulic brake fluid for use in motor vehicles shall be sold in this village if such brake fluid is below the minimum standard of specifications established by the society of automotive engineers for heavy duty type brake fluid.

(B) All manufacturers, packers, or distributors of brake fluid selling such fluid in this village shall state on the containers that the brake fluid therein meets or exceeds minimum SAE specifications, and before commencing sale of any brake fluid in this village and at such subsequent times as may be required by the Director of Public Safety, shall submit to the Department of Public Safety a sample of such brake fluid and a certified laboratory report of an independent testing laboratory showing same to meet or exceed such minimum SAE specifications.
(R.C. § 4513.201) Penalty, see § 70.99

§ 74.25 MINIMUM STANDARDS FOR BRAKES AND COMPONENTS.

(A) No brake lining, brake lining material, or brake lining assemblies for use as repair and replacement parts in motor vehicles shall be sold in this state if such do not meet or exceed the minimum standard of specifications established by the Director of Public Safety.

(B) All manufacturers or distributors of brake lining, brake lining material, or brake lining assemblies selling such items for use as repair and replacement parts in motor vehicles shall state that such items meet or exceed such minimum specifications, and before commencing sale of any such items in this state and at such subsequent times as may be required by the Director of Public Safety, shall submit to the Department of Public Safety a certified laboratory report of an independent testing laboratory showing same to meet or exceed such minimum specifications.

(C) The Director of Public Safety, in conformity with R.C. § 119.01 through 119.13, shall prescribe and promulgate regulations relating to minimum specifications for the performance of brake lining, brake lining material, and brake lining assemblies, and such regulations shall be in accordance with currentLy recognized standards.

(D) As used in this section "MINIMUM STANDARD OF SPECIFICATIONS" means a minimum standard for brake system or brake component

performance. In prescribing such standards, the Director shall:

(1) Consider relevant available motor vehicle safety data, including results of research, development, testing and evaluation;

(2) Consider relevant SAE standards and recommend practices;

(3) Promulgate only standards that are practicable, meet the need for motor vehicle safety and are stated in objective terms;

(4) Amend said standards to comply with any federal motor vehicle safety standard which may appear covering the same aspect of performance for any brake lining, brake lining material or brake lining assemblies.
(R.C. § 4513.202) Penalty, see § 70.99

§ 74.26 HORNS, SIRENS, AND WARNING DEVICES.

(A) Every motor vehicle when operated upon a highway shall be equipped with a horn which is in good working order and capable of emitting sound audible, under normal conditions, from a distance of not less than 200 feet.

(B) No motor vehicle shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle, or bell. Any vehicle may be equipped with a theft alarm signal device which shall be so arranged that it cannot be used as an ordinary warning signal. Every emergency vehicle shall be equipped with a siren, whistle or bell, capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the Director of Public Safety. Such equipment shall not be used except when such vehicle is operated in response to an emergency call or is in the immediate pursuit of an actual or suspected violator of the law, in which case the driver of the emergency vehicle shall sound such equipment when it is necessary to warn pedestrians and other drivers of the approach thereof.
(R.C. § 4513.21) Penalty, see § 70.99

§ 74.27 MUFFLERS; EXCESSIVE SMOKE OR GAS.

(A) Every motor vehicle and motorcycle with an internal combustion engine shall at all times be equipped with a muffler which is in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cutout, bypass or similar device upon a motor vehicle on a highway. Every motorcycle muffler shall be equipped with baffle plates.

(B) No person shall own, operate or have in his possession any motor vehicle or motorcycle equipped with a device for producing excessive smoke or gas, or so equipped as to permit oil or any other chemical to flow into or upon the exhaust pipe or muffler of such vehicle, or equipped in any way to produce or emit smoke or

dangerous or annoying gases from any portion of such vehicle, other than the ordinary gases emitted by the exhaust of an internal combustion engine under normal operation. (R.C. § 4513.22) Penalty, see § 70.99

§ 74.28 REARVIEW MIRRORS.

Every motor vehicle and motorcycle shall be equipped with a mirror so located as to reflect to the operator a view of the highway to the rear of such vehicle or motorcycle. Operators of vehicles and motorcycles shall have a clear and unobstructed view to the front and to both sides of their vehicles and motorcycles and shall have a clear view to the rear of their vehicles and motorcycles by mirror. (R.C. § 4513.23) Penalty, see § 70.99

§ 74.29 WINDSHIELDS AND WIPERS.

(A) 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 4 inches in height by 6 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.

(B) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which device shall be maintained in good working order and so constructed as to be controlled or operated by the operator of the vehicle. (R.C. § 4513.24) Penalty, see § 70.99

§ 74.30 SOLID TIRE REQUIREMENTS.

Every solid tire, as defined in R.C. § 4501.01, on a vehicle shall have rubber or other resilient material on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery. (R.C. § 4513.25) Penalty, see § 70.99

§ 74.31 REQUIREMENTS FOR SAFETY GLASS IN MOTOR VEHICLES; USE OF TINTED GLASS OR REFLECTORIZED MATERIAL.

(A) Safety glass.

(1) No person shall sell any new motor vehicle nor shall any new motor vehicle be registered, and no person shall operate any motor vehicle, which is registered in this state and which has been manufactured or assembled on or after January 1, 1936, unless such

vehicle is equipped with safety glass, wherever glass is used in the windshields, doors, partitions, rear windows, and windows on each side immediately adjacent to the rear window.

(2) "SAFETY GLASS" means any product composed of glass so manufactured, fabricated, or treated as substantially to prevent shattering and flying of the glass when it is struck or broken, or such other or similar product as may be approved by the registrar of motor vehicles.

(3) Glass other than safety glass shall not be offered for sale, or sold for use in, or installed in any door, window, partition, or windshield which is required by this section to be equipped with safety glass. (R.C. § 4513.26)

(B) Tinted or reflectorized material.

(1) No person shall operate, on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is registered in this state unless the motor vehicle conforms to the requirements concerning tinted glass and reflectorized material adopted by the Director of Public Safety pursuant to R.C. § 4513.241 and of any applicable rule adopted under R.C. § 4513.241.

(2) No person shall install in or on any motor vehicle, any glass or other material that fails to conform to the requirements of R.C. § 4513.241 or of any rule adopted under R.C. § 4513.241.

(3) No used motor vehicle dealer or new motor vehicle dealer, as defined in R.C. § 4517.01 shall sell any motor vehicle that fails to conform to the requirements of R.C. § 4513.241 or of any rule adopted under R.C. § 4513.241.

(4) No reflectorized materials shall be permitted upon or in any front windshield, side windows, sidewings, or rear window.

(5) This division (B) does not apply to the manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by Federal Motor Vehicle Safety Standard number two hundred five. (R.C. § 4513.241)
Penalty, see § 70.99

§ 74.32 DIRECTIONAL SIGNALS.

(A) No person shall sell any motor vehicle nor shall any motor vehicle be registered which has been manufactured or assembled on or after January 1, 1954, unless such vehicle is equipped with electrical or mechanical directional signals.

(B) "DIRECTIONAL SIGNALS" means an electrical or mechanical signal device capable of clearly indicating an intention to turn either to the right or to the left and which shall be visible from both the front and rear.

(C) All mechanical signal devices shall be self-illuminating devices when in use at the times mentioned in § 74.03.

(D) This section shall not apply to motorcycles or motor-driven cycles. (R.C. § 4513.261)

(E) Whoever violates this section shall be guilty of a minor misdemeanor (R.C. § 4513.99 (A)) Penalty, see § 70.99

§ 74.33 INSTALLATION AND SALE OF SEAT SAFETY BELTS REQUIRED; DEFINITION.

(A) As used in this section and in § 72.64, the component parts of a "SEAT SAFETY BELT" include a belt, anchor attachment assembly, and a buckle or closing device.

(B) No person shall sell, lease, rent, or operate any passenger car, as defined in division (E) of R.C. § 4501.01, that is registered or to be registered in this state and that is manufactured or assembled on or after January 1, 1962, unless the passenger car is equipped with sufficient anchorage units at the attachment points for attaching at least 2 sets of seat safety belts to its front seat. Such anchorage units at the attachment points shall be of such construction, design, and strength to support a loop load pull of not less than 4,000 pounds for each belt.

(C) No person shall sell, lease, or rent any passenger car, as defined in division (E) of R.C. § 4501.01, that is registered or to be registered in this state and that is manufactured or assembled on or after January 1, 1966, unless the passenger car has installed in its front seat at least 2 seat safety belt assemblies.

(D) After January 1, 1966, neither any seat safety belt for use in a motor vehicle nor any component part of any such seat safety belt shall be sold in this municipality unless the seat safety belt or the component part satisfies the minimum standard of specifications established by the society of automotive engineers

for automotive seat belts and unless the seat safety belt or component part is labeled so as to indicate that it meets those minimum standard specifications.

(E) Each sale, lease, or rental in violation of this section constitutes a separate offense. (R.C. § 4513.262)

(F) Whoever violates this section shall be guilty of a minor misdemeanor. (R.C. § 4513.99 (A)) Penalty, see § 70.99

§ 74.34 REQUIREMENTS FOR EXTRA SIGNAL EQUIPMENT.

(A) No person shall operate any motor truck, bus, or commercial tractor upon any highway at any time from 1/2 hour after sunset to 1/2 hour before sunrise unless there is carried in such vehicle, except as provided in division (B) of this section, the following equipment which shall be of the types approved by the director of transportation.

(1) At least 3 flares or 3 red reflectors or 3 red electric lanterns, each of which is capable of being seen and distinguished at a distance of 500 feet under normal atmospheric conditions at nighttime;

(2) At least 3 red-burning fusees, unless red reflectors or red electric lanterns are carried;

(3) At least 2 red cloth flags, not less than 2 inches square, with standards to support them;

(4) The type of red reflectors shall comply with such standards and specifications in effect on September 16, 1963, or later established by the interstate commerce commission and must be certified as meeting such standards by underwriter's laboratories.

(B) No person shall operate at the time and under the conditions stated in this section any motor vehicle used in transporting flammable liquids in bulk, or in transporting compressed flammable gases, unless there is carried in such vehicle 3 red electric lanterns or 3 red reflectors meeting the requirements stated in division (A) of this section. There shall not be carried in any such vehicle any flare, fusee, or signal produced by a flame.

(C) This section does not apply to any person who operates any motor vehicle in a work area designated by protection equipment devices that are displayed and used in accordance with the manual adopted by the department of transportation under R.C. § 4511.09.
(R.C. § 4513.27) Penalty, see § 70.99

§ 74.35 Display OF WARNING DEVICES ON DISABLED VEHICLES.

(A) Whenever any motor truck, bus, commercial tractor, trailer, semitrailer, or pole trailer is disabled upon any freeway, expressway, thruway and connecting, entering, or exiting ramps within the

municipality, at any time when lighted lamps are required on vehicles, the operator of such vehicle shall display the following warning devices upon the highway during the time the vehicle is so disabled on the highway except as provided in division (B) of this section:

(1) A lighted fusee shall be immediately placed on the roadway at the traffic side of such vehicle, unless red electric lanterns or red reflectors are displayed.

(2) Within the burning period of the fusee and as promptly as possible, 3 lighted flares or pot torches, or 3 red reflectors or 3 red electric lanterns shall be placed on the roadway as follows:

(a) One at a distance of 40 paces or approximately 100 feet in advance of the vehicle;

(b) One at a distance of 40 paces or approximately 100 feet to the rear of the vehicle, except as provided in this section, each in the center of the lane of traffic occupied by the disabled vehicle;

(c) One at the traffic side of the vehicle.

(B) Whenever any vehicle used in transporting flammable liquids in bulk, or in transporting compressed flammable gases, is disabled upon a highway at any time or place mentioned in division (A) of this section, the driver of such vehicle shall display upon the roadway the following warning devices:

(1) One red electric lantern or one red reflector shall be immediately placed on the roadway at the traffic side of the vehicle;

(2) Two other red electric lanterns or 2 other red reflectors shall be placed to the front and rear of the vehicle in the same manner prescribed for flares in division (A) of this section.

(C) When a vehicle of a type specified in division (B) of this section is disabled, the use of flares, fusees, or any signal produced by flame as warning signals is prohibited.

(D) Whenever any vehicle of a type referred to in this section is disabled upon the traveled portion of a highway or the shoulder thereof, outside of any municipality, or upon any freeway, expressway, thruway, and connecting, entering, or exiting ramps within a municipality, at any time when the display of fusees, flares, red reflectors, or electric lanterns is not required, the operator of such vehicle shall display 2 red flags upon the roadway in the lane of traffic occupied by the disabled vehicle, one at a distance of 40 paces or approximately 100 feet in advance of the vehicle, and one at a distance of 40 paces or approximately 100 feet to the rear of the vehicle, except as provided in this section.

(E) The flares, fusees, lanterns, red reflectors, and flags to be displayed as required in this section shall conform with the requirements of § 74.34 applicable thereto.

(F) In the event the vehicle is disabled near a curve, crest of a hill, or other obstruction of view, the flare, flag, reflector, or lantern in that direction shall be placed as to afford ample warning to other users of the highway, but in no case shall it be placed less than 40 paces or approximately 100 feet nor more than 120 paces or approximately 300 feet from the disabled vehicle.

(G) This section does not apply to the operator of any vehicle in a work area designated by protection equipment devices that are displayed and used in accordance with the manual adopted by the Department of Transportation under R.C. § 4511.09.
(R.C. § 4513.28) Penalty, see § 70.99

§ 74.36 REQUIREMENTS FOR VEHICLES TRANSPORTING EXPLOSIVES.

Any person operating any vehicle transporting explosives upon a highway shall at all times comply with the following requirements:

(A) The vehicle shall be marked or placarded on each side and on the rear with the word "explosives" in letters not legs than 8 inches high, or there shall be displayed on the rear of such vehicle a red flag not less than 24 inches square marked with the word "danger" in white letters 6 inches high, or shall be marked or placarded in accordance with S 177.823 of the United States Department of Transportation Regulations.

(B) The vehicle shall be equipped with not legs than 2 fire extinguishers, filled and ready for immediate use, and placed at convenient points on such vehicle.

(C) The director of transportation may promulgate such regulations governing the transportation of explosives and other dangerous articles by vehicles upon the highway ag are reasonably necessary to enforce the provisions of this chapter. (R.C. § 4513.29) Penalty, see § 70.99

§ 74.37 WHEEL PROTECTORS REQUIRED ON HEAVY COMMERCIAL VEHICLES.

(A) No person shall drive or operate, or cause to be driven or operated, any commercial car, trailer, or semitrailer, used for the transportation of goods or property, the gross weight of which, with load, exceeds three tons, upon the public highways, streets, bridges, and culverts within the municipality, unless such vehicle is equipped with suitable metal protectors or substantial flexible flaps on the rearmost wheels of such vehicle or combination of vehicles to prevent, as far as practicable, the wheels from throwing dirt, water, or other materials on the windshields of following vehicles. Such protectors or flaps shall have a ground clearance of not more than one fifth of the distance from the center of the rearmost axle to the center of the

flaps under any conditions of loading of the vehicle, and they shall be at least as wide as the tires they are protecting. If the vehicle is go designed and constructed that such requirements are accomplished by means of fenders, body construction, or other means of enclosure, then no such protectors or flaps are required. Rear wheels not covered at the top by fenders, bodies, or other parts of the vehicle shall be covered at the top by protective means extending at least to the center line of the rearmost axle. (R.C. § 5577.11)

(B) Whoever violates this section shall be fined not more than $25. (R.C. § 5577.99 (E))

§ 74.38 MAXIMUM WIDTH, HEIGHT, AND LENGTH.

(A) No vehicle shall be operated upon the public highways, streets, bridges, and culverts within the municipality, whose dimensions exceed those specified in this section.

(1) No such vehicle shall have a width in excess of:

(a) One hundred four inches for passenger bus type vehicles operated exclusively within the municipality;

(b) One hundred two inches, excluding such safety devices ag are required by law, for passenger bus type vehicles operated over freeways, and such other state roads with minimum pavement widths of 22 feet, except those roads or portions thereof over which operation of 102 inch buses are prohibited by order of the director of transportation.

(c) One hundred thirty-two inches for traction engines;

(d) One hundred two inches, including load, for all other vehicles, except that the director may, by journal entry, prohibit the operation of 102 inch vehicles on such state highways or portions thereof ag the director designates.

(2) No such vehicle shall have a length in excess of:

(a) Forty-eight feet for passenger bug type vehicles operated exclusively within the municipality;

(b) Forty feet for all other passenger bus type vehicles;

(c) Fifty-three feet for any semitrailer when operated in a commercial tractor-semitrailer combination, with or without load, except that the director may, by journal entry, prohibit the operation of any such tractor-semitrailer combination on such state highways or portions thereof as the director designates.

(d) Twenty-eight and one-half feet for any semitrailer or trailer when operated in a commercial tractor-semitrailer-trailer or

commercial tractor-semitrailer-semitrailer combination, except that the director may, by journal entry, prohibit the operation of any such commercial tractor-semitrailer-trailer or commercial tractor semitrailer-semitrailer combination on such state highways or portions thereof as the director designates;

(e) Sixty-five feet for any other combination of vehicles coupled together, with or without load, except as provided in division (A)(2)(C) and (d), and in division (A) (4) below;

(f) Forty feet for all other vehicles, except trailers and semitrailers, with or without load.

(3) No such vehicle shall have a height in excess of thirteen feet six inches, with or without load.

(4) Any automobile transporter or boat transporter shall be allowed a length of 65 feet, and any stinger-steered automobile transporter or stinger-steered boat transporter shall be allowed a length of 75 feet, except that the load thereon may extend no more than 4 feet beyond the rear of such vehicles and may extend no more than 3 feet beyond the front of such vehicles, and except further that the director may, by journal entry, prohibit the operation of any stinger-steered automobile transporter, stinger-steered boat transporter, or a B-train assembly on any state highway or portion thereof that the director designates.

(B) The lengths prescribed in (A) (2) (b), (c), (d), (e), and (f) shall not include safety devices, bumpers attached to the front or rear of such bus or combination, B-train assembly used between the first and second semitrailer of a commercial tractor-semitrailer combination, energy conservation devices as provided in any regulations adopted by the secretary of the United States Department of Transportation, or any noncargo-carrying refrigerator equipment attached to the front of trailers and semitrailers. In special cases, vehicles that dimensions exceed those prescribed by this section may operate in accordance with rules promulgated by the director of transportation.

(C) This section does not apply to fire engines, fire trucks, or other vehicles or apparatus belonging to the municipality or to the volunteer fire department thereof or used by such department in the discharge of its functions. This section does not apply to vehicles and pole trailers used in the transportation of wooden and metal poles, nor to the transportation of pipes or well-drilling equipment, nor to farm machinery and equipment. The owner or operator of any vehicle, machinery, or equipment not specifically enumerated in this section but the dimensions of which exceed the dimensions provided by this section, shall when operating the same on the highways and streets of the municipality comply with the rules of the director governing such movement, which rules the director may adopt and promulgate. R.C. §§ 119.01 through 119.13 apply to any rules adopted under this section, or the amendment or rescission thereof, and any person adversely affected shall have the game right of appeal as provided in such sections.

(D) This section does not require the municipality or any railroad or other private corporation to provide sufficient vertical clearance to permit the operation of such vehicle, or to make any changes in or about existing structures now crossing streets, roads, and other public thoroughfares. (R.C. § 5577.05)

(E) Whoever violates this section shall be fined not more than $25 for a first offense; for a second offense within one year thereafter, such person shall be fined not less than $10 nor more than $100, or imprisoned not more than 10 days, or both; for a third or subsequent offense within one year after the first offense, such person shall be fined not less than $25 nor more than $200 or imprisoned not more than 30 days, or both. (R.C. § 5577.99 (C))

LOADS

§ 74.40 PERMIT REQUIRED TO EXCEED LOAD LIMITS.

(A) The municipality, with respect to highways under its jurisdiction may, upon application in writing and for good cause shown, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in R.C. §§ 5577.01 through 5577.09, or otherwise not in conformity with R.C. §§ 4513.01 through 4513.37, upon any highway under its jurisdiction.

(B) Notwithstanding R.C. §§ 715.22 and 723.01, the holder of a special permit issued by the Director of Transportation under R.C. § 4513.34 may move the vehicle or combination of vehicles described in such special permit on any highway which is a part of the state highway system, when the movement is partly within and partly without the corporate limits of the municipality. No local authority shall require any other permit or license or charge any license fee or other charge against the holder of a permit for the movement of a vehicle or combination of vehicles on any highway which is a part of the state highway system.

(C) No holder of a permit issued by the municipality shall be required by the Director to obtain a special permit for the movement of vehicles or combination of vehicles on highways within the jurisdiction of the municipality. Permits may be issued for any period of time, not to exceed one year, as the Director in his discretion or local authority in its discretion deems advisable or for the duration of any public construction project.

(D) The application for a permit shall be in such form as the municipality prescribes. The municipality may prescribe a permit fee to be imposed and collected when any permit described in this section is issued. The permit fee may be in an amount sufficient to reimburse the municipality for the administrative costs incurred in issuing the permit, and also to cover the cost of normal and expected damage caused to the roadway or a street or highway structure as the result of the operation of the nonconforming vehicle or combination of vehicles. The Director, in accordance with R.C. Ch. 119, shall establish a schedule of fees for permits issued by the Director under this section.

(E) For the purposes of this section and of rules adopted by the Director under R.C. § 4513.34 milk transported in bulk by vehicle is deemed a nondivisible load.

(F) The municipality may issue or withhold a permit. If a permit is to be issued, the Director or local authority may limit or prescribe conditions of operation for the vehicle, and may require the posting of a bond or other security conditioned upon the sufficiency of the permit fee to compensate for damage caused to the roadway or a street or highway structure.

(G) Every permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting the permit. No person shall violate any of the terms of a permit. (R.C. § 4513.34) Penalty, see § 70.99

§ 74.41 LIMITATION OF LOAD EXTENSION ON LEFT SIDE OF VEHICLES.

No passenger-type vehicle shall be operated on a highway with any load carried on the vehicle which extends more than 6 inches beyond the line of the fenders on the vehicle's left side. (R.C. § 4513.30) Penalty, see § 70.99

§ 74.42 ALL LOADS SHALL BE PROPERLY SECURED.

(A) No vehicle shall be driven or moved on any highway unless the vehicle is so constructed, loaded, or covered as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping there from, except that sand or other substance may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway.

(B) Except for a farm vehicle used to transport agricultural produce or agricultural production materials or a rubbish vehicle in the process of acquiring its load, no vehicle loaded with garbage, swill, cans, bottles, waste paper, ashes, refuse, trash, rubbish, waste, wire, paper, cartons, boxes, glass, solid waste, or any other material of an unsanitary nature that is susceptible to blowing or bouncing from a moving vehicle shall be driven or moved on any highway unless the load is covered with a sufficient cover to prevent the load or any part of the load, from spilling onto the highway. (R.C. § 4513.31) Penalty, see § 70.99

§ 74.43 TOWING REQUIREMENTS.

(A) When one vehicle is towing another vehicle, the drawbar or other connection shall be of sufficient strength to pull all the weight towed thereby, and the drawbar or other connection shall not exceed 15 feet from one vehicle to the other, except the connection between any 2 vehicles transporting poles, pipe, machinery, or other objects of structural nature which cannot readily be dismembered.

(B) When one vehicle is towing another and the connection consists only of a chain, rope, or cable, there shall be displayed upon such connection a white flag or cloth not less than 12 inches square.

(C) In addition to such drawbar or other connection, each trailer and each semitrailer which is not connected to a commercial tractor by means of a fifth wheel shall be coupled with stay chains or cables to the vehicle by which it is being drawn. These chains or cables shall be of sufficient size and strength to prevent the towed vehicle's parting from the drawing vehicle in case the drawbar or other connection should break or become disengaged. In case of a loaded pole trailer, the connecting pole to the drawing vehicle shall be coupled to the drawing vehicle with stay chains or cables of sufficient size and strength to prevent the towed vehicle's parting from the drawing vehicle.

(D) Every trailer or semitrailer, except pole and cable trailers and pole and cable dollies operated by a public utility as defined in R.C. § 5727.01, shall be equipped with a coupling device which shall be so designed and constructed that the trailer will follow substantially in the path of the vehicle drawing it, without whipping or swerving from side to side. Vehicles used to transport agricultural produce or agricultural production materials between a local place of storage and supply and the farm, when drawn or towed on a street or highway at a speed of 25 mph or less, and vehicles designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of 25 mph or less, shall have a drawbar or other connection, including the hitch mounted on the towing vehicle, which shall be of sufficient strength to pull all the weight towed thereby. Only one such vehicle used to transport agricultural produce or agricultural production materials as provided in this section may be towed or drawn at one time unless the towing vehicle is an agricultural tractor.
(R.C. § 4513.32) Penalty, see § 70.99

CHAPTER 75: BICYCLES AND MOTORCYCLES

Section

75.01 Bicycles
75.02 Operation of motorized bicycle
75.03 Rules for bicycles, motorcycles, and snowmobiles
75.04 Prohibition against attaching bicycles and sleds to vehicles
75.05 Riding bicycles; motorcycles abreast
75.06 Signal devices on bicycle

§ 75.01 BICYCLES.

The provisions of this title which are applicable to bicycles apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles. (R.C. § 4511.52) Penalty, see § 70.99

§ 75.02 OPERATION OF MOTORIZED BICYCLE.

(A) No person shall operate a motorized bicycle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking, unless all of the following conditions are met:

(1) The person is 14 or 15 years of age and holds a valid probationary motorized bicycle license issued after the person has passed the test provided for in this section, or the person is 16 years of age or older and holds either a valid commercial driver's license issued under R.C. Chapter 4506 or a driver's license issued under R.C. Chapter 4507 or a valid motorized bicycle license issued after the person has passed the test provided for in this section, except that if a person is 16 years of age, has a valid probationary motorized bicycle license and desires a motorized bicycle license, he is not required to comply with the testing requirements provided for in this section;

(2) The motorized bicycle is equipped in accordance with the rules adopted under division (B) of this section and is in proper working order.

(3) The person, if he is under 18 years of age, is wearing a protective helmet on his head with the chin strap properly fastened and the motorized bicycle is equipped with a rear-view mirror.

(4) The person operates the motorized bicycle when practicable within 3 feet of the right edge of the roadway obeying all traffic rules applicable to vehicles.

(B) The Director of Public Safety, subject to R.C. §§ 119.01 through 119.13, shall adopt and promulgate rules concerning protective helmets, the equipment of motorized bicycles, and the testing and qualifications of persons who do not hold a valid driver's or commercial driver's license. The test shall

be as near as practicable to the examination required for a motorcycle operator's endorsement under R.C. § 4507.11. The test shall also require the operator to give an actual demonstration of his ability to operate and control a motorized bicycle by driving one under the supervision of an examining officer.

(C) Every motorized bicycle license expires on the birthday of the applicant in the fourth year after the date it is issued, but in no event shall any motorized bicycle license be issued for a period longer than 4 years.

(D) No person operating a motorized bicycle shall carry another person upon the motorized bicycle.

(E) The protective helmet and rear-view mirror required by division (A)(3) of this section shall, on and after January 1, 1985, conform with rules adopted by the director under division (B) of this section.

(F) Each probationary motorized bicycle license or motorized bicycle license shall be laminated with a transparent plastic material. (R.C. § 4511.521)

(G) Whoever violates division (A), (D), or (E) of this section is guilty of a minor misdemeanor. (R.C. § 4511.99(F))
Penalty, see § 70.99

Statutory reference:
Revocation of license by state, see R.C. § 4507.16 et seq.

§ 75.03 RULES FOR BICYCLES, MOTORCYCLES, AND SNOWMOBILES.

(A) For purposes of this section, "SNOWMOBILE" has the same meaning as given that term in R.C. § 4519.01.

(B) A person operating a bicycle or motorcycle shall not ride other than upon the permanent and regular seat attached thereto, nor carry any other person upon such bicycle or motorcycle other than upon a firmly attached and regular seat thereon, nor shall any person ride upon a bicycle or motorcycle other than upon such a firmly attached and regular seat.

(C) A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle.

(D) No person operating a bicycle shall carry any package, bundle, or article that prevents the driver from keeping at least one hand upon the handlebars.

(E) No bicycle or motorcycle shall be used to carry more persons at one time than the number for which it is designed and equipped, nor shall any motorcycle be operated on a highway when the handlebars or grips are more than 15 inches higher than the seat or saddle for the operator.

(F) No person shall operate or be a passenger on a snowmobile or motorcycle without using safety glasses or other protective eye device. No person who is under the age of 18 years, or who holds a motorcycle operator's endorsement or license bearing a "NOVICE" designation that is currently in effect as provided in R.C. § 4507.13, shall operate a motorcycle on a highway, or be a passenger on a motorcycle, unless wearing a protective helmet on his head, and no other person shall be a passenger on a motorcycle operated by such a person unless similarly wearing a protective helmet. The helmet, safety glasses, or other protective eye device shall conform with regulations prescribed and promulgated by the Director of Public Safety. The provisions of this paragraph or a violation thereof shall not be used in the trial of any civil action. (R.C. § 4511.53) Penalty, see § 70.99

§ 75.04 PROHIBITION AGAINST ATTACHING BICYCLES AND SLEDS TO VEHICLES.

(A) No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle shall attach the same or himself to any vehicle upon a roadway.

(B) No operator shall knowingly permit any person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle to attach the same or himself to any vehicle while it is moving upon a roadway.

(C) This section does not apply to the towing of a disabled vehicle. (R.C. § 4511.54) Penalty, see § 70.99

§ 75.05 RIDING BICYCLES; MOTORCYCLES ABREAST.

(A) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable obeying all traffic rules applicable to vehicles and exercising due care when passing a standing vehicle or one proceeding in the same direction. Where a walking or bicycle path has been provided adjacent to any road or highway, all pedestrians, equestrians and bicyclists shall use said path.

(B) Persons riding bicycles or motorcycles upon a roadway shall ride not more than 2 abreast in a single lane, except on paths or parts of roadways set aside for the exclusive use of bicycles or motorcycles. (R.C. § 4511.55) Penalty, see § 70.99

§ 75.06 SIGNAL DEVICES ON BICYCLE.

(A) Every bicycle when in use at the times specified in § 74.03, shall be equipped with the following:

(1) A lamp on the front that shall emit a white light visible from a distance of at least 500 feet to the front;

(2) A red reflector on the rear of a type approved by the Director of Public Safety that shall be visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle;

(3) A lamp emitting a red light visible from a distance of 500 feet to the rear shall be used in addition to the red reflector;

(4) An essentially colorless reflector on the front of a type approved by the director;

(5) Either with tires with retroreflective sidewalls or with an essentially colorless or amber reflector mounted on the spokes of the front wheel and an essentially colorless or red reflector mounted on the spokes of the rear wheel. Each reflector shall be visible on each side of the wheel from a distance of 600 feet when directly in front of lawful lower beams of head lamps on a motor vehicle. Retroreflective tires or reflectors shall be of a type approved by the director.

(B) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.

(C) Every bicycle shall be equipped with an adequate brake when used on a street or highway.
(R.C. § 4511.56) Penalty, see § 70.99

CHAPTER 76: PARKING REGULATIONS

Section

76.01 Prohibition against parking on highways
76.02 Condition when motor vehicle left unattended
76.03 Police may remove illegally parked vehicle
76.04 Parking prohibitions
76.05 Parking near curb; privileges for handicapped

§ 76.01 PROHIBITION AGAINST PARKING ON HIGHWAYS.

(A) Upon any highway no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main traveled part of the highway if it is practicable to stop, park, or so leave such vehicle off the paved or main traveled part of the highway. In every event a clear and unobstructed portion of the highway opposite such standing vehicle shall be left for the free passage of other vehicles, and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such highway.

(B) This section does not apply to the driver of any vehicle which is disabled while on the paved or improved or main traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position. (R.C. § 4511.66) Penalty, see § 70.99

§ 76.02 CONDITION WHEN MOTOR VEHICLE LEFT UNATTENDED.

(A) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, effectively setting the parking brake, and, when the motor vehicle is standing upon any grade, turning the front wheels to the curb or side of the highway.

(B) The requirements of this section relating to the stopping of the engine, locking of the ignition, and removing the key from the ignition of a motor vehicle shall not apply to an emergency vehicle or a public safety vehicle. (R.C. § 4511.661) Penalty, see § 70.99

§ 76.03 POLICE MAY REMOVE ILLEGALLY PARKED VEHICLE.

(A) Whenever any police officer finds a vehicle standing upon a highway in violation of § 76.01, such officer may move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or improved or main traveled part of such highway.

(B) Whenever any police officer finds a vehicle unattended upon any highway, bridge, or causeway, or in any tunnel, where such vehicles constitutes an obstruction to traffic, such officer may

provide for the removal of such vehicle to the nearest garage or other place of safety. (R.C. § 4511.67) Penalty, see § 70.99

§ 76.04 PARKING PROHIBITIONS.

No person shall stand or park a vehicle, except when necessary to avoid conflict with other traffic or to comply with the provisions of this title, or while obeying the directions of a police officer or a traffic-control device, in any of the following places:

(A) On a sidewalk, except a bicycle;

(B) In front of a public or private driveway;

(C) Within an intersection;

(D) Within 10 feet of a fire hydrant;

(E) On a crosswalk;

(F) Within 20 feet of a crosswalk at an intersection;

(G) Within 30 feet of, and upon the approach to, any flashing beacon, stop sign, or traffic-control device;

(H) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by a traffic-control device;

(I) Within 50 feet of the nearest rail of a railroad crossing;

(J) Within 20 feet of a driveway entrance to any fire station and, on the side of the street opposite the entrance to any fire station, within 75 feet of the entrance when it is properly posted with signs;

(K) Alongside or opposite any street excavation or obstruction when such standing or parking would obstruct traffic;

(L) Alongside any vehicle stopped or parked at the edge or curb of a street;

(M) Upon any bridge or elevated structure upon a highway, or within a highway tunnel;

(N) At any place where signs prohibit stopping;

(O) Within one foot of another parked vehicle;

(P) On the roadway portion of a freeway, expressway, or thruway;

(Q) On bicycle path;

(R) On bridle path. (R.C. § 4511.68) Penalty, see § 70.99

§ 76.05 PARKING NEAR CURB; PRIVILEGES FOR HANDICAPPED.

(A) Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the right-hand wheels of the vehicle parallel with and not more than 12 inches from the right-hand curb, unless it is impossible to approach so close to the curb; in such case the stop shall be made as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise. Local authorities may by ordinance permit angle parking on any roadway under their jurisdiction, except that angle parking shall not be permitted on a state route within a municipal corporation unless an unoccupied roadway width of not less than 25 feet is available for free moving traffic.

(B) Local authorities may by ordinance permit parking of vehicles with the left-hand wheels adjacent to and within 12 inches of the left-hand curb of a one-way roadway.

(C) No vehicle shall be stopped or parked on a road or highway with the vehicle facing in a direction other than the direction of travel on that side of the road or highway.

(D) Notwithstanding any statute or any rule, regulation, resolution, or ordinance, air compressors, tractors, trucks, and other equipment, while being used in the construction, reconstruction, installation, repair, or removal of facilities near, on, over, or under a street or highway, may stop, stand, or park where necessary in order to perform such work, provided a flagman is on duty or warning signs or lights are displayed as may be prescribed by the director of transportation.

(E) Special parking locations and privileges for handicapped persons shall be provided and designated by all political subdivisions and by the state and all agencies and instrumentalities thereof at all offices and facilities where parking is provided, whether owned, rented, or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international symbol of accessibility and shall be reasonably close to exits, entrances, elevators, and ramps. All elevated signs posted in accordance with this division and R.C. § 3781.111(B) shall be mounted on a fixed or movable post, and the distance from the ground to the top edge of the sign shall measure five feet.

(F) No person shall stop, stand, or park any motor vehicle at special parking locations provided for handicapped persons under this section, or at special parking locations provided for handicapped persons in or on privately-owned parking lots, parking garages, or other parking areas and designated in accordance with division (E) of this section, unless the motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates.

(G) When a motor vehicle is being operated by or for the transport of a handicapped person, and is displaying a parking card or special handicapped license plates, the motor vehicle shall be permitted to park for a period of 2 hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police rules provide otherwise or where the vehicle is parked in such a manner as to be clearly a traffic hazard.

(H) No owner of an office, facility, or parking garage where special parking locations for the handicapped must be designated in accordance with division (E) of this section shall fail to properly mark the special parking locations as required by that division or fail to maintain the markings of the special locations, including the erection and maintenance of the fixed or movable signs.

(I) As used in this section:

(1) "HANDICAPPED PERSON" has the same meaning as in R.C. § 4503.44.

(2) "SPECIAL HANDICAPPED LICENSE PLATES" and "PARKING CARD" mean any license plates or parking card issued under R.C. § 4503.44, and also mean any substantially similar license plates or parking card issued by a state, district, country, or sovereignty with which the Director of Public Safety has entered into a reciprocity agreement as authorized by R.C. § 5502.03, during the time the agreement is in effect.
(R.C. § 4511.69)

(J) Whoever violates division (A), (C), or (F) of this section is guilty of a minor misdemeanor.
(R.C. § 4511.99(F))

(K) Whoever violates division (H) of this section shall be issued a warning for a first offense; on each subsequent offense the person shall be fined $25 for each parking location that is not properly marked or whose markings are not properly maintained.
(R.C. § 4511.99(M)) Penalty, see § 70.99

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMALS

91. FIREWORKS, EXPLOSIVES, FIRE PREVENTION

92. INTOXICATING LIQUORS

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CHAPTER 90: ANIMALS

Section

Animals Running at Large

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90.02 Strays
90.03 Unavoidable escapes
90.04 Fees
90.05 Quarantine orders of mayor
90.06 Interfering with enforcement of quarantine orders
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ANIMALS RUNNING AT LARGE

§ 90.01 DOGS OR OTHER ANIMALS RUNNING AT LARGE; DANGEROUS OR VICIOUS DOGS.

(A) Animals running at large.

(1) A person, firm, or corporation which is the owner or has charge of any animals or fowl shall not permit them to run at large in the public road, highway, street, lane, or alley, or upon unenclosed land, or permit them to go upon any private yard, lot, or enclosure without the consent of the owner of the yard, lot, or enclosure.

(2) No person, firm, or corporation shall cause animals to be herded, kept, or detained for the purpose of grazing on premises other than those owned or occupied by the owner or keeper thereof.

(3) The running at large of such animal in or upon any of the places mentioned in divisions (1) and (2) above is prima facie evidence that it is running at large in violation of this section. (R.C. §§ 951.01 and 951.02)

(4) Whoever violates the provisions of this division (A), for which another penalty is not provided, is guilty of a misdemeanor of the fourth degree. (R.C. § 951.99)

(5) The owner or keeper of an animal described herein who permits it to run at large in violation of this section, is liable for all damages caused by such animal upon the premises of another without reference to the fence which may enclose such premises. (R.C. § 951.10)

(B) Dogs running at large; dangerous or vicious dogs.

(1) As used in this section, "DANGEROUS DOG" and "VICIOUS DOG" have the same meanings as in R.C. § 955.11.

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

(3) No owner, keeper, or harborer of any dog shall fail at any time to keep it either physically confined or restrained upon the premises of the owner, keeper, or harborer by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape, or under reasonable control of some person, except when the dog is lawfully engaged in hunting accompanied by the owner, keeper, or harborer or a handler.

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

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

(b) While that dog is off the premises of the owner, keeper, or harborer, keep it on a chain-link leash or tether that is not more than six feet in length and additionally do at least one of the following:

1. Keep that dog in a locked pen which has a top, locked fenced yard, or other locked enclosure which has a top;

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

3. Muzzle that dog.

(5) No owner, keeper, or harborer of a vicious dog shall fail to obtain liability insurance with an insurer authorized to write liability insurance in this state providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than $50,000 because of damage or bodily injury to or death of a person caused by the vicious dog.
(R.C. § 955.22)

(6) Penalty.

(a) Whoever violates divisions (B)(2) or (B)(3) above shall be fined not less than $25 or more than $100 on a first offense; and on each subsequent offense, shall be fined not less than $75 or more than $250 and may be imprisoned for not more than 30 days.

(b) In addition to the penalties prescribed in division (a) above, if the offender is guilty of a violation of division (B)(2) or (B)(3) above, the court may order the offender to personally supervise the dog that he owns, keeps, or harbors, to cause that dog to complete dog obedience training, or to do both.

(c) If a violation of division (B)(4) above involves a dangerous dog, whoever violates that division is guilty of a misdemeanor of the fourth degree on a first offense and of a misdemeanor of the third degree on each subsequent offense. Additionally, the court may order the offender to personally supervise the dangerous dog that he owns, keeps, or harbors, to cause that dog to complete dog obedience training, or to do both, and the court may order the offender to obtain liability insurance pursuant to division (B)(5) above. The court, in the alternative, may order the dangerous dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society.

(d) If a violation of division (B)(4) above involves a vicious dog, whoever violates that division is guilty of one of the following:

1. A felony of the fourth degree on a first or subsequent offense if the dog kills or seriously injures a person and shall be prosecuted under appropriate state law. Additionally, the court shall order that the vicious dog be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society.

2. A misdemeanor of the first degree on a first offense. The person shall be guilty of a felony of the fourth degree on each subsequent offense and shall be prosecuted under appropriate state law. Additionally, the court may order the vicious dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society.

3. A misdemeanor of the first degree if the dog causes injury other than killing or serious injury, to any person.

(e) Whoever violates division (B)(5) above is guilty of a misdemeanor of the first degree. (R.C. § 955.99(E) - (H))

Statutory reference:
Power of municipality to regulate animals running at large, R.C. § 715.23

§ 90.02 STRAYS.

A person finding an animal at large in violation of § 90.01 may, and a law enforcement officer of the municipality, on view or information, shall, take and confine such animal, forthwith giving notice thereof to the owner or keeper, if known, and, if not known, by publishing a notice describing such animal at least once in a newspaper of general circulation in the county or municipality wherein the animal was found. If the owner or keeper does not appear and claim the animal and pay the compensation prescribed in § 90.04 for so taking, advertising, and keeping it within 10 days from the date of such notice, such person or the county shall have a lien therefor and the animal may be sold at public auction as provided in R.C. § 1311.49, and the residue of the proceeds of sale shall be paid and deposited by the treasurer in the general funds of the county. (R.C. § 951.11)

§ 90.03 UNAVOIDABLE ESCAPES.

If it is proven that an animal running at large in violation of § 90.01 escaped from its owner or keeper without his knowledge or fault, the animal shall be returned to its owner or keeper upon payment of a reasonable compensation for its taking and keeping. (R.C. § 951.12)

§ 90.04 FEES.

(A) The person or municipality whose law enforcement officer takes an animal running at large in violation of § 90.01 is entitled to receive from the owner or keeper thereof the following compensation:

(1) For taking and advertising each animal, $5;

(2) Reasonable expenses actually incurred for keeping each such animal.

(B) Compensation for taking, advertising, and keeping a single herd or flock shall not exceed $50 when such flock or herd belongs to one person. (R.C. § 951.13)

§ 90.05 QUARANTINE ORDERS OF MAYOR.

Whenever the mayor shall deem it necessary for the protection of the public, he shall issue an order prohibiting, for a certain time, any dog from being at large in any public street or place, unless muzzled and on leash, so as effectually to prevent it from biting any person or animal. This order shall be posted in 3 conspicuous places in the municipality, for such time as the mayor deems necessary, and any dog found at large during the existence of this quarantine order shall be impounded and may be destroyed by municipal authority without notice to the owner.

§ 90.06 INTERFERING WITH ENFORCEMENT OF QUARANTINE ORDERS.

No person shall molest or interfere with any officer while engaged in enforcing an order issued under § 90.05. Penalty, see § 90.99

Cross-reference:
Keeping certain animals, see § 93.51

§ 90.07 REPORTING ESCAPE OF CERTAIN ANIMALS REQUIRED.

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

(1) A law enforcement officer of the municipal corporation or township and the sheriff of the county where the escape occurred; and

(2) The clerk of the municipal legislative authority or the township clerk of the township where the escape occurred.

(B) If the office of the clerk of a legislative authority or township clerk is closed to the public at the time a report is required by division (A) of this section, then it is sufficient compliance with division (A)(2) of this section if the owner or keeper makes the report within one hour after the office is next open to the public.
(R.C. § 2927.21) Penalty, see § 90.99

OFFENSES RELATING TO DOMESTIC ANIMALS

§ 90.10 ABANDONING ANIMALS.

No owner or keeper of a dog, cat, or other domestic animal, shall abandon the animal. (R.C. § 959.01) Penalty, see § 90.99

§ 90.11 INJURING ANIMALS .

No person shall maliciously, or willfully and without the consent of the owner, kill or injure a horse, mare, foal, filly, jack, mule, sheep, goat, cow, steer, bull, heifer, ass, ox, swine, dog, cat, or other domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity. (R.C. § 959.02) Penalty, see § 90.99

§ 90.12 POISONING ANIMALS.

No person shall maliciously, or willfully and without the consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to a horse, mare, foal, filly, jack, mule, sheep, goat, cow, steer, bull, heifer, ass, ox, swine, dog, cat, poultry, or any other domestic animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by any of these animals, either upon his own lands or the lands of another. (R.C. § 959.03) Penalty, see § 90.99

§ 90.13 CRUELTY TO ANIMALS.

(A) No person shall:

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

(2) Impound or confine an animal without affording it, during the confinement, access to shelter from wind, rain, snow, or excessive direct sunlight, if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. This division does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, "SHELTER" means a man-made enclosure, windbreak, sunshade, or natural windbreak or sunshade that is developed from the earth's contour, tree development, or vegetation.

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

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

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

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

(C) All fines collected for violations of this section shall be paid to the society or association for the prevention of cruelty to animals, if there is one in the municipality; otherwise, all fines shall be paid to the general fund. (R.C. § 959.13) Penalty, see § 90.99

§ 90.14 ANIMAL FIGHTS.

No person shall knowingly engage in or be employed at cockfighting, bearbaiting, or pitting an animal against another, no person shall receive money for the admission of another to a place kept for this purpose; no person shall use, train, or possess any animal for seizing, detaining, or maltreating a domestic animal. Any person who knowingly purchases a ticket of admission to such place, or is present thereat, or witnesses such spectacle, is an aider and abettor. (R.C. § 959.15) Penalty, see § 90.99

§ 90.15 TRAPSHOOTING.

Live birds or fowl shall not be used as targets in trapshooting. (R.C. § 959.17) Penalty, see § 90.99

§ 90.16 LOUD DOG.

No owner, keeper, or harborer of a dog shall permit or allow such dog to annoy or disturb one or more of the inhabitants of 2 or more separate residences of this municipality by the frequent or habitual howling, yelping, barking, or making of any other such noises by such dog within the corporate limits. Penalty, see § 90.99

§ 90.99 PENALTY.

(A) Whoever violates any provision of this chapter, for which another penalty is not specifically provided, shall be guilty of a minor misdemeanor.

(B) Whoever violates § 90.11, if the value of the animal killed or the injury done amounts to less than $300, is guilty of a misdemeanor of the second degree; if the value of the animal killed or the injury done amounts to $300 or more, whoever violates § 90.11 is guilty of a misdemeanor of the first degree. (R.C. § 959.99(B))

(C) Whoever violates §§ 90.12, 90.14, or 90.15 is guilty of a misdemeanor of the fourth degree. (R.C. § 959.99(C))

(D) Whoever violates § 90.13(A) is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this division, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal. (R.C. § 959.99(D))

(E) Whoever violates § 90.07 is guilty of a misdemeanor of the first degree. (R.C. § 2927.21(C))

CHAPTER 91: FIREWORKS, EXPLOSIVES, FIRE PREVENTION

Section

91.01 Definitions
91.02 Possession, sale, and use of fireworks
91.03 Permit to use fireworks
91.04 Storage of explosives
91.05 Blasting permit
91.06 Removal of inflammables or obstructions
91.07 Protective appliances
91.08 Compliance with order
91.09 Waste receptacles

91.99 Penalty

Statutory reference:
Power of municipality to regulate explosives, R.C. § 715.60

§ 91.01 DEFINITIONS.

For purposes of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

(A) "EXPLOSIVE." Any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "EXPLOSIVE" includes all materials that have been classified as class A, class B, or class C explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "EXPLOSIVES" does not include "fireworks" as defined in division (B) below, or any explosive that is not subject to regulation under the rules of the fire marshal adopted pursuant to R.C. § 3737.82. (R.C. § 3737.821)

(B) "FIREWORKS." Any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, except ordinary matches and except as provided in R.C. § 3743.80. (R.C. § 3743.01)

§ 91.02 POSSESSION, SALE, AND USE OF FIREWORKS.

(A) No person shall possess fireworks in this municipality or shall possess for sale or sell fireworks in this municipality, except a licensed manufacturer of fireworks as authorized by R.C. §§ 3743.02 through 3743.08, a licensed wholesaler of fireworks as authorized by R.C. §§ 3743.15 through 3743.21, an out-of-state resident as authorized by R.C. § 3743.44, a resident of this state as authorized by R.C. § 3743.45, or a licensed exhibitor of fireworks as authorized by § 91.03 and R.C. §§ 3743.50 through 3743.55, and except as provided in R.C. § 3743.80.

(B) Except as provided in R.C. § 3743.80, and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to § 91.03 and R.C. §§ 3743.50 through 3743.55, no person shall discharge, ignite, or explode any fireworks in this state.

(C) No person shall use in a theater or public hall, what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.

(D) No person shall knowingly make a false statement on a purchaser's form completed under R.C. §§ 3743.07, 3743.20, 3743.44, or 3743.45.

(E) No person shall sell fireworks of any kind to a person under 18 years of age.

(F) No person shall advertise Class C fireworks for sale. A sign located on a seller's premises identifying him as a seller of fireworks is not the advertising of fireworks for sale.

(G) No person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder, shall possess Class B fireworks in this state.
(R.C. § 3743.65) Penalty, see § 91.99

§ 91.03 PERMIT TO USE FIREWORKS.

(A) An exhibitor of fireworks licensed under R.C. §§ 3743.50 through 3743.55 who wishes to conduct a public fireworks exhibition shall apply for approval to conduct the exhibition to the fire chief and police chief.

(B) The approval required by division (A) of this section shall be evidenced by the fire chief and the police chief signing a permit for the exhibition. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the state fire marshal or, if it is available, from the fire chief, or police chief.

(C) Before signing a permit and issuing it to a licensed exhibitor of fireworks, the fire chief and the police chief shall inspect the premises on which the exhibition will take place and shall determine that, in fact, the applicant for the permit is a licensed exhibitor of fireworks. Each applicant shall show his license as an exhibitor of fireworks to the fire chief and the police chief.

(D) The fire chief and the police chief shall give his approval to conduct a public fireworks exhibition only if he is satisfied, based on the inspection, that the premises on which the exhibition will be conducted allow the exhibitor to comply with the rules adopted by the state fire marshal pursuant to R.C. § 3743.53(B) and that the applicant is in fact, a licensed exhibitor of fireworks. The fire chief and the police chief may inspect the premises immediately prior to the exhibition to determine if the exhibitor has complied with the rules, and may revoke a permit for noncompliance with the rules.

(E) If the council has prescribed a fee for the issuance of a permit for a public fireworks exhibition, the fire chief and police chief shall not issue a permit until the exhibitor pays the requisite fee.

(F) Each exhibitor shall provide an indemnity bond in the amount of at least $100,000 with surety satisfactory to the fire chief and the police chief, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death, or loss to person or property emanating from the fireworks exhibitor, or proof of insurance coverage of at least $100,000 for liability arising from injury, death, or loss of persons or property emanating from the fireworks exhibition. The council may require the exhibitor to provide an indemnity bond or proof of insurance coverage in amounts greater than those required by this division. The fire chief and police chief shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this division or by the council.

(G) Each permit for a fireworks exhibition issued by the fire chief and the police chief shall contain a distinct number, together with a designation of the municipal corporation. A copy of each permit issued shall be forwarded by the fire chief and the police chief issuing it to the state fire marshal. A permit is not transferable or assignable.

(H) The fire chief and police shall keep a record of issued permits for fireworks exhibitions. In this list, the fire chief or police chief shall list the name of the exhibitor, his license number, the premises on which the exhibition will be conducted, the date and times of the exhibition will be conducted, the date and time of the exhibition, and the number and political subdivision designation of the permit issued to the exhibitor for the exhibition.
(R.C. § 3743.54) Penalty, see § 91.99

§ 91.04 STORAGE OF EXPLOSIVES.

It shall be unlawful to store at any time within the village limits a quantity of gunpowder or other similar explosive weighing in excess of 100 pounds. Penalty, see § 91.99

§ 91.05 BLASTING PERMIT.

No person shall cause a blast to occur within the municipality without making application in writing beforehand, setting forth the exact nature of the intended operation, and receiving a permit to blast from the mayor of the municipality. The mayor or other proper administrative officer before granting such permit may require the applicant to provide a bond to indemnify the municipality and all other persons against injury or damages which might result from the proposed blasting. Penalty, see § 91.99

§ 91.06 REMOVAL OF INFLAMMABLES OR OBSTRUCTIONS.

Any inflammable or combustible materials not arranged or stored in such a manner as to afford reasonable safety against the danger of fire, or any matter stored or arranged in such a manner as to impede or prevent access to, or exit from, any premises in case of fire, shall be ordered by the fire chief to be removed or rearranged in such manner as to eliminate any fire hazard. The order shall be in writing and delivered to the owner, lessee, or occupant of the premises. Penalty, see § 91.99

§ 91.07 PROTECTIVE APPLIANCES.

If the fire chief finds upon inspection that the appliances for protection against fire are wholly wanting or are inadequate in number, condition, size, arrangement, or efficiency for the reasonable protection of the premises against fire, he shall cause an order in writing to be delivered to the owner, lessee, or occupant, requiring the installation, replacement, or repair of appliances adequate for the reasonable protection of the premises in case of fire. Penalty, see § 91.99

§ 91.08 COMPLIANCE WITH ORDER.

An order, to correct the hazardous conditions specified in § 91.07 shall be directed to the owner, lessee, or occupant of the premises, building, or structure, or to the person in control of the articles, material, goods, wares, or merchandise, or to the owner thereof, as the circumstances may require. It is made the duty of the owner, lessee, or occupant of the premises, building, or structure, and of the person in control of such articles, materials, goods, wares, and merchandise, or the owner thereof, to comply with the order with all reasonable dispatch and diligence. Penalty, see § 91.99

§ 91.09 WASTE RECEPTACLES.

Waste paper, ashes, oil rags, waste rags, excelsior, or any material of a similar hazardous nature shall not be accumulated in any cellar or any other portion of any building of any kind. Proper fireproof receptacles shall be provided for such hazardous materials. Penalty, see § 91.99

§ 91.99 PENALTY.

(A) Whoever violates any provision of this chapter, for which another penalty is not specifically provided, shall be fined not more than $100.

(B) Whoever violates any provisions of § 91.02 is guilty of a misdemeanor of the first degree. If the offender has previously been convicted of a violation of § 91.02, the offender is guilty of a felony of the fourth degree, punishable under appropriate state law. (R.C. § 3743.99(C))

CHAPTER 92: INTOXICATING LIQUORS

Section

92.01 Definitions
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92.03 Prohibitions on price advertising
92.04 Restrictions on sale of beer and liquor
92.05 Activities prohibited without permit
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92.07 Open container prohibited
92.08 Underage person shall not purchase intoxicating liquor or beer
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92.11 Misrepresentation to obtain alcoholic beverage for a minor prohibited
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92.18 Obstructing search of premises prohibited
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92.20 Prohibition against sale or possession of diluted liquor and refilled containers
92.21 Sale to underage persons prohibited
92.22 Keeping place where beer or intoxicating liquors are sold in violation of law
92.23 Intoxicating liquors shall not be sold in brothels
92.24 Use of intoxicating liquor in a public dance hall prohibited; exceptions
92.25 Poisonously adulterated liquors
92.26 Tavern keeper permitting rioting or drunkenness
92.27 (Reserved)
92.28 Place where beer or intoxicating liquor is sold declared a nuisance
92.29 Procedure when injunction violated

92.99 Penalty

§ 92.01 DEFINITIONS.

For the purpose of this chapter, the following words and phrases shall have the following meanings ascribed to them respectively.

(A) "ALCOHOL." Ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. The term excludes denatured alcohol and wood alcohol.

(B) "AT RETAIL." For use or consumption by the purchaser and not for resale.

(C) "BEER," "MALT LIQUOR," or "MALT BEVERAGES." All brewed or fermented malt products containing 1/2 of 1% or more of alcohol by volume but not more than 6% of alcohol by volume weight.

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

(E) "CONTROLLED ACCESS ALCOHOL AND BEVERAGE CABINET." A closed container, either refrigerated, in whole or in part, or nonrefrigerated, access to the interior of which is restricted by means of a device which requires the use of a key, magnetic card, or similar device and from which beer, intoxicating liquor, other beverages, or food may be sold.

(F) "CONVENTION CENTER." Any convention, sports, or entertainment facility, or any combination of these, with a seating capacity of 5,000 or more that is used by and accessible to the general public.

(G) "DRUGSTORE." An establishment as defined in R.C. § 4729.27, which is under the management or control of a legally registered pharmacist.

(H) "ENCLOSED SHOPPING CENTER." A group of retail sales and service business establishments that face into an enclosed mall, share common ingress, egress, and parking facilities, and are situated on a tract of land that contains an area of not less than 500,000 square feet.

(I) "HOTEL." The meaning set forth in R.C. § 3731.01, subject to the exceptions mentioned in R.C. § 3731.03.

(J) "INTOXICATING LIQUOR" and "LIQUOR." All liquids and compounds, other than beer as defined in division (C) above, containing 1/2 of 1% or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether or not the same are medicated, proprietary, or patented. The phrase includes wine, as defined in division (W) of this section even if it contains less than 4% of alcohol by volume, mixed beverages, as defined in division (M) of this section even if they contain less than 4% of alcohol by volume, alcohol, and all solids and confections which contain any alcohol.

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

(L) "MANUFACTURER." Any person engaged in the business of manufacturing beer or intoxicating liquor.

(M) "MIXED BEVERAGES." Bottled and prepared cordials, cocktails, and highballs, produced by mixing any type of whiskey, neutral spirits, brandy, gin or other distilled spirits with, or over, carbonated or plain water, pure juices from flowers and plants, and other flavoring materials. The completed product shall contain not less than 5% of alcohol by volume and not more than 21% of alcohol by volume.

(N) "NIGHTCLUB." A place habitually operated for profit after the hour of midnight, where food is served for consumption on the premises, and one or more forms of amusement are provided or permitted for a consideration which may be in the form of a cover charge or may be included in the price of the food and beverages, or both, purchased by the patrons thereof.

(O) "PERSON." Includes firms and corporations.

(P) "RESIDENCE DISTRICT." Two or more contiguous election precincts within a county, as described by a petition authorized by R.C. §§ 4301.33, 4303.29, or 4305.14.

(Q) "RESTAURANT." A place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold, and served at noon and evening, as the principal business of the place. Such meaning excludes drugstores, confectionery stores, lunch stands, nightclubs, and filling stations.

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

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

(T) "SPIRITUOUS LIQUOR." All intoxicating liquors containing more than 21% of alcohol by volume.

(U) "VEHICLE." All means of transportation by land, by water, or by air, and everything made use of in any way for such transportation.

(V) "WHOLESALE DISTRIBUTOR" and "DISTRIBUTOR." A person engaged in the business of selling to retail dealers for purposes of resale.

(W) "WINE." All liquids fit to use for beverage purposes containing not less than 4% of alcohol by volume and not more than 21% of alcohol by volume, which is made from the fermented juices of grapes, fruits, or other agricultural products. (R.C. S 4301.01)

§ 92.02 RESTRICTIONS APPLICABLE TO SALE OF BEER OR INTOXICATING LIQUOR FOR CONSUMPTION ON THE PREMISES.

The sale of beer or intoxicating liquor for consumption on the premises is subject to the following restrictions, in addition to those imposed by the rules and orders of the department of liquor control.

(A) Except as otherwise provided in this chapter or in R.C. Ch. 4301, beer or intoxicating liquor may be served to a person not seated at a table unless there is reason to believe that the beer or intoxicating liquor so served will be consumed by a person under 21 years of age.

(B) Beer or intoxicating liquor may be served by a hotel in the room of a bona fide guest, and may be sold by a hotel holding a D-5a permit, or a hotel holding a D-3 or D-5 permit that otherwise meets all of the requirements for holding a D-5a permit, by means of a controlled access alcohol and beverage cabinet which shall be located only in the hotel room of a registered guest. A hotel may sell beer or intoxicating liquor as authorized by its permit to a registered guest by means of a controlled access alcohol and beverage cabinet in accordance with the following requirements:

(1) Only a person 21 years of age or older who is a guest registered to stay in a guestroom shall be provided a key, magnetic card, or other similar device necessary to obtain access to the contents of a controlled access alcohol and beverage cabinet in that guestroom.

(2) The hotel shall comply with R.C. § 4301.22 in connection with the handling, restocking, and replenishing of the beer and intoxicating liquor in the controlled access alcohol and beverage cabinet.

(3) The hotel shall replenish or restock beer and intoxicating liquor in any controlled access alcohol and beverage cabinet only during the hours during which the hotel may serve or sell beer and intoxicating liquor.

(4) The registered guest shall verify in writing that he has read and understands the language which shall be posted on the controlled access alcohol and beverage cabinet as required by division (B)(5) of this section.

(5) A hotel authorized to sell beer and intoxicating liquor pursuant to division (B) of this section shall post on the controlled access alcohol and beverage cabinet, in conspicuous language, the following notice:

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

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

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

(b) Be made available during business hours to authorized agents of the department of liquor control pursuant to division (A)(6) of R.C. § 4301.10.

(7) The hotel shall observe all other applicable rules adopted by the department of liquor control and the liquor control commission.

(C) The seller shall not require the purchase of food with the purchase of beer or intoxicating liquor; nor shall the seller of beer or intoxicating liquor give away food of any kind in connection with the sale of beer or intoxicating liquor, except as authorized by rule of the state liquor control commission.

(D) The seller shall not permit the purchaser to remove beer or intoxicating liquor so sold from the premises.

(E) A hotel authorized to sell beer and intoxicating liquor pursuant to division (B) of this section shall provide a registered guest with the opportunity to refuse to accept a key, magnetic card, or other similar device necessary to obtain access to the contents of a controlled access alcohol and beverage cabinet in that guest room. If a registered guest refuses to accept such key, magnetic card, or other similar device, the hotel shall not assess any charges on the registered guest for use of the controlled access alcohol and beverage cabinet in that guest room. (R.C. § 4301.21) Penalty, see § 92.99

§ 92.03 PROHIBITIONS ON PRICE ADVERTISING.

No holder of a permit issued by the state department of liquor control shall advertise the retail price of beer and malt beverages in any newspaper, circular, radio broadcast, television telecast, or by any other media of advertising off the premises of the permit holder. (R.C. § 4301.211) Penalty, see § 92.99

§ 92.04 RESTRICTIONS ON SALE OF BEER AND LIQUOR.

Sales of beer and intoxicating liquor under all classes of permits and from state liquor stores are subject to the following restrictions, in addition to those imposed by the rules or orders of the state department of liquor control.

(A) Except as otherwise provided in this chapter or in R.C. Ch. 4301, no beer or intoxicating liquor shall be sold to any person under 21 years of age. No intoxicating liquor shall be handled by any person under 21 years of age, except that a person 18 years of age or older employed by a permit holder may handle or sell beer or intoxicating liquor in sealed containers in connection with wholesale or retail sales, and any person 19 years of age or older employed by a permit holder may handle intoxicating liquor in open containers when acting in the capacity of a waiter or waitress in a hotel, restaurant, club, or night club, as defined in § 92.01, or in the premises of a D-7 permit holder. This section does not authorize persons under 21 years of age to sell intoxicating liquor across a bar. Any person employed by a permit holder may handle beer or intoxicating liquor in sealed containers in connection with manufacturing, storage, warehousing, placement, stocking, bagging, loading, or unloading, and may handle beer or intoxicating liquor in open containers in connection with cleaning tables or handling empty bottles or glasses.

(B) No sales shall be made to an intoxicated person.

(C) No intoxicating liquor shall be sold to any individual who habitually drinks intoxicating liquor to excess, or to whom the department has, after investigation, determined to prohibit the sale of intoxicating liquor, because of cause shown by the husband, wife, father, mother, brother, sister, or other person dependent upon, or in charge of the individual, or by the mayor of the city in which the individual resides. The order of the department in such case shall remain in effect until revoked by the department.

(D) No sales of intoxicating liquor shall be made after 2:30 a.m. on Sunday, except that intoxicating liquor may be sold on Sunday under authority of a permit which authorizes Sunday sale.

(E) No holder of a permit shall give away any beer or intoxicating liquor of any kind at any time in connection with his business.

(F) Except as otherwise provided in this division, no retail permit holder shall display or permit the display on the outside of any licensed retail premises, on any lot of ground on which the licensed premises are situated, or on the exterior of any building of which the licensed premises are a part, any sign, illustration, or advertisement bearing the name, brand name, trade name, trademark, designation, or other emblem of, or indicating the manufacturer, producer, distributor, place of manufacture,

production, or distribution of, any beer or intoxicating liquor. Signs, illustrations, or advertisements bearing the name, brand name, trade name, trademark, designation, or other emblem of or indicating the manufacturer, producer, distributor, place of manufacture, production, or distribution of beer or intoxicating liquor may be displayed and permitted to be displayed on the interior or in the show windows of any licensed premises, if the particular brand or type of product so advertised is actually available for sale on the premises at the time of display. The liquor control commission shall determine by rule the size and character of signs, illustrations, or advertisements.

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

(H) No sale of any gift certificate shall be permitted whereby beer or intoxicating liquor of any kind is to be exchanged for a certificate.
(R.C. § 4301. 22)

(I) Sections 92.10 through 92.14, and R.C. §§ 4301.632 through 4301.637 shall not be deemed to modify or affect division (A) of this section or R.C. § 4301.22(A). (R.C. § 4301.638)
Penalty, see § 92.99

§ 92.05 ACTIVITIES PROHIBITED WITHOUT PERMIT.

(A) No person, by himself or by his clerk, agent, or employee, who is not the holder of an A permit issued by the department of liquor control, in force at the time, and authorizing the manufacture of beer or intoxicating liquor, or who is not an agent or employee of the department authorized to manufacture beer or intoxicating liquor, shall manufacture any beer or intoxicating liquor for sale, or shall manufacture spirituous liquor.

(B) No person, by himself or by his clerk, agent, or employee, who is not the holder of a B, C, D, E, F, G, or I permit issued by the department, in force at the time, and authorizing the sale of beer, intoxicating liquor, or alcohol, or who is not an agent or employee of the department or the tax commissioner authorized to sell beer, intoxicating liquor, or alcohol, shall sell, keep, or possess beer, intoxicating liquor, or alcohol for sale to any persons other than those authorized by this chapter and R.C. §§ 4301 et seq. and 4303 et seq. to purchase any beer or intoxicating liquor, or sell any alcohol at retail.

(C) No person, by himself or by his clerk, agent, or employee, who is the holder of a permit issued by the department, shall sell, keep, or possess for sale any intoxicating liquor not purchased from the department or from the holder of a permit issued by the department authorizing the sale of intoxicating liquor, unless the same has been purchased with the special consent of the department. The department shall revoke the permit of any person convicted of a violation of this division. (R.C. § 4301.58) Penalty, see § 92.99

§ 92.06 ILLEGAL TRANSPORTATION PROHIBITED.

No person, who is not the holder of an H permit shall transport beer, intoxicating liquor, or alcohol in this state. This section does not apply to the transportation and delivery of beer, alcohol, or intoxicating liquor purchased or to be purchased from the holder of a permit issued by the department of liquor control, in force at the time, and authorizing the sale and delivery of the beer, alcohol, or intoxicating liquor so transported, or to the transportation and delivery of beer, intoxicating liquor, or alcohol purchased from the department or the tax commissioner, or purchased by the holder of an A or B permit outside this state, and transported within this state by them in their own trucks for the purpose of sale under their permits. (R.C. § 4301.60) Penalty, see § 92.99

§ 92.07 OPEN CONTAINER PROHIBITED.

(A) As used in this section, "STREET," "HIGHWAY," and "MOTOR VEHICLE" have the same meanings as in R.C. § 4511.01.

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

(1) In a state liquor store;

(2) On the premises of the holder of any permit issued by the department of liquor control;

(3) In any other public place;

(4) While operating or being a passenger in or on a motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking;

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

(C) This section does not apply to beer or intoxicating liquor which has been lawfully purchased for consumption on the premises where bought of a holder of an A-1-A, A-2, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-7, E, F, or F-2 permit or to beer or intoxicating liquor consumed on the premises of a convention facility as provided in R.C. § 4303.201.
(R.C. § 4301.62) Penalty, see § 92.99

§ 92.08 UNDERAGE PERSON SHALL NOT PURCHASE INTOXICATING LIQUOR OR BEER.

Except as otherwise provided in this chapter or in R.C. Ch. 4301, no person under the age of 21 years shall purchase beer or intoxicating liquor. (R.C. § 4301.63) Penalty, see § 92.99

§ 92.09 (RESERVED).

§ 92.10 PROHIBITIONS; MINORS UNDER 21 YEARS.

Except as otherwise provided in this chapter or in R.C. Ch. 4301, no person under the age of 21 years shall order, pay for, share the cost of, or attempt to purchase any beer or intoxicating liquor, or consume any beer or intoxicating liquor, either from a sealed or unsealed container, or by the glass or by the drink, or possess any beer or intoxicating liquor in any public or private place. (R.C. § 4301.632) Penalty, see § 92.99.

§ 92.11 MISREPRESENTATION TO OBTAIN ALCOHOLIC BEVERAGE FOR A MINOR PROHIBITED.

Except as otherwise provided in this chapter or in R.C. Ch. 4301, no person shall knowingly furnish any false information as to the name, age, or other identification of any person under 21 years of age, for the purpose of obtaining, or with the intent to obtain, beer or intoxicating liquor for a person under 21 years of age, by purchase, or as a gift. (R.C. § 4301.633) Penalty, see § 92.99

§ 92.12 MISREPRESENTATION BY A MINOR UNDER 21 YEARS.

Except as otherwise provided in this chapter or in R.C. Ch. 4301, no person under the age of 21 years shall knowingly show or give false, information concerning his name, age, or other identification for the purpose of purchasing or otherwise obtaining beer or intoxicating liquor in any place in this state where beer or intoxicating liquor is sold under a permit issued by the department of liquor control, or sold by the department of liquor control. (R.C. § 4301.634) Penalty, see § 92.99

§ 92.13 (RESERVED).

§ 92.14 POSTING OF CARD.

(A) Except as otherwise provided in R.C. § 4301.691, every place in this municipality where beer or intoxicating liquor is sold for beverage purposes, either under a permit issued by the department of liquor control, or by the department of liquor control, shall display at all times, in a prominent place on the premises thereof, a printed card, which shall be furnished by the department of liquor control and which shall read substantially as follows:

"WARNING TO PERSONS UNDER AGE

If you are under the age of 21

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

(B) No person shall be subject to any criminal prosecution or any proceedings before the department or the liquor control commission for failing to display this card. No permit issued by the department shall be suspended, revoked, or canceled because of the failure of the permit holder to display this card.

(C) Every place in this municipality for which a D permit has been issued under R.C. Ch. 4303 shall be issued a printed card by the department of liquor control that shall read substantially as follows:

"WARNING

If you are carrying a firearm

Under the statutes of Ohio, if you possess a firearm in any room in which liquor is being dispensed in premises for which a D permit has been issued under Chapter 4303 of the Revised Code, you may be guilty of a felony and are subject to a term of actual incarceration of one or two years."

(D) No person shall be subject to any criminal prosecution or any proceedings before the department of liquor control or the liquor control commission for failing to display this card. No permit issued by the department shall be suspended, revoked, or canceled because of the failure of the permit holder to display this card.
(R.C. § 4301.637)

§ 92.15 GOOD FAITH ACCEPTANCES OF SPURIOUS IDENTIFICATION.

No permit holder, his agent, or employee may be found guilty of a violation of any section of this chapter in which age is any element of the offense, if any court of record finds all of the following:

(A) That the person buying, at the time of so doing, exhibited to the permit holder, his agent, or employee a driver's or commercial driver's license or an identification card issued under R.C. §§ 4507.50 through 4507.52 showing that such person was then of legal age to buy beer or intoxicating liquor;

(B) That the permit holder, his agent, or employee made a bona fide effort to ascertain:

(1) The true age of the person buying by checking the identification presented at the time of the purchase;

(2) That the description on the identification compared with the appearance of the buyer; and

(3) That the identification presented had not been altered in any way.

(C) That the permit holder, his agent, or employee had reason to believe that the person buying was of legal age. (R.C. § 4301.639)

§ 92.16 PROHIBITION AGAINST CONSUMPTION IN MOTOR VEHICLE.

No person shall consume any beer or intoxicating liquor in a motor vehicle. (R.C. § 4301.64) Penalty, see § 92.99

§ 92.17 (RESERVED)

§ 92.18 OBSTRUCTING SEARCH OF PREMISES PROHIBITED.

No person shall hinder or obstruct any agent or employee of the department of liquor control, or any officer of the law, from making an inspection or search of any place, other than a bona fide private residence, where beer or intoxicating liquor is possessed, kept, sold, or given away. (R.C. § 4301.66) Penalty, see § 92.99

§ 92.19 ILLEGAL POSSESSION OF INTOXICATING LIQUOR PROHIBITED.

No person shall have in his possession any spirituous liquor, in excess of one quart, in one or more containers, which was not purchased at wholesale or retail from the department of liquor control or otherwise lawfully acquired pursuant to this chapter, R.C. §§ 4301 et seq. and 4303 et seq., or any other intoxicating liquor or beer, in one or more containers, which was not lawfully acquired pursuant to those chapters. (R.C. § 4301.67) Penalty, see § 92.99

§ 92.20 PROHIBITION AGAINST SALE OR POSSESSION OF DILUTED LIQUOR AND REFILLED CONTAINERS.

No person shall sell, offer for sale, or possess intoxicating liquor in any original container, which has been diluted, refilled, or partly refilled. (R.C. § 4301.68) Penalty, see § 92.99

§ 92.21 SALE TO UNDERAGE PERSONS PROHIBITED.

(A) Except as otherwise provided in this chapter or in R.C. Ch. 4301, no person shall sell beer or intoxicating liquor to an underage person or buy beer or intoxicating liquor for, or furnish it to, an underage person unless given by a physician in the regular line of his practice or given for established religious purposes, or unless the underage person is accompanied by a parent, spouse, or legal guardian. In proceedings before the liquor control commission, no permit holder,

his employee or agent charged with a violation of this division shall, for the same offense, be charged with a violation of § 92.04(A) or R.C. § 4301.22(A).

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

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

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

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

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

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

(E) No underage person shall knowingly possess or consume any beer or intoxicating liquor, in any public or private place, unless he is accompanied by a parent, spouse, who is not an underage person, or

legal guardian, or unless the beer or intoxicating liquor is given by a physician in the regular line of his practice or given for established religious purposes.

(F) No parent, spouse, who is not an underage person, or legal guardian of a minor shall knowingly permit the minor to violate this section or R.C. §§ 4301.63, 4301.632, 4301.633, or 4301.634.

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

(H) As used in this section:

(1) "DRUG OF ABUSE" has the same meaning as in R.C. § 3719.011.

(2) "HOTEL" has the same meaning as in R.C. § 3731.01.

(3) "MINOR" means a person under the age of 18 years.

(4) "PRACTITIONER" and "PRESCRIPTION" have the same meanings as in R.C. § 3719.01.

(5) "UNDERAGE PERSON" means a person under the age of 21 years.
(R.C. § 4301.69)

(I) Sections 92.10 through 92.14, and R.C. §§ 4301.632 through 4301.637 shall not be deemed to modify or affect divisions (A) and (B) above or R.C. § 4301.69. (R.C. § 4301.638)
Penalty, see § 92.99

§ 92.22 KEEPING PLACE WHERE BEER OR INTOXICATING LIQUORS ARE SOLD IN VIOLATION OF LAW.

(A) No person shall keep a place where beer or intoxicating liquors are sold, furnished, or given away in violation of law. The court, on conviction for a subsequent offense, shall order the place where the beer or intoxicating liquor is sold, furnished, or given away to be abated as a nuisance, or shall order the person convicted for the offense to give bond payable to the state in the sum of $1,000, with sureties to the acceptance of the court, that the person will not sell, furnish, or give away beer or intoxicating liquor in violation of law, and will pay all fines, costs, and damages assessed against him for a violation. The giving away of beer or intoxicating liquors, or other device to evade this section, constitutes unlawful selling.

(B) As used in this section, "BEER" has the meaning set forth in § 92.01. (R.C. § 4399.09) Penalty, see § 92.99

§ 92.23 INTOXICATING LIQUORS SHALL NOT BE SOLD IN BROTHELS.

No person shall sell, exchange, or give away intoxicating liquor in a brothel. (R.C. § 4399.10) Penalty, see § 92.99

§ 92.24 USE OF INTOXICATING LIQUOR IN A PUBLIC DANCE HALL PROHIBITED; EXCEPTIONS.

No person who is the proprietor of any public dance hall, or who conducts, manages, or is in charge of any public dance hall, shall allow the use of any intoxicating liquor or the presence of intoxicated persons in the dance hall or on the premises on which such dance hall is located; but the prohibition against the use of any intoxicating liquor does not apply to establishments that are holders of a D-1, D-2, D-3, D-4, or D-5 permit whose principal business consists of conducting a hotel, a restaurant, a club, or a nightclub, as defined by § 92.01. No person who is the proprietor of any public dance hall, or who conducts, manages, or is in charge thereof, shall permit the presence at such public dance hall of any child younger than 18 years of age, not accompanied by his father, mother, or legal guardian. (R.C. § 4399.14) Penalty, see § 92.99

§ 92.25 POISONOUSLY ADULTERATED LIQUORS.

(A) No person, for the purpose of sale, shall adulterate spirituous, alcoholic, or malt liquor used or intended for drink or medicinal or mechanical purposes, with cocculus indicus, vitriol, grains of paradise, opium, alum, capsicum, copperas, laurel water, logwood, Brazilwood, cochineal, sugar of lead, aloes, glucose, tannic acid, or any other substance which is poisonous or injurious to health, or with a substance not a necessary ingredient in the manufacture thereof, or sell, offer, or keep for sale liquors so adulterated.

(B) In addition to the penalties provided in § 92.99 (I), a person convicted of violating this section shall pay all necessary costs and expenses incurred in inspecting and analyzing liquors so adulterated, sold, kept, or offered for sale. (R.C. § 4399.15) Penalty, see § 92.99

§ 92.26 TAVERN KEEPER PERMITTING RIOTING OR DRUNKENNESS.

No tavern keeper shall permit rioting, reveling, intoxication, or drunkenness in his house or on his premises. (R.C. § 4399.16) Penalty, see § 92.99

§ 92.27 (RESERVED).

§ 92.28 PLACE WHERE BEER OR INTOXICATING LIQUOR IS SOLD DECLARED A NUISANCE.

(A) Any room, house, building, boat, vehicle, structure, or place where beer or intoxicating liquor is manufactured, sold, bartered,

possessed, or kept in violation of law, and all property kept and used in maintaining the same, and all property designed for the unlawful manufacture of beer or intoxicating liquor, and beer or intoxicating liquor contained in the room, house, building, boat, structure, or place is a common nuisance.

(B) An action to enjoin the nuisance may be brought in the name of the city by any police officer of the city.

(C) The action shall be brought and tried as an action in equity and may be brought in any court having jurisdiction to hear and determine equity cases. If it appears, by affidavits or otherwise, to the satisfaction of the court, or judge in vacation, that a nuisance exists, a temporary writ of injunction shall issue restraining the defendant from conducting or permitting the continuance of the nuisance until the conclusion of the trial. If a temporary injunction is prayed for, the court may issue an order restraining the defendant and all other persons from removing or in any way interfering with the beer or intoxicating liquor, property designed for the manufacture of beer or intoxicating liquors, fixtures, or other things, used in connection with the violation of this section, constituting the nuisance.

(D) No bond shall be required in instituting such proceedings. The court need not find that the property involved was being unlawfully used at the time of the hearing, but on finding that the material allegations of the petition are true, the court shall order that no beer or intoxicating liquors shall be manufactured, sold, bartered, possessed, kept, or stored in the room, house, building, structure, place, boat, or vehicle, or any part thereof.

(E) Upon judgment of the court ordering the nuisance abated, the court may order that the room, house, building, structure, place, boat, or vehicle shall not be occupied or used for one year thereafter; but the court may permit it to be occupied or used if its owner, lessee, tenant, or occupant gives a bond with sufficient surety, to be approved by the court making the order, in the sum of not less than $1,000 nor more than $5,000, payable to the city, and conditioned that beer or intoxicating liquor will not thereafter be manufactured, sold, bartered, possessed, kept, stored, transported, or otherwise disposed of therein in violation of law, and that he will pay all fines, costs, and damages that may be assessed for any violation. For closing the premises and keeping them closed, a reasonable sum shall be allowed the officer by the court.
(R.C. § 4301.73)

§ 92.29 PROCEDURE WHEN INJUNCTION VIOLATED.

Any person subject to an injunction, temporary or permanent, granted pursuant to § 92.28, shall obey the injunction. If the person violates the injunction, the court, or in vacation a judge thereof, may summarily try and punish the violator. The proceedings for punishment for contempt shall be commenced by filing with the clerk of the court from which the injunction issued, information under oath setting out

the alleged facts constituting the violation, whereupon the court shall cause a warrant to issue under which the defendant shall be arrested. The trial may be had upon affidavits, or either party may demand the production and oral examination of the witnesses. (R.C. § 4301.74) Penalty, see § 92.99

§ 92.99 PENALTY.

(A) Whoever violates §§ 92.02(A), (B) or (C), 92.03, 92.04 (E) through (H), or 92.07, is guilty of a minor misdemeanor. (R.C. § 4301.99 (A)) (R.C. § 4301.70)

(B) Whoever violates §§ 92.0 4 (D), 92.16, or 92.19 is guilty of a misdemeanor of the fourth degree. (R.C. § 4301.99(B))

(C) Whoever violates §§ 92.02(D), 92.05, 92.06, 92.10, 92.11, 92.18, 92.20, 92.21, or 92.29 is guilty of a misdemeanor of the first degree. (R.C. § 4301.99 (C))

(D) Whoever violates § 92.04(A), (B), or (C) is guilty of a misdemeanor of the third degree. (R.C. § 4301.99 (E))

(E) Whoever violates § 92.26 shall be fined not less than $5 nor more than $100. (R.C. § 4399.99 (A))

(F) Whoever violates § 92.22 shall be fined not less than $100 nor more than $500; for each subsequent offense the person shall be fined not less than $200 nor more than $500. (R.C. § 4399.99 (C))

(G) Whoever violates § 92.23 shall be fined not less than $100 nor more than $ 500 and imprisoned not less than one nor more than 6 months. (R.C. § 4399.99 (D))

(H) Whoever violates § 92.24 shall be fined not less than $25 nor more than $500 or imprisoned not more than 6 months, or both. (R.C. § 4399.99 (E))

(I) Whoever violates § 92.25 shall be fined not less than $20 nor more than $100 or imprisoned not less than 20 nor more than 60 days, or both. (R.C. § 4399.99 (F))

(J) Whoever violates § 92.08 shall be fined not less than $25 nor more than $100. The court imposing a fine for a violation of § 92.08 or R.C. § 4301.63 may order that the fine be paid by the performance of public work at a reasonable hour rate established by the court. The court shall designate the time within which the public work shall be completed. (R.C. § 4301.99 (F))

(K) (1) Whoever violates § 92.12 is guilty of a misdemeanor of the first degree. If, in committing a first violation of § 92.12, the offender presented to the permit holder or his employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or

a driver's license issued by any state which has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than $250 and not more than $1,000, and may be sentenced to a term of imprisonment of not more than 6 months.

(2) On a second violation in which, for the second time, the offender presented to the permit holder or his employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state which has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than $500 nor more than $1,000, and may be sentenced to a term of imprisonment of not more than 6 months. The court also may suspend the offender's driver's or commercial driver's license or permit or nonresident operation privilege or deny the offender the opportunity to be issued a driver's or commercial driver's license for a period not exceeding 60 days.

(3) On a third or subsequent violation in which, for the third or subsequent time, the offender presented to the permit holder or his employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state which has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than $500 nor more than $1,000, and may be sentenced to a term of imprisonment of not more than 6 months. The court also shall suspend the offender's driver's or commercial driver's license or permit or nonresident operating privilege or deny the offender the opportunity to be issued a driver's or commercial driver's license for a period of 90 days, and the court may order that the suspension or denial remain in effect until the offender attains the age of 21 years. The court also may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform.
(R.C. § 4301.99(G))

CHAPTER 93: NUISANCES

Section

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§ 93.01 APPLICATION OF THE CHAPTER.

The provisions of this chapter shall be enforceable within this municipality concurrently with the state and federal laws relative to sanitation and health and the ordinances or orders of the local

health district relative thereto, and shall not be construed as modifying, repealing, limiting, or affecting in any manner such laws, ordinances, or orders.

UNCLEAN HABITATIONS

§ 93.10 PERMITTING UNCLEAN HABITATIONS.

It shall be unlawful for any person to lease, let, permit the occupancy of, permit the continuation of the occupancy of, or continue the occupancy of a structure or building or any portion thereof used for human habitation, unless such structure or building or portion thereof is free from unclean and unsanitary conditions as defined in § 93.11 and unless the provisions of the subsequent sections are complied with. Penalty, see § 93.99

Statutory reference:
Duties of the landlord, R.C. § 5321.04
Duties of the tenant, R.C. § 5321.05
Power of municipality to regulate buildings used for human occupancy, R.C. § 715.29

§ 93.11 WHEN HABITATIONS ARE DEEMED UNSANITARY.

A structure, building, or any portion thereof used for human habitation shall be deemed to be in unclean and unsanitary condition when any of the following conditions exist:

(A) Infection with communicable disease;

(B) Absence of the toilet facilities required by law or ordinance;

(C) Presence of sewer gas;

(D) Dampness or wetness due to lack of repair;

(E) Accumulation of dirt, filth, litter, refuse, or other offensive or dangerous substances likely to cause sickness among the occupants;

(F) Defective or improperly used drainage, plumbing, or ventilation facilities likely to cause sickness.

§ 93.12 ORDER FOR ABATEMENT OR VACATION OF PREMISES.

(A) If the local board of health ascertains from examination or reports of its inspectors or sanitary officers or otherwise determines that a public nuisance as defined in § 93.11, exists in or upon any structure or building, or portion thereof, and has notified the owner, occupant, or person in charge of the premises

to abate the nuisance or vacate the premises, it shall be unlawful to occupy or permit the occupancy of the premises or portion thereof until the nuisance has been completely abated and building or portion thereof has been rendered clean and sanitary in accordance with the terms of the notices of the board of health.

§ 93.13 ENFORCEMENT OF VACATION ORDER BY MARSHAL.

When the notice or order of vacation has not been complied with, and the board of health certifies such fact to the marshal or police chief of the municipality, together with a copy of the order of notice, it shall be the duty of the marshal or police chief to enforce such notice or order of vacation and to cause the premises to be vacated in accordance with the terms of the notice or order.

§ 93.14 ENFORCEMENT THROUGH COURT PROCEEDINGS.

Whenever the board of health certifies to the solicitor any failure to comply with any order or notice of vacation, with the request that civil proceedings for the enforcement thereof be instituted, the solicitor shall institute any and all proceedings, either legal or equitable, that may be appropriate or necessary for the enforcement of the order or notice and the abatement of the nuisance against which the order or notice was directed. These suits or proceedings shall be brought in the name of the municipality. Proceedings under this section shall not relieve any party defendant from criminal prosecution or punishment under this code or any other criminal law or ordinance in force within the municipality.

PRIVY VAULTS, CESSPOOLS, REFUSE

§ 93.20 LOCATION OF PRIVY VAULTS, CESSPOOLS, AND SEPTIC TANKS.

No owner, occupant, or person in charge of any premises so situated as to permit connection with any sanitary sewer shall maintain or permit to be maintained on or in connection with such premises any privy vault, cesspool, septic tank, or other repository for human excreta. Penalty, see § 93.99

Statutory reference:
Power of municipality to regulate water closets and privies, R.C. § 715.40
Power of municipality to regulate refuse disposal, R.C. § 715.43

§ 93.21 UNSANITARY VAULTS.

It shall be unlawful for any person being the owner, lessor, occupant, or person in charge of any premises upon which a privy vault, cesspool, or septic tank is located to permit such

vault, pool, or tank, or any building, fixture, or device appurtenant thereto, to become foul, noisome, filthy, or offensive to neighboring property owners. Penalty, see § 93.99

§ 93.22 REMOVAL OF CONTENTS OF VAULT.

Whenever any part of the waste in any privy vault or cesspool extends to a point less than 3 feet below the surface of the ground adjacent thereto, or whenever use of any such vault or cesspool is abandoned or where such use or maintenance is prohibited by ordinance or health order, the owner, lessor, occupant or person in charge of such premises shall cause the vault or cesspool to be emptied of its contents, thoroughly cleaned, and disinfected, and if abandoned, to be filled with clean earth or mineral matter to the level of the adjacent ground. Penalty, see § 93.99

§ 93.23 DEPOSIT OF DEAD ANIMALS, OFFAL UPON LAND OR WATER.

No person shall put the carcass of a dead animal or the offal from a slaughter house, butcher's establishment, packing house or fish house, or spoiled meat, spoiled fish, or other putrid substance or the contents of a privy vault, upon or into a lake, river, bay, creek, pond, canal, road, street, alley, lot, meadow, public ground, market place, or common. No owner or occupant of such place, shall knowingly permit such thing to remain therein to the annoyance of any citizen or neglect to remove or abate the nuisance occasioned thereby within 24 hours after knowledge of the existence thereof, or after notice thereof in writing from the street commissioner. (R.C. § 3767.16) Penalty, see § 93.99

§ 93.24 PROHIBITION AGAINST DEFILING SPRING OR WELL.

No person shall maliciously put a dead animal, carcass, or part thereof, or other putrid, nauseous, or offensive substance into, or befoul, a well, spring, brook, or branch of running water, or a reservoir of a waterworks, of which use is or may be made for domestic purposes. (R.C. § 3767.18) Penalty, see § 93.99

§ 93.25 DUMPING OF REFUSE IN VILLAGE FORBIDDEN.

It shall be unlawful for any person to dump, cause to be dumped or permit to be dumped on any publicly or privately owned land or water in the village, any paper, brush, rubbish, tin cans, vegetation, garbage, or refuse of any kind, without first having obtained a written license from the mayor or other proper administrative officer so to do. The mayor or other proper administrative officer shall issue a license permitting dumping of designated materials where it appears that filling of the land is necessary and that the material deposited will be immediately

covered with earth or will not be objectionable to the citizens of the neighborhood, or injurious to health. Penalty, see § 93.99

§ 93.26 DRAINING SLOPS.

It shall be unlawful for any person or persons to drain, cause to be drained, or allow to drain from any property occupied by him any kitchen slops or other greasy or impure matter in the open gutters or waterways in the municipality, unless the drainage has been drained into a vault and filtered through a lesser vault filled with sand and fine gravel, built under the inspection of the local board of health. Penalty, see § 93.99

§ 93.27 DISCARDING LITTER PROHIBITED.

(A) As used in this section, "LITTER" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, or anything else of an unsightly or unsanitary nature thrown, dropped, discarded, placed, or deposited by a person on pubic property, on private property not owned by him, or in or on waters of the state, unless the person has:

(1) Been directed to do so by a public official as part of a litter collection drive;

(2) Thrown, dropped, discarded, placed, or deposited the material in a receptacle in a manner that prevented its being carried away by the elements; or

(3) Been issued a permit or license covering the material pursuant to R.C. Chapters 3734 or 6111.

(B) No person shall, regardless of intent, throw, drop, discard, place, or deposit litter or cause litter to be thrown, dropped, discarded, placed, or deposited on any public property, on private property not owned by him, or in or on waters of the state, unless the person has:

(1) Been directed to do so by a public official as a part of a litter collection drive;

(2) Thrown, dropped, discarded, placed, or deposited the litter in a litter receptacle in a manner that prevents its being carried away by the elements; or

(3) Been issued a permit or license covering the litter pursuant to R.C. Chapters 3734 or 6111.

(C) This section may be enforced by any sheriff, deputy sheriff, police officer of a municipal corporation, police constable or officer of a township or township police district, game protector, park officer, forest officer, preserve officer, conservancy district police officer, inspector of nuisances of a county, or any other law

enforcement officer within his jurisdiction. (R.C. § 3767.32) Penalty, see § 93.99

§ 93.28 POWER OF THE CITY TO FILL OR DRAIN LAND.

(A) The municipality may fill or drain any lot or land within its limits on which water at any time becomes stagnant, remove all putrid substances from any lot, and remove all obstructions from culverts, covered drains, or private property, laid in any natural watercourse, creek, brook, or branch, which obstruct the water naturally flowing therein, causing it to flow back or become stagnant, in a way prejudicial to the health, comfort, or convenience of any of the citizens of the neighborhood.

(B) Council may, by resolution, direct the owner to fill or drain such lot, remove such putrid substance or other obstructions, and if necessary, enlarge such culverts or covered drains to meet the requirements thereof.

(C) After service of a copy of such resolution, or after a publication thereof, in a newspaper of general circulation in such municipal corporation, for 2 consecutive weeks, the owner, or his agent or attorney, shall comply with the directions of the resolution within the time therein specified.

(D) In case of the failure or refusal of such owner to comply with the resolution, the work required thereby may be done at the expense of the municipality, and the amount of money so expended shall be recovered from the owner before any court of competent jurisdiction. This expense from the time of the adoption of the resolution shall be a lien on such lot, which may be enforced by suit in the court of common pleas, and like proceedings may be had as directed in relation to the improvement of streets.

(E) The officers connected with the health department of the municipality shall see that this section is strictly and promptly enforced. (R.C. § 715.47)

WEEDS AND LITTER ON PRIVATE PROPERTY

§ 93.40 KEEPING DOWN WEEDS.

(A) Any person owning or having charge of land within the municipality, shall keep said property free and clear from all noxious weeds and rank vegetation and shall be required to cut all such weeds and vegetation on the lots owned or controlled by him at least twice in every year, once between June 1 and July 1 and once between August 1 and September 1.

(B) Noxious weeds and rank vegetation shall include but not be limited to:

(1) Any weeds such as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of a like kind;

(2) Bushes of the species of tall, common, or European barberry, further known as berberis vulgaris or its horticultural varieties;

(3) Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants growing to a height exceeding 12 inches.

§ 93.41 NOTICE TO OWNER TO CUT NOXIOUS WEEDS, REMOVE LITTER; SERVICE.

(A) Upon written information that noxious weeds are growing on lands in the municipality and are about to spread or mature seeds, the council shall cause written notice to be served on the owner, lessee, agent, or tenant having charge of such land, notifying him that noxious weeds are growing on such lands and that they must be cut and destroyed within 5 days after service of such notice.

(B) Upon a finding by the council that litter has been placed on lands in a municipality, and has not been removed, and constitutes a detriment to public health, the council shall cause a written notice to be served upon the owner and, if different, upon the lessee, agent, or tenant having charge of the littered land, notifying him that litter is on the land, and that it must be collected and removed within 15 days after the service of the notice.

(C) As used in this section and § 93.43 "LITTER" includes any garbage, waste, peelings of vegetables or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of automobiles, wagons, furniture, glass, oil of an unsightly or unsanitary nature, or anything else of an unsightly or unsanitary nature.

(D) If the owner or other person having charge of the land is a nonresident of the municipal corporation whose address is known, the notice shall be sent to his address by certified mail. If the address of the owner or other person having charge of the land is unknown it is sufficient to publish the notice once in a newspaper of general circulation in the county.

(E) This section does not apply to land being used under a municipal building or construction permit or license, a municipal permit or license, or a conditional zoning permit or variance to operate a junkyard, scrap metal processing facility, or similar business, or a permit or license issued pursuant to R.C. Ch.3734., §§ 4737.05 to 4737.12, or R.C.Ch. 6111. (R.C. § 731.51)

§ 93.42 FEES FOR SERVICE AND RETURN.

The marshal, any police officer, or clerk of council may make service and return of the notice provided for in § 93.41 and shall be allowed the same fees as that provided for service and return of summons in civil cases before a magistrate. (R.C. § 731.52)

§ 93.43 PROCEDURE WHEN OWNER FAILS TO COMPLY WITH NOTICE.

If the owner, lessee, agent, or tenant having charge of the lands mentioned in § 93.41 fails to comply with the notice required by such section, the council shall cause such noxious weeds to be cut and destroyed or such litter removed and may employ the necessary labor to perform the task. All expenses incurred shall, when approved by the council, be paid out of the money in the treasury of the municipality not otherwise appropriated. (R.C. § 731.53)

§ 93.44 WRITTEN RETURN TO COUNTY AUDITOR; AMOUNT, A LIEN UPON PROPERTY.

The council shall make a written return to the county auditor of their action under §§ 93.41, 93.42, and 93.43, with a statement of the charges for their services, the amount paid for labor, the fees of the officers serving the notices, and a proper description of the premises. These amounts, when allowed, shall be entered upon the tax duplicate and be a lien upon such lands from and after the date of entry and be collected as other taxes and returned to the municipality with the general fund. (R.C. § 731.54)

MISCELLANEOUS

§ 93.50 TRIMMING OF TREES AND SHRUBBERY TO PREVENT OBSTRUCTION.

(A) It shall be unlawful for any person to plant, grow, or maintain any shade tree or trees or shrubbery which will obstruct the proper distribution of light from street lamps or which will obstruct the view of traffic approaching an intersection by operators of vehicles approaching said intersection from another direction.

(B) All trees shall be trimmed so as to have a clear height of 10 feet above the surface of sidewalks and 12 feet above the surface of the street or roadway, and the branches of all trees in front of and along lots or lands near which street lights are placed shall be trimmed so as not to obstruct the free passage of light from said street lights to the street and sidewalk.

(C) The council shall cause a written notice to be given to property owners ordering them to trim or remove trees and/or shrubbery so that the trees and shrubbery shall conform to the provisions of divisions (A) and (B).

(D) If the property owner fails to trim or remove the trees and/or shrubbery as ordered, the council may cause the trees or shrubbery to be trimmed or removed as ordered, and the cost thereof shall be a lien upon such real estate. Penalty, see § 93.99

Statutory reference:
Power of municipality to regulate shade trees, R.C. § 715.20

§ 93.51 KEEPING OF ANIMALS.

(A) No person shall keep any pig, horse, cow, goat, 3 or more dogs at least 3 months of age, or any other animal or animals or any fowl or poultry in any pen, yard, lot, or other enclosure situated within 100 feet of an inhabited dwelling house, other than the house of the owner of such animal or animals, fowl, or poultry.

(B) The owner or keeper of any such animal or animals, fowl or poultry shall keep the pen, yard, lot or other enclosure in a sanitary condition and free from preventable offensive odors. Penalty, see § 93.99

Cross-reference:
Animals, Chapter 90

§ 93.52 BURNING WASTE OR LEAVES.

No person shall burn any leaves, trash, debris, or any other waste material within the village. Penalty, see § 93.99

§ 93.99 PENALTY.

(A) Whoever violates any provision of this chapter, for which another penalty is not already provided, shall be guilty of a minor misdemeanor.

(B) Whoever violates any provision of § 93.27 shall be guilty of a misdemeanor of the third degree. The sentencing court may, in addition to or in lieu of the penalty provided in this division, require a person who violates §93.27 to remove litter from any public or private property or in or on waters of the state. (R.C. §3767.99)

CHAPTER 94: SANITATION AND HEALTH

Section

94.01 Application of the chapter

Food and Food Handlers

94.10 Definitions
94.11 Permitting unclean premises
94.12 Equipment
94.13 Cleanliness of persons employed
94.14 Health of persons employed
94.15 Unsanitary food

Communicable Diseases

94.20 Attending schools and other public places when infected

94.99 Penalty

§ 94.01 APPLICATION OF THE CHAPTER.

The provisions of this chapter shall be enforceable within this municipality concurrently with the state and federal laws relative to sanitation and health and to the sale of pure foods and drugs, and the ordinances or orders of the local health district, and shall not be construed as modifying, repealing, limiting or affecting in any manner such laws, ordinances or orders.

FOOD AND FOOD HANDLERS

§ 94.10 DEFINITIONS

For purposes of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

(A) "FOOD." Breads, meats, fruits, grains vegetables, milk, juices, and all other foodstuffs, food products or food ingredients in the natural or processed state. The expression shall be deemed to include all canned, bottled, dehydrated or otherwise preserved foods.

(B) "FOOD HANDLER." Wholesale or retail grocers, bakers, butchers, restaurant or lunch stand operators, dairymen, hucksters, fruit stand operators, canners, or packers of foodstuffs, cold storage house operators, or other persons commercially engaged in processing, handling, transporting, storing, or selling food.

§ 94.11 PERMITTING UNCLEAN PREMISES.

It shall be unlawful for any food handler to keep or possess food except when in original cans, packages or containers, in any room, building, establishment or other place, unless such place:

(A) Is adequately lighted to reveal any dirt or unwholesome condition which might exist.

(B) Has smooth, tight floors, walls and ceilings, free from projections, cracks and crevices and kept clean and sanitary at all times by painting, scrubbing and cleaning to prevent the accumulation of dirt and filth.

(C) Is adequately ventilated and screened against flies and other insects.

(D) Is free from all vermin and rodents.

(E) Is provided with an ample supply of pure and uncontaminated running water with sanitary drainage into a cesspool or sewer. Penalty, see § 94.99

§ 94.12 EQUIPMENT.

Every food handler's establishment shall be equipped with an adequate supply of furniture, machinery, implements, containers, and utensils for the proper conduct of such business, and it shall be unlawful for any food handler to have in possession or use in connection with such business any furniture, machine, implement, container, utensil, or other article of equipment which is not thoroughly clean, sanitary, and free from rust or corrosion. Penalty, see § 94.99

§ 94.13 CLEANLINESS OF PERSONS EMPLOYED.

Every food handler or employee thereof who is engaged in handling food, except when such food is in original cans, packages or containers, shall keep his person, aprons, services, caps and other articles of clothing throughly clean and free from dirt and filth. Failure to observe the provisions of this section shall constitute a misdemeanor and the employer of any person violating the same shall be deemed an aider and abettor and may be prosecuted as if he were the principal offender. Penalty, see § 94.99

§ 94.14 HEALTH OF PERSONS EMPLOYED.

It shall be unlawful for any person suffering from cholera, dysentery, epidemic or streptoccus sore throat, paratyphoid fever, poliomyelitis (acute anterior), scarlet fever, tuberculosis, typhoid fever, or who is a carrier of the organism of any such disease, or who is suffering from any veneral disease, to serve or handle food, except when such food is in original cans or containers. The employer of any person violating this section shall be deemed an aider and abettor and may be prosecuted as if he were the principal offender. Penalty, see § 94.99

§ 94.15 UNSANITARY FOOD.

(A) It shall be unlawful for any food handler to prepare, manufacture, possess, sell, or expose or offer for sale any food which is impure, moldy, tainted, rancid, unwholesome, or otherwise unsanitary or which is adulterated or misbranded.

(B) The regulations of the public health council governing food service operations and providing uniform sanitation standards are adopted and declared to be the standards of purity intended and required by this chapter. Penalty, see § 94.99

COMMUNICABLE DISEASES

§ 94.20 ATTENDING SCHOOLS AND OTHER PUBLIC PLACES WHEN INFECTED.

It shall be unlawful for any person infected with or exposed to infection of influenza, infantile paralysis, cerebrospinal meningitis, measles, chicken pox, smallpox, whooping cough, cholera, scarlet fever, diphtheria, or other communicable disease, to attend any public, parochial or private school, theater or other public gathering. The parents, guardian or other person having custody or control of any child under 18 years of age, violating this section, shall be deemed aiders and abettors and may be prosecuted as if they were principal offenders. Penalty, see § 94.99

Statutory reference:

Power of municipality to secure its inhabitants from contagious diseases, R.C. § 715.37

§ 94.99 PENALTY.

Whoever violates any provision of this chapter, for which another penalty is not already provided, shall be fined not more than $100.

CHAPTER 95: STREETS AND SIDEWALKS

Section

95.01 Conditions precedent to improving streets
95.02 Opening permit required
95.03 Application and cash deposit
95.04 Restoration of pavement
95.05 Barriers around excavations
95.06 Warning lights
95.07 Sidewalk construction
95.08 Unloading on street, sidewalk
95.09 Street and sidewalk obstruction
95.10 Materials on street or sidewalk
95.11 Removal of ice and snow
95.12 Ramped curbing for handicapped
95.13 Flagpole along right-of-way

95.99 Penalty

§ 95.01 CONDITIONS PRECEDENT TO IMPROVING STREETS.

No department of this municipality shall accept, lay out, open, improve, grade, pave, curb or light any street or other way, unless the street or way has been accepted or opened or otherwise has received the legal status of a public street or way prior to the effective date of this code; or unless the street or way corresponds in location and extent with a street or way shown on a recorded plat which has been legally accepted by council.

Statutory reference:
Power of the municipality over streets and sidewalks, R.C. §§ 715.19, 717.01 (P), 723.01, 723.011, 723.02, 729.01

§ 95.02 OPENING PERMIT REQUIRED.

It shall be unlawful for any person, other than the street commissioner, engineer, or the authorized employees or agents of either, to make any opening in any street, alley, sidewalk, or public way of the municipality unless a permit to make the opening has been obtained prior to commencement of the work. Penalty, see § 95.99

§ 95.03 APPLICATION AND CASH DEPOSIT.

Each permit for making an opening shall be confined to a single project and shall be issued by the mayor or other proper administrative officer. Application shall be made on a form prescribed by council, giving the exact location of the proposed opening, the kind of paving, the area and depth to be excavated, and such other facts as may be provided for. The permit shall be issued only after a cash deposit sufficient to cover the cost of restoration has been posted with the mayor or other proper administrative

officer, conditioned upon prompt and satisfactory refilling of excavations and restoration of all surfaces disturbed.

§ 95.04 RESTORATION OF PAVEMENT.

(A) The opening and restoration of a pavement of other surface shall be performed under the direction and to the satisfaction of the street commissioner, and in accordance with rules, regulations, and specifications approved by council.

(B) Upon failure or refusal of the permittee satisfactorily to fill the excavation, restore the surface, and remove all excess materials within the time specified in the permit or where not specified therein, within a reasonable time after commencement of the work, the municipality may proceed without notice to make such fill and restoration and the deposit referred to in § 95.03 shall be deemed forfeited. Thereupon the deposit shall be paid into the street repair fund of the municipality, except such part demanded and paid to the permittee as the difference between the deposit and the charges of the municipality for restoration services performed by it. If the amount of such services performed by the municipality should exceed the amount of the deposit, the clerk or other proper administrative officer shall proceed to collect the remainder due from such permittee.

§ 95.05 BARRIERS AROUND EXCAVATIONS.

Any person engaged in or employing others in excavating, or opening any street, sidewalk, alley, or other public way, shall have the excavation or opening fully barricaded at all times to prevent injury to persons or animals. Penalty, see § 95.99

§ 95.06 WARNING LIGHTS.

Any person engaged in or employing others in excavating or otherwise in any manner obstructing a portion or all of any street, sidewalk, alley, or other public way, at all times during the night season shall install and maintain at least 2 illuminated red lamps which shall be securely and conspicuously posted on, at, or near each end of such obstruction or excavation, and if the space involved shall exceed 50 feet in extent, then at least one additional lamp for each added 50 feet or portion thereof excavated or obstructed. Penalty, see § 95.99

§ 95.07 SIDEWALK CONSTRUCTION.

It shall be the duty of the engineer of the municipality or, if none exist, the street commissioner, to supervise construction or repair of sidewalks within the municipality. He shall cause specifications to be prepared for the construction of the various kinds of pavements and transmit the same to council for approval. When the specifications are approved, council shall advertise for proposals to do all the work which may be ordered by the

municipality in construction and repair of sidewalks, and shall contract therefor, for a period not exceeding one year, with the lowest responsible bidder, who shall furnish good and sufficient sureties for the faithful performance of the work. The council, if it deems advisable, may make separate contracts for the different kinds of work with different parties.

§ 95.08 UNLOADING ON STREET, SIDEWALK.

No person shall unload any heavy material in the streets of the municipality, by throwing or letting the same fall upon the pavement of any street, alley, sidewalk, or other public way, without first placing some sufficient protection over the pavement. Penalty, see § 95.99

§ 95.09 STREET AND SIDEWALK OBSTRUCTION.

No person shall obstruct any street, alley, sidewalk, or other public way within the municipality, by erecting thereon any fence or building, or permitting any fence or building to remain thereon. Each day that any such fence or building is permitted to remain upon such public way shall be deemed a separate offense. Penalty, see § 95.99

Cross-reference:
Driving upon sidewalk prohibited, § 72.58

§ 95.10 MATERIALS ON STREET OR SIDEWALK.

No person shall encumber any street or sidewalk. No owner, occupant, or person having the care of any building or lot of land, bordering on any street or sidewalk, shall permit the same to be encumbered with barrels, boxes, cans, articles, or substances of any kind, so as to interfere with the free and unobstructed use thereof. Penalty, see § 95.99

Cross-reference:
Placing injurious materials upon street or highway prohibited, § 72.62
Litter deposited on streets from vehicles, § 72.621

§ 95.11 REMOVAL OF ICE AND SNOW.

It shall be the duty of the owner or of the occupant of each and every parcel of real estate in the city abutting upon any sidewalk to keep the sidewalk abutting his premises free and clear of snow and ice, and to remove therefrom all snow and ice accumulated thereon within a reasonable time, which will ordinarily not exceed 12 hours after the abatement of any storm during which the snow and ice may have accumulated. Penalty, see § 95.99

§ 95.12 RAMPED CURBING FOR HANDICAPPED.

All new curbs that are authorized by the municipality, and all existing curbs which are part of any reconstruction, shall have a ramp with nonslip surface built into the curb at each pedestrian crosswalk so that the sidewalk and street blend to a common level. These ramps shall be not less than 40 inches wide and shall, insofar as feasible, be constructed in accordance with the standard drawings and specifications for curb ramps of the state department of transportation. (R.C. § 729.12)

§ 95.13 FLAGPOLE ALONG RIGHT-OF-WAY.

(A) A property owner in the municipality may install a wooden flagpole in a sidewalk or sodded area, for displaying the American flag only, between the sidewalk and curb along the right-of-way of any public street or highway adjacent to his property. A property owner may also install underground lighting for the display of the flag. Installation of the flagpole and holder shall meet the following specifications:

(1) The flagpole holder shall be embedded in concrete, flush with the sidewalk or sodded area, and possess a cap or cover which shall be used when the holder is not used for the purpose of displaying the American flag;

(2) The holder shall not exceed 2 inches in diameter and shall be installed not less than one foot from the curb;

(3) Underground lighting for the flagpole shall be situated within a reasonable distance to the holder and meet all Underwriters' requirements governing installation. The highest part of the lighting fixture shall at all times be flush with the sidewalk or sodded area in which it is embedded;

(4) At no time shall the flag, flagpole, or holder limit or restrict the view of pedestrian or vehicular traffic, nor shall a flag, flagpole, or holder be installed that comes in physical contact, or is likely to come in physical contact, with overhead wiring.

(B) The municipality may require the issuance of a permit for installation of flagpoles but shall not charge the property owner a permit fee or an inspection fee in excess of $1 per installation. (R.C. § 723.012)

§ 95.99 PENALTY.

Whoever violates any provisions of this chapter, for which another penalty is not already provided, shall be fined not more than $100.

Repl. - 1979

TITLE XI: BUSINESS REGULATIONS

Chapter

110. GENERAL PROVISIONS

111. TAXICABS

112. VENDORS AND PEDDLERS

113. COMMERCIAL AMUSEMENTS

CHAPTER 110: GENERAL PROVISIONS

Section

110.01 Licenses required to engage in certain trades, businesses, or professions
110.02 Application for license
110.03 Issuance of license
110.04 Date and duration of license
110.05 License not tranferable
110.06 License certificate to be displayed
110.07 Revocation or suspension
110.08 Appeal and review

110.99 General penalty for Title XI

§ 110.01 LICENSES REQUIRED TO ENGAGE IN CERTAIN TRADES, BUSINESSES, OR PROFESSIONS.

No person shall engage in any of the trades, businesses, or professions for which licenses are required by Title XI or by any other ordinance or provision of this code without first applying for and obtaining a license from the clerk or other duly authorized issuing authority.

§ 110.02 APPLICATION FOR LICENSE.

(A) All original applications for licenses, unless otherwise specifically provided, shall be made to the municipal clerk in writing upon forms to be furnished by him and shall contain:

(1) The name of the applicant and of each officer, partner or business associate;

(2) His present occupation and place of business;

(3) His place of residence for 5 years next preceding the date of application;

(4) The nature and location of the intended business or enterprise;

(5) The period of time for which the license is desired;

(6) A description of the merchandise to be sold, if for a vendor;

(7) Such other information concerning the applicant and his business as may be reasonable and proper, having regard to the nature of the license desired.

(B) Renewal of an annual license may be granted to a licensee in good standing upon the original application, unless otherwise provided.

(C) With each original or renewal application, the applicant shall deposit the fee required for the license requested.

(D) It shall be unlawful knowingly to make any false statement or representation in the license application. Penalty, see § 110.99

§ 110.03 ISSUANCE OF LICENSE.

Upon receipt of such application for a license, accompanied by the proper fee, if approval by another officer or department is not required, the clerk, by and with the written approval of the mayor, or other chief administrative officer, shall forthwith deposit the fee in the treasury and issue to the applicant a proper license certificate signed by the clerk and mayor, or other chief administrative officer. If for any reason the license is not issued, this fee less $5 to cover expenses of considering such application, shall be returned to the applicant.

§ 110.04 DATE AND DURATION OF LICENSE.

A license shall not be valid beyond the expiration date therein specified and, unless otherwise provided, shall not extend beyond December 31 of the year issued. However, at any time after December 14 licenses may be issued for the ensuing calendar year. Unless otherwise specified the full annual fee will be required of licensees irrespective of the date of issue of the license.

§ 110.05 LICENSE NOT TRANSFERABLE.

Every license shall be issued to a real party in interest in the enterprise or business, and unless otherwise provided no license shall be assigned or transferred. Penalty, see § 110.99

§ 110.06 LICENSE CERTIFICATE TO BE DISPLAYED.

Every licensee carrying on business at a fixed location shall keep posted in a prominent place upon the licensed premises, the license certificate. Other licensees shall carry their license certificates at all times and whenever requested by any officer or citizen, shall exhibit the same. Penalty, see § 110.99

§ 110.07 REVOCATION OR SUSPENSION.

(A) Any license may be revoked by the mayor or other chief administrative officer at any time for conditions or considerations which, had they existed at the time of issuance, would have been valid grounds for its denial; for any misrepresentation of a material fact in the application discovered after issuance of the license; for violation of any provision of this chapter or other law

or ordinance relating to the operation of the business or enterprise for which the license has been issued; or upon conviction of a licensee for any federal, state or municipal law or ordinance involving moral turpitude.

(B) The revocation shall become effective upon notice served upon such licensee or posted upon the premises affected.

(C) As a preliminary to revocation, the mayor or other chief administrative officer may issue an order suspending the license, which shall become effective immediately upon service of written notice to such licensee. This notice shall specify the reason for suspension, and may provide conditions under which reinstatement of the license may be obtained. Upon compliance with such conditions within the time specified, the license may be restored.

§ 110.08 APPEAL AND REVIEW.

In case any applicant has been denied a license, or if his license has been revoked or suspended, the applicant or licensee as the case may be, shall within 3 business days have the right to appeal to the council from such denial, revocation, or suspension. Notice of appeal shall be filed in writing with the clerk who shall fix the time and place for a hearing which shall be held not later than one week thereafter. The clerk shall notify the mayor and all members of council of the time and place of such hearing not less than 24 hours in advance thereof. Three members of council shall constitute a quorum to hear such appeal. The appellant may appear and be heard in person or by counsel. If, after hearing, a majority of the members of council present at such meeting declare in favor of the applicant, the license shall be issued or fully reinstated as the case may be; otherwise the order appealed from shall become final.

§ 110.99 GENERAL PENALTY FOR TITLE XI.

Whoever violates any provision of this title, for which another penalty is not already provided, shall be fined not more than $100.

CHAPTER 111: TAXICABS

Section

111.01 Definition
111.02 Taxicab; license fee
111.03 Application for license
111.04 Issuance of license
111.05 Taxicab stands
111.06 Displaying rates; excessive charges
111.07 All drivers to be licensed
111.08 Suspension or revocation of license
111.09 Renewal of license
111.10 Vehicle inspection; requirements

§ 111.01 DEFINITION.

For purposes of this chapter, "TAXICAB" shall mean and include any vehicle used to carry passengers for hire but not operating on a fixed route.

Statutory reference:
Power of municipality to regulate taxicabs, R.C. § 715.66

§ 111.02 TAXICAB; LICENSE FEE.

(A) No person, firm, or corporation shall operate or cause to be operated a taxicab or proffer the services of any vehicle as a taxicab unless the owner of the vehicle has obtained a taxicab license covering such vehicle.

(B) Every such taxicab license shall expire on December 31 for the year in which issued. Licenses issued on or after July 1 of any year shall be issued at 1/2 the annual license fee herein provided.

(C) The annual license fee for each taxicab shall be $10.- Penalty, see § 110.99

§ 111.03 APPLICATION FOR LICENSE.

In addition to the information required by § 110.02, each applicant for a taxicab license shall present and file with the clerk his signed application setting forth the trade name under which he intends to do business; the number of vehicles and a general description of each vehicle for which a license is desired, the marking or lettering to be used thereon; and any other information required by the clerk pertinent to the issuance of such license.

§ 111.04 ISSUANCE OF LICENSE.

(A) The mayor or other chief administrative officer shall investigate and hold a hearing upon each application for a license.

If the mayor or other chief administrative officer finds upon such investigation and hearing that the public convenience and necessity do not justify the operation of the vehicle for which license is desired, he shall forthwith notify the applicant of his findings. If he finds from such investigation and hearing that the public convenience and necessity do justify the operation of the vehicle or vehicles for which license is desired, he shall forthwith notify the applicant. Within 60 days thereafter, applicant shall furnish and file with the clerk the following:

(1) A full transcript of the information appearing on the certificate of title of each vehicle for which license is desired, and the state license number of each such vehicle.

(2) An unexpired official certificate from an authorized motor vehicle inspection station of the municipality, or if none exists from a neighboring city in Ohio, that each vehicle for which a license is desired has been inspected and tested and found to meet the standards fixed by statute and that each such vehicle is roadworthy and safe for operation as a taxicab.

(3) The name of each person who will operate such taxicab, with chauffeur's license number of each such person.

(4) Insurance or bond.

(a) A policy or policies of liability insurance issued for the life of the license applied for or longer, by a responsible insurance company, approved as to sufficiency by the treasurer and as to legality by the solicitor, providing indemnity for or protection to the applicant against loss resulting from the operation of each such taxicab to the extent of $10,000 on account of injury or death of one person in any one accident; $20,000 on account of injury or death of more than one person in any one accident; and $5,000 for property damage caused in any one accident.

(b) In lieu of the policies of insurance above described, applicant may furnish a bond binding the principal and sureties to liability for the payment of a judgment or judgments to the extent of $10,000, $20,000, and $5,000 respectively, as above set forth, with at least 2 approved persons as sureties or one approved corporate surety approved as to sufficiency by the treasurer and as to legality by the solicitor.

(B) Thereupon, the mayor or other chief administrative officer shall examine the supporting information and documents and being satisfied that applicant is the owner of any such vehicle, that the same is a safe and fit conveyance, and that satisfactory insurance or bond has been issued and is in force thereon, he shall, upon payment of the prescribed license fee, issue a license to the applicant.

(C) A certified copy of the license shall be exhibited in a prominent place in each taxicab at all times.

§ 111.05 TAXICAB STANDS.

At the time of issuing the license, the mayor or other chief administrative officer shall designate a regular parking space for the taxicab or taxicabs, and he may prescribe rules for usage of this stand suitable to applicant's business and agreeable with the public convenience and welfare.

§ 111.06 DISPLAYING RATES; EXCESSIVE CHARGES.

Every taxicab shall display at all times a printed list of the fares and rates to be charged passengers for transportation; and it shall be unlawful for any owner or driver to charge any amount in excess of such printed rates unless by mutual agreement between passenger and driver entered into before leaving the point of departure. Penalty, see § 110.99

§ 111.07 ALL DRIVERS TO BE LICENSED.

No person under 21 years of age and no person other than a chauffeur duly licensed as such under the laws of the state shall operate a taxicab on any street or alley of the municipality. Penalty, see § 110.99

§ 111.08 SUSPENSION OR REVOCATION OF LICENSE.

Whenever a licensee shall for a period of 60 days fail to make a reasonable or consistent effort to operate any such taxicab or taxicabs the mayor or other chief administrative officer may either suspend or revoke such license pursuant to the provisions of § 110.07. This power to suspend or revoke shall not limit the powers granted to the mayor or other chief administrative officer elsewhere in this code.

§ 111.09 RENEWAL OF LICENSE.

All owners of taxicabs hereby licensed, at the completion of the year for which such license was issued, shall be entitled to a renewal for each succeeding year without a finding of convenience or necessity providing all other requirements of this code have been complied with.

§ 111.10 VEHICLE INSPECTION; REQUIREMENTS.

(A) It shall be unlawful for the owner or other person having possession or control of any taxicab, to operate it upon the streets unless the vehicle has an unexpired seal of inspection indicating that it has been duly inspected and found safe and roadworthy within the preceding 6 months.

(B) If any such taxicab is damaged by reason of a collision, or from any other cause, it shall be unlawful for the owner or other person having possession or control thereof to operate it upon the streets unless the vehicle has been tested and approved at an authorized inspection station within 24 hours after such vehicle has been returned to service.

(C) A violation of this section shall constitute grounds for revocation of a taxicab license. Penalty, see § 110.99

CHAPTER 112: VENDORS AND PEDDLERS

Section

112.01 Definitions
112.02 Itinerant vendor; license fee
112.03 Peddlers by hand
112.04 Peddlers from hand-drawn vehicles
112.05 Peddlers from other vehicles
112.06 Solicitor; license fee
112.07 Exceptions; when license not required

§ 112.01 DEFINITIONS.

For purposes of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

(A) "ITINERANT VENDOR." Includes any person, natural or artificial, who engages in or conducts a temporary or transient business of selling goods, wares, and merchandise within the municipality with the intention of continuing in such business in any one location for a period of not more than 4 months and who for the purpose of carrying on such business hires, leases, or occupies in whole or in part any room, building, or structure for the exhibition and sale of such goods, wares, and merchandise. The term does not apply to hawkers or peddlers; to vendors engaged in the sale of food or food products for human consumption; to commercial travelers or selling agents when making sales in the usual course of business; or to salesmen who sell by sample for future delivery.

(B) "PEDDLER." One who sells tangible commodities from house to house, store to store, or on the streets or in any public place; his sales are not made from one established spot excepting where they are made in a street or other public place and he makes delivery at the time of the sale. Whether or not he collects at the same time is immaterial.

(C) "SOLICITOR." Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future.

Statutory reference:
Power of municipality to regulate transient dealers, R.C. § 715.64

§ 112.02 ITINERANT VENDOR; LICENSE FEE.

Every itinerant vendor shall obtain a license before engaging in business, and shall pay therefor a fee of $5 for each week that such business is carried on. This license shall terminate automatically with the last day for which sum shall have been paid. Penalty, see § 110.99

§ 112.03 PEDDLERS BY HAND.

Every peddler selling goods of any kind carried by hand shall obtain a license before engaging in business and shall pay therefor a fee of $25 per year. Penalty, see § 110.99

§ 112.04 PEDDLERS FROM HAND-DRAWN VEHICLES.

Every peddler selling fruits, vegetables, or goods of any kind from vehicles drawn by hand shall obtain a license before engaging in business and shall pay therefor a fee of $10 per year for each vehicle used for such purpose. Penalty, see § 110.99

§ 112.05 PEDDLERS FROM OTHER VEHICLES.

Every peddler selling fruits, vegetables, or goods of every kind from vehicles drawn by means other than hand, shall obtain a license before engaging in business and shall pay therefor a fee of $25 per year for each vehicle used for such purpose. Penalty, see § 110.99

§ 112.06 SOLICITOR; LICENSE FEE.

Every solicitor shall obtain a license before engaging in business and shall pay therefor a fee of $25 per year. Penalty, see § 110.99

§ 112.07 EXCEPTIONS; WHEN LICENSE NOT REQUIRED.

The provisions of this chapter shall not apply to an owner of any product of his own raising or to the manufacturer of any article manufactured by him, who by himself or his agent, peddles or vends any such article or product; nor shall the same apply to any person who by state or federal law or constitutional provision, has been exempted from obtaining such license; nor to any sale under order of court or at a bona fide auction; nor to any sale at wholesale to a retail dealer.

CHAPTER 113: COMMERCIAL AMUSEMENTS

Section

113.01 Bowling; billiards and pool
113.02 Circuses, menageries, carnivals
113.03 Deposit required
113.04 License fee for public entertainment or exhibition
113.05 License fee may be waived in civic interest

§ 113.01 BOWLING; BILLIARDS AND POOL.

(A) Each proprietor of a billiard or pool table or of a bowling alley, or a combination of both, shall pay an annual license fee of $25 for one such table; $25 for one such alley; and $10 for each additional table, or each additional alley.

(B) It shall be unlawful to operate any such table or alley between the hours of midnight and 6:00 a.m.

(C) It shall be unlawful to permit betting or gambling in connection with the use of such table or alley. Penalty, see § 110.99

Statutory reference:
Power of municipality to regulate billiards and bowling alleys, R.C. § 715.51

§ 113.02 CIRCUSES, MENAGERIES, CARNIVALS.

(A) Each person, desiring to conduct, stage or give a circus, menagerie, carnival, sideshow, musical or minstrel entertainment, or exhibition of monsters or freaks of nature, for which money or reward is demanded or received, shall first obtain a license and pay the license fee or fees provided herein.

(B) In addition to the requirements of § 110.02, the applicant for a license to conduct, stage, or give such exhibition shall give at least one week's notice in writing to the mayor, stating the dates of the performances, and the location at which they are to be presented. The mayor or other chief administrative officer shall give his consent to the issuance of such license if he deems that the location is suitable for the purpose; that it will properly accommodate the patrons; that the nature of the performance or exhibition is morally proper; and that the use of said location will not throw too great a burden upon the police and fire departments.

(C) No circus, menagerie, or carnival shall be given for more than 2 consecutive days, except in cases where council by special resolution shall allow a longer period, or where such exhibition is to be conducted on municipal property and the use thereof for a longer period shall have been approved by council. Penalty, see § 110.99

§ 113.03 DEPOSIT REQUIRED.

At the time application for a license is made, where use of municipal grounds is contemplated, the applicant shall deposit with the clerk a cash bond of not less than $25, nor more than $100, conditioned upon the restoration and cleaning up of the grounds in a manner satisfactory to the mayor or other chief administrative officer. In the event the grounds are restored and cleaned up properly following the exhibition, the deposit shall be returned; otherwise the same shall be forfeited to the municipality.

§ 113.04 LICENSE FEE FOR PUBLIC ENTERTAINMENT OR EXHIBITION.

The fee for such license shall be as follows: For each circus, carnival, side show, musical or minstrel entertainment, or exhibition of monsters or freaks of nature, $50 for the first day, $25 for each day thereafter. However, such fee shall not amount to more than $150 in any one week.

§ 113.05 LICENSE FEE MAY BE WAIVED IN CIVIC INTEREST.

The mayor or other chief administrative officer may, in his discretion, grant without cost a license for the holding of a circus, carnival, side show, musical or minstrel entertainment for not more than 6 consecutive days, where all of the performances are fostered and supervised by civic interests of the municipality, and a substantial part of the funds derived therefrom is expended for charitable or civic purposes.

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL PROVISIONS

131. OFFENSES AGAINST PROPERTY

132. OFFENSES AGAINST PUBLIC PEACE

133. OFFENSES AGAINST MORALS

134. GAMBLING

135. OFFENSES AGAINST PERSONS

136. OFFENSES AGAINST JUSTICE AND ADMINISTRATION

137. WEAPONS CONTROL

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139. MISCELLANEOUS

CHAPTER 130: GENERAL PROVISIONS

Section

130.01 Application of Title XIII
130.02 Definitions
130.03 Classification of offenses
130.04 Common law offenses abrogated
130.05 Rule of construction
130.06 Limitations of criminal prosecutions
130.07 Requirements for criminal liability
130.08 Culpable mental states
130.09 Organizational criminal liability
130.10 Personal accountability for organizational conduct
130.11 Attempt
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130.99 Penalty for Title XIII

§ 130.01 APPLICATION OF TITLE XIII.

(A) Title XIII of this code of ordinances embodies and prescribes penalties for offenses, against the city, not classifiable in previous titles and chapters. The word "MISDEMEANORS" as used in this title is not exhaustive, and does not imply that offenses found elsewhere in this code of ordinances are not also misdemeanors and punishable as such.

(B) Each act or omission for which a penalty of fine or imprisonment, or both, is provided under this title or elsewhere in this code of ordinances is declared a violation of ordinance and unlawful, and is made a misdemeanor, upon conviction whereof, the penalty or penalties so provided shall be imposed by the court.

§ 130.02 DEFINITIONS.

For the purpose of this title the following words and phrases shall have the following meanings ascribed to them respectively.

(A) "CONTRABAND." Any property described in the following categories:

(1) Property that in and of itself is unlawful for a person to acquire or possess.

(2) Property that is not in and of itself unlawful for a person to acquire or possess, but that has been determined by a court of this state, in accordance with law, to be contraband because of its use in an unlawful activity or manner, of its nature, or of the circumstances of the person who acquires or possesses it.

(3) Property that is specifically stated to be contraband by a section of the Revised Code or by an ordinance, regulation, or resolution.

(4) Property that is forfeitable pursuant to a section of the Revised Code, or an ordinance, regulation, or resolution, including, but not limited to, forfeitable firearms, dangerous ordnance, and obscene materials.

(5) Any controlled substance, as defined in § 138.01 or R.C. § 3719.01, or any device, paraphernalia, money as defined in R.C. § 1301.01, or other means of exchange that has been, is being, or is intended to be used in an attempt or conspiracy to violate, or in a violation of, R.C. Ch. 2925 or 3719.

(6) Any gambling device, paraphernalia, money as defined in R.C. § 1301.01 or other means of exchange that has been, is being, or is intended to be used in an attempt or conspiracy to violate, or in the violation of R.C. Ch. 2915.

(7) Any equipment, machine, device, apparatus, vehicle, vessel, container, liquid, or substance that has been, is being, or is intended to be used in an attempt or conspiracy to violate, or in the violation of, any law of this state relating to alcohol or tobacco.

(8) Any personal property that has been, is being, or is intended to be used in an attempt or conspiracy to commit, or in the commission of, any offense or in the transportation of the fruits of any offense.

(9) Any property that is acquired through the sale or other transfer of contraband or through the proceeds of contraband, other than by a court or a law enforcement agency acting within the scope of its duties.

(10) Any computer, computer system, computer network, or computer software that is used in a conspiracy to commit, an attempt to commit, or in the commission of any offense, if the owner of the computer, computer system, computer network, or computer software is convicted of or pleads guilty to the offense in which it is used.

(B) "DEADLY FORCE." Any force which carries a substantial risk that it will proximately result in the death of any person.

(C) "FORCE." Any violence, compulsion, or constraint physically exerted by any means upon or against a person or thing.

(D) "LAW ENFORCEMENT OFFICER." Any of the following:

(1) A sheriff, deputy sheriff, constable, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under R.C. § 3735.31(D) or state highway patrolman;

(2) An officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or

certain laws is imposed and the authority to arrest violators is conferred, within the limits of such statutory duty and authority;

(3) The mayor, in his capacity as chief conservator of the peace within the municipal corporation;

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

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

(6) A person appointed by a mayor pursuant to R.C. §737.01 as a special patrolman or 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) An Ohio veterans' home policeman appointed under R.C. § 5907.02.

(E) "OFFENSE OF VIOLENCE."

(1) Any of the following sections: 131.02, 132.01, 132.08, 135.03, 135.05, 135.06, 135.16, and 137.02, and any of the sections listed in R.C. §§2901.01 (I) (1) or 2907.12;

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

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

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

(F) "PHYSICAL HARM TO PERSONS." Any injury, illness, or other physiological impairment, regardless of its gravity or duration.

(G) "PHYSICAL HARM TO PROPERTY." Any tangible or intangible damage to property which, 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.

(H) "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.

(I) "PROPERTY."

(1) Any property, real or personal, tangible or intangible, and any interest or license in such property. "PROPERTY" includes, but is not limited to, cable television service, computer data; computer software; financial instruments associated with computers; and other documents associated with computers, or copies of documents, whether in computer machine or human-readable form. "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 division (I) and division (A) of this section, "CABLE TELEVISION SERVICE," "COMPUTER," "COMPUTER SOFTWARE," "COMPUTER SYSTEM," "COMPUTER NETWORK," and "DATA" have the same meaning as in R.C. §2913.01.

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

(K) "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 which carries a substantial risk of death;

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

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

(5) Any physical harm which involves acute pain of such

duration as to result in substantial suffering, or which involves any degree of prolonged or intractable pain.

(L) "SERIOUS PHYSICAL HARM TO PROPERTY." Any physical harm to property which does either of the following:

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

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

(M) "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. (R.C. §2901.01)

§ 130.03 CLASSIFICATION OF OFFENSES.

As used in this title:

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

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

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

(D) Any offense not specifically classified is a minor misdemeanor if the only penalty which may be imposed is a fine not exceeding $100. (R.C. §2901.02)

§ 130.04 COMMON LAW OFFENSES ABROGATED.

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

(B) An offense is defined when one or more sections of this code state a positive prohibition or enjoin a specific duty, and provide a penalty for violation of such prohibition or failure to meet such duty. (R.C. §2901.03)

§ 130.05 RULES OF CONSTRUCTION.

Sections of this code defining offenses or penalties shall be strictly construed against the state, and liberally construed in favor of the accused. (R.C. §2901.04)

§ 130.06 LIMITATION OF CRIMINAL PROSECUTIONS.

Except as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:

(A) For a misdemeanor other than a minor misdemeanor, 2 years;

(B) For a minor misdemeanor, 6 months. (R.C. §2901.13 (A))

§ 130.07 REQUIREMENTS FOR CRIMINAL LIABILITY.

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

(1) His liability is based on conduct which includes either a voluntary act, or an omission to perform an act or duty which he is capable of performing;

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

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

(C) As used in this section:

(1) Possession is a voluntary act if the possessor knowingly procured or received the thing possessed, or was aware of his control thereof for a sufficient time to have ended his possession.

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

(3) "CULPABILITY" means purpose, knowledge, recklessness, or negligence, as defined in § 130.08. (R.C. § 2901.21)

§ 130.08 CULPABLE MENTAL STATES.

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

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

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

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

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

§ 130.09 ORGANIZATIONAL CRIMINAL LIABILITY.

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

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

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

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

(4) If, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated, or performed by the board of directors, trustees, partners, or by a high managerial officer, agent, or employee acting in behalf of the organization and within the scope of his office or employment.

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

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

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

§ 130.10 PERSONAL ACCOUNTABILITY FOR ORGANIZATIONAL CONDUCT.

(A) An officer, agent, or employee of an organization as defined in §130.09 may be prosecuted for an offense committed by such organization, if he acts with the kind of culpability required for the commission of the offense, and any of the following apply:

(1) In the name of the organization or in its behalf, he engages in conduct constituting the offense, or causes another to engage in such conduct, or tolerates such conduct when it is of a type for which he has direct responsibility;

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

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

§ 130.11 ATTEMPT.

(A) No person, purposely or knowingly, and when purpose or knowledge is sufficient culpability for the commission of an offense, shall engage in conduct which, 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 which was the object of the attempt was impossible under the circumstances.

(C) No person who is convicted of committing a specific offense, of complicity in the commission of the offense, or of conspiracy to commit the 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 effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose.

(E) Whoever violates this section is guilty of an attempt to commit an offense. An attempt to commit aggravated murder or murder is a felony of the first degree. An attempt to commit an aggravated felony of the first or second degree is an aggravated felony of the next lesser aggravated degree than the aggravated felony attempted. An attempt to commit an aggravated felony of the third degree is a

felony of the fourth degree. An attempt to commit any other offense is an offense of the next lesser degree than the offense attempted. In the case of an attempt to commit an offense other than a violation of R.C. Chapter 3734 that is not specifically classified, an attempt is a misdemeanor of the first degree if the offense attempted is a felony, and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. In the case of an attempt to commit a violation of any provision of R.C. Chapter 3734, other than R.C. § 3734.18, that relates to hazardous wastes, an attempt is a felony punishable by a fine of not more than $25,000 or imprisonment for not more than 18 months, or both. An attempt to commit a minor misdemeanor, or to engage in conspiracy, is not an offense under this section. (R.C. §2923.02) Penalty, see §130.99

§ 130.12 COMPLICITY.

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

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

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

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

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

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

(C) No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of §130.11.

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

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

(F) Whoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense. (R.C. §2923.03) Penalty, see §130.99

§ 130.99 PENALTY FOR TITLE XIII.

(A) Except where otherwise specifically classified within the body of the section of a chapter of this title, a violation of such section shall be deemed a misdemeanor punishable upon conviction by a fine of not more than $500, or imprisonment of not more than 6 months, or both.

(B) Except as provided in R.C. § 2929.03, whoever is convicted of or pleads guilty to a misdemeanor other than a minor misdemeanor shall be imprisoned for a definite term or fined, or both, which term of imprisonment and fine shall be fixed by the court as provided in this section. Whoever is convicted of or pleads guilty to committing, attempting to commit, or complicity in committing a violation of § 131.02 or a violation of § 131.03(A)(2) when the means used are fire or explosion, shall be required to reimburse agencies for their investigation or prosecution costs in accordance with R.C. § 2929.28.

(C) Terms of imprisonment for misdemeanors shall be imposed as follows:

(1) For a misdemeanor of the first degree, not more than 6 months;

(2) For a misdemeanor of the second degree, not more than 90 days;

(3) For a misdemeanor of the third degree, not more than 60 days;

(4) For a misdemeanor of the fourth degree, not more than 30 days.

(D) Fines for a misdemeanor shall be imposed as follows:

(1) For a misdemeanor of the first degree, not more than $1,000;

(2) For a misdemeanor of the second degree, not more than $750;

(3) For a misdemeanor of the third degree, not more than $500;

(4) For a misdemeanor of the fourth degree, not more than $250.

(E) Whoever is convicted of or pleads guilty to a minor misdemeanor shall be fined not more than $100.

(F) The court may require a person who is convicted of or pleads guilty to a misdemeanor to make restitution for all or part of the property damage that is caused by his offense and for all or part of the value of the property that is the subject of any theft

offense, as defined in division (K) of R.C. § 2913.01, that the person committed. If the court determines that the victim of the offense was 65 years of age or older or permanently or totally disabled at the time of the commission of the offense, the court shall, regardless of whether or not the offender knew the age of victim, consider this fact in favor of imposing restitution, but this fact shall not control the decision of the court.
(R.C. § 2929.21)

(G) (1) Regardless of the other penalties provided in this section, an organization convicted of an offense pursuant to §130.09 shall be fined, which fine shall be fixed by the court as follows:

(a) For a misdemeanor of the first degree, not more than $5,000;

(b) For a misdemeanor of the second degree, not more than $4,000;

(c) For a misdemeanor of the third degree, not more than $3,000;

(d) For a misdemeanor of the fourth degree, not more than $2,000;

(e) For a minor misdemeanor, not more than $1,000;

(f) For a misdemeanor not specifically classified, not more than $2,000;

(g) For a minor misdemeanor not specifically classified, not more than $1,000.

(2) When an organization is convicted of an offense not specifically classified, and the section defining the offense or penalty plainly indicates a purpose to impose the penalty provided for violation upon organizations, then such penalty shall be imposed in lieu of the penalty provided in this section.

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

(4) This section does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to §130.09, either in addition to or in lieu of a fine imposed pursuant to this section. (R.C. §2929.31)

CHAPTER 131: OFFENSES AGAINST PROPERTY

Section

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§ 131.01 DEFINITIONS.

For the purpose of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

(A) "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.

(B) "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.

(C) "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 such an electronic device.

(D) "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.

(E) "COMPUTER PROGRAM." An ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.

(F) "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.

(G) "COMPUTER SOFTWARE." Computer programs, procedures, and other documentation associated with the operation of a computer system.

(H) "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.

(I) "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.

(J) "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 system or computer network. For purposes of R.C. § 2913.47 "DATA" has the additional meaning set forth in division (A) of that section.

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

(L) "DEFRAUD." To knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.

(M) "DEPRIVE." To:

(1) Withhold property of another permanently, or for such

period as to appropriate a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;

(2) Dispose of property so as to make it unlikely that the owner will recover it;

(3) Accept, use, or appropriate money, property, or services, with purpose not to give proper consideration in return therefor, and without reasonable justification or excuse for not giving proper consideration.

(N) "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 thereby.

(O) "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.

(P) "OWNER." Any person, other than the actor, who is the owner of, or who has possession or control of, or any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

(Q) "SERVICES." Includes labor, personal services, professional services, public utility services, common carrier services, and food, drink, transportation, entertainment, and cable television services.

(R) "SLUG." An object which, 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.

(S) "THEFT OFFENSE." Any of the following:

(1) A violation of §§ 131.07, 131.08, 131.09, 131.10, 131.11, 131.12, 131.13, 131.14, 131.15, 131.16 131.17 131.18, 132.10, and 134.05; and any of the sections listed in R.C. § 2913.01 (K) (1);

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

(3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit, or fraud;

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

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

(U) "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 also means any token, stamp, seal, credit card, badge, trademark, label, or other symbol of value, right, privilege, license, or identification.
(R.C. §2913.01)

§ 131.02 ARSON.

(A) No person, by means of fire or explosion, shall knowingly cause, or create a substantial risk of physical harm to any property of another without his consent.

(B) Whoever violates this section is guilty of arson. If the value of the property or the amount of physical harm involved is less than $300, violation of this section is a misdemeanor of the first degree. If the value of the property or the amount of physical harm involved is more than $300 then the violation shall be prosecuted under R.C. §2909.03 as a felony in the appropriate court of competent jurisdiction. (R.C. §2909.03)
Penalty, see §130.99

§ 131.03 CRIMINAL DAMAGING OR ENDANGERING.

(A) No person shall cause, or create a substantial risk of physical harm to any property of another without his consent:

(1) Knowingly, by any means;

(2) Recklessly, by means of fire, explosion, flood, poison gas, poison, radioactive material, caustic or corrosive material, or other inherently dangerous agency or substance.

(B) Whoever violates this section is guilty of criminal damaging or endangering, a misdemeanor of the second degree. If violation of this section creates a risk of physical harm to any person, criminal damaging or endangering is a misdemeanor of the first degree. If the property involved in a violation of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation creates a risk of physical harm to any person or if the property involved in a violation of this section is an occupied aircraft, criminal damaging or endangering is a felony of the fourth degree, and shall be prosecuted under appropriate state law. (R.C. §2909.06)
Penalty, see §130.99

§ 131.04 CRIMINAL MISCHIEF.

(A) No person shall:

(1) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with the property of another;

(2) With purpose to interfere with the use or enjoyment of property of another, employ a tear gas device, stink bomb, smoke generator, or other device releasing a substance which is harmful or offensive to persons exposed, or which tends to cause public alarm;

(3) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with a bench mark, triangulation station, boundary marker, or other survey station, monument, or marker;

(4) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose.

(5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure, or personal property that is on that land.

(B) As used in this section, "SAFETY DEVICE" means any fire extinguisher, fire hose, or fire axe, or any fire escape, emergency

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

(C) Whoever violates this section is guilty of criminal mischief, a misdemeanor of the third degree. If violation of this section creates a risk of physical harm to any person, criminal mischief is a misdemeanor of the first degree. If the property involved in violation of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft and if the violation creates a risk of physical harm to any person or if the property involved in a violation of this section is an occupied aircraft, criminal mischief is a felony of the fourth degree, and shall be prosecuted under appropriate state law. (R.C. §2909.07) Penalty, see §130.99

§ 131.05 DETERMINING PROPERTY VALUE OR AMOUNT OF PHYSICAL HARM.

(A) When a person is charged with a violation of §131.02, involving property value or amount of physical harm of $300 or more, the jury or court trying the accused shall determine the value of the property or amount of physical harm and, if a guilty verdict is returned, shall return the finding as part of the verdict. In any such case it is unnecessary to find or return the exact value or amount of physical harm, and it is sufficient if the finding and return is to the effect that the value or amount of physical harm was either $5000 or more; $300 or more but less than $5000; or less than $300.

(B) The following criteria shall be used in determining the value of property or amount of physical harm involved in a violation of §131.02:

(1) If the property is an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record, or other thing that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort, or money, the value of the property or the amount of physical harm involved is the amount that would compensate the owner for its loss.

(2) If the property is not covered under division (B) (1) of this section, and the physical harm is such that the property can be restored substantially to its former condition, the amount of physical harm involved is the reasonable cost of restoring the property.

(3) If the property is not covered under division (B) (1) of this section, and the physical harm is such that the property cannot be restored substantially to its former condition, the value of the property, in the case of personal property, is the cost of replacing the property with new property of like kind and quality, and in the case of real property or real property fixtures, is the difference in the fair market value of the property immediately before and immediately after the offense.

(C) As used in this section, "FAIR MARKET VALUE" has the same meaning as in §131.19.

(D) Prima facie evidence of the value of property, as provided in §131.19 (E), may be used to establish the value of property pursuant to this section. (R.C. §2909.11)

§ 131.06 CRIMINAL TRESPASS.

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

(1) Knowingly enter or remain on the land or premises of another;

(2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes, or hours, when the offender knows he is in violation of any such restriction or is reckless in that regard;

(3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;

(4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified to do so by the owner or occupant, or the agent or servant of either.

(B) It is no defense to a charge under this section that the land or premises involved was owned, controlled, or in custody of a public agency.

(C) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved, when the authorization was secured by deception.

(D) Whoever violates this section is guilty of criminal trespass, a misdemeanor of the fourth degree.

(E) As used in this section, "LAND OR PREMISES" includes any land, building, structure, or place belonging to, controlled by, or

in custody of another, and any separate enclosure or room, or portion thereof. (R.C. §2911.21) Penalty, see §130.99

§ 131.061 AGGRAVATED TRESPASS.

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

(B) Whoever violates this section is guilty of aggravated trespass, a misdemeanor of the first degree.
(R.C. § 2911.211) Penalty, see § 130.99

§ 131.07 TAMPERING WITH COIN MACHINES.

(A) No person, with purpose to commit theft or to defraud, shall knowingly enter, force an entrance into, tamper with, or insert any part of an instrument into any coin machine.

(B) Whoever violates this section is guilty of tampering with coin machines, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of this section or of any theft offense as defined in R.C. §2913.01, tampering with coin machines is a felony of the fourth degree and shall be prosecuted under appropriate state law. (R.C. §2911.32) Penalty, see §130.99

§ 131.08 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.

(B) Whoever violates this section is guilty of theft. If the value of the property or services stolen is less than $300, violation of this section is petty theft, a misdemeanor of the first degree. If the value of the property or services stolen is $300 or more and is less than $5,000, or if the property stolen is any of the property listed in §131.20, or if the offender previously has been convicted of a theft offense, a violation of this section is theft, a felony of the fourth degree and shall be prosecuted under appropriate state law. If the value of the property or services stolen is $5,000 or more and is less than $100,000, or if the offender previously has been convicted of

two or more theft offenses, a violation of this section is grand theft, a felony of the third degree, and shall be prosecuted under appropriate state law. If the property stolen is a motor vehicle as defined in R.C. §4501.01, a violation of this section is grand theft of a motor vehicle, a felony of the third degree and shall be prosecuted under appropriate state law. If the value of the property or services stolen is $100,000 or more, a violation of this section is aggravated theft, a felony of the second degree, and shall be prosecuted under appropriate state law. If the property stolen is any dangerous drug, as defined in R.C. § 4729.02, a violation of this section is theft of drugs, a felony of the fourth degree and shall be prosecuted under appropriate state law, or, if the offender previously has been convicted of a felony drug abuse offense, as defined in R.C. § 2925.01, a felony of the third degree and shall be prosecuted under appropriate state law.
(R.C. §2913.02) Penalty, see §130.99

§ 131.09 UNAUTHORIZED USE OF A VEHICLE.

(A) No person shall knowingly use or operate an aircraft, motor vehicle, motorcycle, motorboat, or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(B) No person shall knowingly use or operate an aircraft, motor vehicle, motorboat, or other motor-propelled vehicle without the consent of the owner or person authorized to give consent, and either remove it from this state, or keep possession of it for more than 48 hours.

(C) The following are affirmative defenses to a charge under this section:

(1) At the time of the alleged offense, the actor, though mistaken, reasonably believed that he was authorized to use or operate the property.

(2) At the time of the alleged offense, the actor reasonably believed that the owner or person empowered to give consent would authorize the actor to use or operate the property.

(D) Whoever violates this section is guilty of unauthorized use of a vehicle. Violation of division (A) of this section is a misdemeanor of the first degree. If the offender has previously been convicted of a violation of this section or of any other theft offense, violation of division (A) of this section is a felony of the fourth degree and shall be prosecuted under appropriate state law. Violation of division (B) of this section is a felony of the fourth degree and shall be prosecuted under appropriate state law.
(R.C. §2913.03) Penalty, see §130.99

§ 131.10 UNAUTHORIZED USE OF PROPERTY.

(A) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent.

(B) No person shall knowingly gain access to, attempt to gain access to, or cause access to be gained to any computer, computer system, or computer network without the consent of, or beyond the scope of the express or implied consent of, the owner of the computer, computer system, or computer network or other person authorized to give consent by the owner.

(C) The affirmative defenses contained in division (C) of § 131.09 are affirmative defenses to a charge under this section.

(D) Whoever violates this section is guilty of unauthorized use of property. If the offense involves a violation of division (A) of this section and does not involve any computer, computer system, computer network, computer software, or data, unauthorized use of property is a misdemeanor of the fourth degree. If the offense involves a violation of division (A) of this section and involves any computer, computer system, computer network, computer software, or data or if the offense involves a violation of division (B) of this section, unauthorized use of property is whichever of the following is applicable:

(1) If division (D)(2) or (3) of this section does not apply, a felony of the fourth degree punishable under appropriate state law.

(2) If division (D)(3) of this section does not apply and the offender previously has been convicted of a theft offense, a felony of the third degree punishable under appropriate state law.

(3) If the offense is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services and the value of the property or services or the loss to the victim is $100,000 or more, a felony of the second degree punishable under appropriate state law.
(R.C. §2913.04) Penalty, see §130.99

§ 131.11 PASSING BAD CHECKS.

(A) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored.

(B) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored, if either of the following occurs:

(1) The drawer has no account with the drawee at the time of issue or the stated date, whichever is later.

(2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within 30 days after issue or the stated date, whichever is later, and the liability of the drawer, endorser, or any party who may be liable thereon is not discharged by payment or satisfaction within 10 days after receiving notice of dishonor.

(C) For purposes of this section, a person who issues or transfers a check, bill of exchange, or other draft is presumed to have the purpose to defraud if the drawer fails to comply with R.C. § 1349.16 by doing any of the following when opening a checking account intended for personal, family, or household purposes at a financial institution:

(1) Falsely stating that he has not been issued a valid driver's or commercial driver's license or identification card issued under R.C. § 4507.50;

(2) Furnishing the license or card, or another identification document that contains false information;

(3) Making a false statement with respect to his current address or any additional relevant information reasonably required by the financial institution.

(D) Whoever violates this section is guilty of passing bad checks. If the check or other negotiable instrument is for the payment of less than $300, passing bad checks is a misdemeanor of the first degree. If the check or other negotiable instrument is for payment of $300 or more and is for the payment of less than $5,000, or if the offender previously has been convicted of a theft offense, passing bad checks is a felony of the fourth degree and shall be prosecuted under appropriate state law. If the check or other negotiable instrument is for the payment of $5,000 or more and is for the payment of less than $100,000 or if the offender previously has been convicted of 2 or more theft offenses, passing bad checks is a felony of the third degree and shall be prosecuted under appropriate state law. If the check or other negotiable instrument is for the payment of $100,000 or more, passing bad checks is a felony of the second degree and shall be prosecuted under appropriate state law. (R.C. §2913.11) Penalty, see §130.99

§ 131.12 MISUSE OF CREDIT CARDS.

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

(1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;

(2) Knowingly buy or sell a credit card from or to a person other than the issuer.

(B) No person, with purpose to defraud, shall do any of the following:

(1) Obtain control over a credit card as security for a debt;

(2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained, or is being used in violation of law;

(3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;

(4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that the representation is false.

(C) No person, with purpose to violate this section, shall receive, possess, control, or dispose of a credit card.

(D) Whoever violates this section is guilty of misuse of credit cards.

(1) Violation of division (A), (B)(1), or (C) of this section is a misdemeanor of the first degree. If the value of the property or services or the loss to the victim involved in a violation of division (A), (B)(1), or (C) of this section is $100,000 or more, then misuse of credit cards is a felony of the second degree and shall be prosecuted under appropriate state law.

(2) If the cumulative retail value of the property and services involved in one or more violations of division (B)(2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of 90 consecutive days commencing on the date of the first violation, is less than $300, then misuse of credit cards is a misdemeanor of the first degree.

(3) If the cumulative retail value of the property and services involved in one or more violations of division (B) (2), (3), or (4) of this section which violations involve one or more credit card accounts and occur within a period of 90 consecutive days commencing on the date of the first violation, is $300 or more and is less than $5,000, or if the offender previously has been convicted of a theft offense, then misuse of credit cards is a felony of the fourth degree and shall be prosecuted under appropriate state law.

(4) If the cumulative retail value of the property and services involved in one or more violations of division (B)(2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of 90 consecutive days commencing on the date of the first violation, is $5,000 or more and is less than $100,000, or if the offender previously has been convicted of two or more theft offenses, then misuse of credit cards is a felony of the third degree and shall be prosecuted under appropriate state law.

(5) If the cumulative retail value of the property and services involved in one or more violations of division (B)(2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of 90 consecutive days commencing on the date of the first violation, is $100,000 or more, then misuse of credit cards is a felony of the second degree and shall be prosecuted under appropriate state law.
(R.C. §2913.21) Penalty, see §130.99

§ 131.13 MAKING OR USING SLUGS.

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

(1) Insert or deposit a slug in a coin machine, with purpose to defraud;

(2) Make, possess, or dispose of a slug, with purpose of enabling another to defraud by inserting or depositing it in a coin machine.

(B) Whoever violates this section is guilty of making or using slugs, a misdemeanor of the second degree.
(R.C. §2913.33) Penalty, see §130.99

§ 131.14 DEFRAUDING A LIVERY OR HOSTELRY.

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

(1) Hire an aircraft, motor vehicle, motorcycle, motorboat, sailboat, camper, trailer, horse, or buggy, or keep or operate any of the same which has been hired;

(2) Engage accommodations at a hotel, motel, inn, campground, or other hostelry.

(B) It is prima facie evidence of purpose to defraud if the offender does any of the following:

(1) Uses deception to induce the rental agency to furnish the offender with any of the property listed in division (A) (1) of this section, or uses deception to induce the hostelry to furnish him with accommodations;

(2) Hires any of the property named in division (A) (1) of this section, or engages accommodations, knowing he is without sufficient means to pay the hire or rental;

(3) Absconds without paying the hire or rental;

(4) Knowingly fails to pay the hire or rental as required by the contract of hire or rental, without reasonable excuse for the failure;

(5) Knowingly fails to return hired property as required by the contract of hire, without reasonable excuse for the failure.

(C) Whoever violates this section is guilty of defrauding a livery or hostelry, a misdemeanor of the first degree. If the offender has previously been convicted of an offense under this section or of any other theft offense, defrauding a livery or hostelry is a felony of the fourth degree and shall be prosecuted under appropriate state law. (R.C. §2913.41) Penalty, see §130.99

§ 131.15 TAMPERING WITH RECORDS.

(A) No person, knowing he has no privilege to do so, and with purpose to defraud or knowing that he is facilitating a fraud, shall do any of the following:

(1) Falsify, destroy, remove, conceal, alter, deface, or mutilate any writing, data, or record;

(2) Utter any writing or record, knowing it to have been tampered with as provided in division (A) (1) of this section.

(B) No person, knowing he has no privilege to do so, shall falsify, destroy, remove, conceal, alter, deface, or mutilate any computer software or data.

(C) Whoever violates this section is guilty of tampering with records.

(1) If the offense involves a violation of division (A) of this section and does not involve data, tampering with records is whichever of the following is applicable:

(a) If division (C)(1)(b) of this section does not apply, a misdemeanor of the first degree.

(b) If the writing or record is a will unrevoked at the time of the offense, or a record kept by or belonging to a governmental agency, a felony of the fourth degree and shall be prosecuted under appropriate state law.

(2) If the offense involves a violation of division (A) of this section involving data, tampering with records is whichever of the following is applicable:

(a) If division (C)(1)(b) of this section does not apply, a felony of the fourth degree and shall be prosecuted under appropriate state law.

(b) If division (C)(2)(b) of this section does not apply and the writing or record is a record kept by or belonging to a governmental agency or the offender previously has been convicted of a theft offense, a felony of the third degree and shall be prosecuted under appropriate state law.

(c) If the value of the data involved in the offense or the loss to the victim is $100,000 or more, a felony of the second degree and shall be prosecuted under appropriate state law.

(3) If the offense involves a violation of division (B) of this section, tampering with records is whichever of the following is applicable:

(a) If division (C)(3)(b) or (c) of this section does not apply, a felony of the fourth degree and shall be prosecuted under appropriate state law.

(b) If division (C)(3)(c) of this section does not apply and the offender previously has been convicted of a theft offense, a felony of the third degree and shall be prosecuted under appropriate state law.

(c) If the offense is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services and the value of the property or services or the loss to the victim is $100,000 or more, a felony of the second degree and shall be prosecuted under appropriate state law.
(R.C. § 2913.42) Penalty, see § 130.99

§ 131.16 SECURING WRITINGS BY DECEPTION.

(A) No person, by deception, shall cause another to execute any writing which disposes of or encumbers property, or by which a pecuniary obligation is incurred.

(B) Whoever violates this section is guilty of securing writings by deception. If the value of the property or the

obligation involved is less than $300, securing writings by deception is a misdemeanor of the first degree. If the value of the property or the obligation involved is $300 or more, and less than $5,000, securing writings by deception is a felony of the fourth degree and shall be prosecuted under appropriate state law. If the value of the property or the obligation involved is $5,000 or more and is less than $100,000, securing writings by deception is a felony of the third degree and shall be prosecuted under appropriate state law. If the value of the property or the obligation involved is $100,000 or more, securing writings by deception is a felony of the second degree and shall be prosecuted under appropriate state law.
(R.C. §2913.43) Penalty, see §130.99

§ 131.17 DEFRAUDING CREDITORS.

(A) No person, with purpose to defraud one or more of his creditors, shall do any of the following:

(1) Remove, conceal, destroy, encumber, convey, or otherwise deal with any of his property;

(2) Misrepresent or refuse to disclose to a fiduciary appointed to administer or manage his affairs or estate, the existence, amount, or location of any of his property, or any other information regarding the property which he is legally required to furnish to the fiduciary.

(B) Whoever violates this section is guilty of defrauding creditors, a misdemeanor of the first degree. (R.C. §2913.45) Penalty, see §130.99

§ 131.18 RECEIVING STOLEN PROPERTY.

(A) No person shall receive, retain, or dispose of property of another, knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense.

(B) Whoever violates this section is guilty of receiving stolen property. If the value of the property involved is less than $300, receiving stolen property is a misdemeanor of the first degree. If the value of the property involved is $300 or more and is less than $5,000, if the property involved is any of the property listed in §131.20, or if the offender previously has been convicted of a theft offense, receiving stolen property is a felony of the fourth degree and shall be prosecuted under appropriate state law. If the property involved is a motor vehicle as defined in R.C. § 4501.01, if the value of the property involved is $5,000 or more and is less than $100,000, or if the offender has previously been convicted of two or more theft offenses, receiving stolen property is a felony of the third degree and shall be prosecuted under appropriate state law. If the value of the property involved is $100,000 or more, receiving stolen property is a felony of the second degree and shall be prosecuted under appropriate state law.
(R.C. §2913.51) Penalty, see §130.99

§ 131.19 VALUE OF STOLEN PROPERTY.

(A) When a person is charged with a theft offense involving property or services valued at $300 or more, a violation of §§131.08, 131.11, 131.12, 131.16, or 131.18, or R.C. §4931.99 involving property or services valued at $300 or more and less than $5,000, or a violation of §§131.08, 131.11, 131.12, 131.16, or 131.18, or R.C. §4931.99 involving property or services valued at $5,000 or more, the jury or court trying the accused shall determine the value of the property or services as of the time of the offense and, if a guilty verdict is returned, shall return the finding of value as part of the verdict. In any such case, it is unnecessary to find and return exact value, and it is sufficient if, in a case involving a theft offense other than a violation of §§131.08, 131.11, 131.12, 131.16, or 131.18, or R.C. §4931.99, the finding and return is to the effect that the value of the property or services involved was less than $300 or was $300 or more or, in a case involving a violation of §§131.08, 131.11, 131.12, 131.16, or 131.18, or R.C. §4931.99, the finding and return is to the effect that the value of the property or services involved was less than $300, was $300 or more and less than $5,000, or was $5,000 or more.

(B) Where more than one item of property or services is involved in a theft offense, the value of the property or services involved for the purpose of determining the value as required by division (A) of this section, is the aggregate value of all property or services involved in the offense.

(C) When a series of offenses under §131.08 is committed by the offender in his same employment, capacity, or relationship to another, all the offenses shall be tried as a single offense, and the value of the property or services involved for the purpose of determining the value as required by division (A) of this section, is the aggregate value of all property and services involved in all offenses in the series. In prosecuting a single offense under this division, it is not necessary to separately allege and prove each offense in the series. It is sufficient to allege and prove that the offender, within a given span of time, committed one or more theft offenses in his same employment, capacity, or relationship to another.

(D) The following criteria shall be used in determining the value of property or services involved in a theft offense:

(1) The value of an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record, or other thing which has intrinsic worth to its owner and which is either irreplaceable or is replaceable only on the expenditure of substantial time, effort, or money, is the amount which would compensate the owner for its loss.

(2) The value of personal effects and household goods, and of materials, supplies, equipment, and fixtures used in the profession, business, trade, occupation, or avocation of its owner,

which property is not covered under division (D) (1) of this section, and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing such property with new property of like kind and quality.

(3) The value of any property, real or personal, not covered under division (D) (1) or (2) of this section, and the value of services, is the fair market value of the property or services. As used in this section, "FAIR MARKET VALUE" is the money consideration which a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.

(E) Without limitation on the evidence which may be used to establish the value of property or services involved in a theft offense:

(1) When the property involved is personal property held for sale at wholesale or retail, the price at which the property was held for sale is prima facie evidence of its value.

(2) When the property involved is a security or commodity traded on an exchange, the closing price or, if there is no closing price, the asked price, given in the latest marked quotation prior to the offense, is prima facie evidence of the value of the security or commodity.

(3) When the property involved is livestock, poultry, or raw agricultural products for which a local market price is available, the latest local market price prior to the offense is prima facie evidence of the value of the livestock, poultry, or products.

(4) When the property involved is a negotiable instrument, the face value is prima facie evidence of the value of the instrument.

(5) When the property involved is a warehouse receipt, bill of lading, pawn ticket, claim check, or other instrument entitling the holder or bearer to receive property, the face value or, if there is no face value, the value of the property covered by the instrument less any payment necessary to receive the property, is prima facie evidence of the value of the instrument.

(6) When the property involved is a ticket of admission, ticket for transportation, coupon, token, or other instrument entitling the holder or bearer to receive property or services, the face value or, if there is no face value, the value of the property or services which may be received thereby, is prima facie evidence of the value of the instrument.

(7) When the services involved are gas, electricity, water, telephone, transportation, shipping, or other services for which the rate is established by law, the duly established rate is prima facie evidence of the value of the services.

(8) When the services involved are services for which the rate is not established by law, and the offender has been notified prior to the offense of the rate for the services, either in writing, or orally, or by posting in a manner reasonably calculated to come to the attention of potential offenders, the rate contained in the notice is prima facie evidence of the value of the services. (R.C. §2913.61)

§ 131.20 DEGREE OF OFFENSE WHEN CERTAIN PROPERTY INVOLVED.

Regardless of the value of the property involved, and regardless of whether the offender has previously been convicted of a theft offense, a violation of §§131.08 to 131.18 is a felony of the fourth degree if the property involved is any of the following:

(A) A credit card;

(B) A printed form for a check or other negotiable instrument, which on its face identifies the drawer or maker for whose use it is designed or identifies the account on which it is to be drawn, and which has not been executed by the drawer or maker or on which the amount is blank;

(C) A firearm or dangerous ordnance as defined in §137.01;

(D) A motor vehicle identification license plate as prescribed by R.C. §4503.22, a temporary license placard or windshield sticker as prescribed by R.C. § 4503.182, or any comparable license plate, placard, or sticker as prescribed by the applicable law of another state or the United States;

(E) A blank form for a certificate of title or a manufacturer's or importer's certificate to a motor vehicle, as prescribed by R.C. §4505.07;

(F) A blank form for any license listed in R.C. §4507.01. (R.C. §2913.71)

§ 131.21 INJURING VINES, BUSHES, TREES, OR CROPS.

(A) No person, without privilege to do so, shall recklessly cut down, destroy, girdle, or otherwise injure a vine, bush, shrub, sapling, tree, or crop standing or growing on the land of another or upon public land.

(B) In addition to the penalty provided in division (C) of this section, whoever violates this section is liable in treble damages for the injury caused.

(C) Whoever violates this section is guilty of a minor misdemeanor. (R.C. §§901.51, 901.99) Penalty, see §130.99

§ 131.22 DETENTION AND ARREST OF SHOPLIFTERS; PROTECTION OF INSTITUTIONAL PROPERTY.

(A) For the purpose of this section, the following definitions shall apply.

(1) "ARCHIVAL INSTITUTION." Any public or private building, structure, or shelter in which are stored historical documents, devices, records, manuscripts, or items of public interest, which historical materials are stored to preserve the materials or the information in the materials, to disseminate the information contained in the materials, or to make the materials available for public inspection or for inspection by certain persons who have a particular interest in, use for, or knowledge concerning the materials.

(2) "MUSEUM." Any public or private nonprofit institution that is permanently organized for primarily educational or aesthetic purposes, owns or borrows objects or items of public interest, and cares for and exhibits to the public the objects or items.

(B) A merchant, or his employee or agent, who has probable cause to believe that things offered for sale by a mercantile establishment have been unlawfully taken by a person, may, for the purposes set forth in (D) below, detain the person in a reasonable manner for a reasonable length of time within the mercantile establishment or its immediate vicinity.

(C) Any officer, employee, or agent of a library, museum, or archival institution may, for the purposes set forth in (D) below or for the purpose of conducting a reasonable investigation of a belief that the person has acted in a manner described in (C) (1) and (2) below, detain a person in a reasonable manner for a reasonable length of time within, or in the immediate vicinity of, the library, museum, or archival institution, if the officer, employee, or agent has probable cause to believe that the person has either:

(1) Without privilege to do so, knowingly moved, defaced, damaged, destroyed, or otherwise improperly tampered with property owned by or in the custody of the library, museum, or archival institution; or

(2) With purpose to deprive the library, museum, or archival institution of property owned by it or in its custody, knowingly obtained or exerted control over the property without the consent of the owner or person authorized to give consent, beyond the scope of the express or implied consent of the owner or person authorized to give consent, by deception, or by threat.

(D) An officer, agent, or employee of a library, museum, or archival institution pursuant to (C) above or a merchant or his

employee or agent pursuant to (B) above may detain another person for any of the following purposes:

(1) To recover the property that is the subject of the unlawful taking, criminal mischief, or theft;

(2) To cause an arrest to be made by a peace officer;

(3) To obtain a warrant of arrest.

(E) The officer, agent, or employee of the library, museum, or archival institution, or the merchant or his employee or agent acting under (B) or (C) above shall not search the person, search or seize any property belonging to the person detained without the person's consent, or use undue restraint upon the person detained.

(F) Any peace officer may arrest without a warrant any person that he has probable cause to believe has committed any act described in (C) (1) or (2) above, or that he has probable cause to believe has committed an unlawful taking in a mercantile establishment. An arrest under this division shall be made within a reasonable time after the commission of the act or unlawful taking. (R.C. § 2935.041)

Statutory reference:
Arrest without a warrant generally, see R.C. § 2935.03

§ 131.23 DAMAGING OR ENDANGERING AIRCRAFT, AIRPORT OPERATIONS.

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

(1) "AIR GUN." A hand pistol or rifle that propels its projectile by means of releasing compressed air, carbon dioxide, or other gas.

(2) "AIRPORT OPERATIONAL SURFACE." Any surface of land or water that is developed, posted, or marked so as to give an observer reasonable notice that the surface is designed and developed for the purpose of storing, parking, taxiing, or operating aircraft, or any surface of land or water that is actually being used for any of those purposes.

(3) "FIREARM." Has the same meaning as in R.C. § 2923.11.

(4) "SPRING-OPERATED GUN." A hand pistol or rifle that propels a projectile not less than four or more than five millimeters in diameter by means of a spring.

(B) No person shall do either of the following:

(1) Knowingly throw an object at, or drop an object upon, any moving aircraft.

(2) Knowingly shoot with a bow and arrow, or knowingly discharge a firearm, air gun, or spring-operated gun, at or toward any aircraft.

(C) No person shall knowingly or recklessly shoot with a bow and arrow, or shall knowingly or recklessly discharge a firearm, air gun, or spring-operated gun, upon or over any airport operational surface. This division does not apply to the following:

(1) An officer, agent, or employee of this or any other state or the United States, or a law enforcement officer, authorized to discharge firearms and acting within the scope of his duties.

(2) A person who, with the consent of the owner or operator of the airport operational surface or the authorized agent of either, is lawfully engaged in any hunting or sporting activity or is otherwise lawfully discharging a firearm.

(D) Whoever violates division (B) of this section is guilty of endangering aircraft, a misdemeanor of the first degree. If the violation creates a risk of physical harm to any person or if the aircraft that is the subject of the violation is occupied, endangering aircraft is a felony of the fourth degree, and shall be prosecuted under appropriate state law.

(E) Whoever violates division (C) of this section is guilty of endangering airport operations, a misdemeanor of the second degree. If the violation creates a risk of physical harm to any person, endangering airport operations is a felony of the fourth degree, and shall be prosecuted under appropriate state law. Whoever violates division (C) of this section while hunting shall additionally have his hunting license or permit suspended or revoked pursuant to R.C. § 1533.68.

(F) Any bow and arrow, air gun, spring-operated gun, or firearm that has been used in a felony violation of this section, shall be seized or forfeited, and shall be disposed of pursuant to R.C. § 2933.41.
(R.C. § 2909.08) Penalty, see § 130.99

CHAPTER 132: OFFENSES AGAINST PUBLIC PEACE

Section

132.01 Riot
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§ 132.01 RIOT.

(A) No person shall participate with 4 or more others in a course of disorderly conduct in violation of § 132.04:

(1) With purpose to commit or facilitate the commission of a misdemeanor, other than disorderly conduct;

(2) With purpose to intimidate a public official or employee into taking or refraining from official action, or with purpose to hinder, impede, or obstruct a function of government;

(3) With purpose to hinder, impede, or obstruct the orderly process of administration or instruction at an educational institution, or to interfere with or disrupt lawful activities carried on at the institution.

(B) No person shall participate with 4 or more others with purpose to do an act with unlawful force or violence, even though the act might otherwise be lawful.

(C) Whoever violates this section is guilty of riot, a misdemeanor of the first degree. (R.C § 2917.03) Penalty, see § 130.99

§ 132.02 FAILURE TO DISPERSE.

(A) Where 5 or more persons are participating in a course of disorderly conduct in violation of § 132.04, and there are other persons in the vicinity whose presence creates the likelihood of physical harm to persons or property or of serious public inconvenience, annoyance, or alarm, a law enforcement officer or other public official may order the participants and the other persons to disperse. No person shall knowingly fail to obey the order.

(B) Nothing in this section requires persons to disperse who are peaceably assembled for a lawful purpose.

(C) Whoever violates this section is guilty of failure to disperse, a minor misdemeanor. (R.C. § 2917.04) Penalty, see § 130.99

§ 132.03 JUSTIFIABLE USE OF FORCE TO SUPPRESS RIOT.

A law enforcement officer or fireman, engaged in suppressing riot or in protecting persons or property during riot:

(A) Is justified in using force, other than deadly force, when and to the extent he has probable cause to believe such force is necessary to disperse or apprehend rioters;

(B) Is justified in using force, including deadly force, when and to the extent he has probable cause to believe such force is necessary to disperse or apprehend rioters whose conduct is creating a substantial risk of serious physical harm to persons. (R.C. § 2917.05) Penalty, see § 130.99

§ 132.04 DISORDERLY CONDUCT.

(A) No person shall recklessly cause inconvenience, annoyance, or alarm to another, by doing any of the following:

(1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;

(2) Making unreasonable noise or offensively coarse utterance, gesture, or display, or communicating unwarranted and grossly abusive language to any person;

(3) Insulting, taunting, or challenging another, under circumstances in which such conduct is likely to provoke a violent response;

(4) Hindering or preventing the movement of persons on a public street, road, highway, or right-of-way, or to, from, within, or upon public or private property, so as to interfere with the rights of others, and by any act which serves no lawful and reasonable purpose of the offender;

(5) Creating a condition which is physically offensive to persons or which presents a risk of physical harm to persons or property, by any act which serves no lawful and reasonable purpose of the offender.

(B) No person, while voluntarily intoxicated shall do either of the following:

(1) In a public place or in the presence of 2 or more persons, engage in conduct likely to be offensive or to cause inconvenience, annoyance, or alarm to persons of ordinary sensibilities, which conduct the offender, if he were not intoxicated, should know is likely to have such effect on others;

(2) Engage in conduct or create a condition which presents a risk of physical harm to himself or another, or to the property of another.

(C) Violation of any statute or ordinance of which an element is operating a motor vehicle, locomotive, watercraft, aircraft, or other vehicle while under the influence of alcohol or any drug of abuse, is not a violation of division (B) of this section.

(D) When to an ordinary observer a person appears to be intoxicated, it is probable cause to believe such person is voluntarily intoxicated for purposes of division (B) of this section.

(E) Whoever violates this section is guilty of disorderly conduct, a minor misdemeanor. If the offender persists in disorderly conduct after reasonable warning or request to desist, disorderly conduct is a misdemeanor of the fourth degree. (R.C. § 2917.11) Penalty, see § 130.99

§ 132.05 DISTURBING A LAWFUL MEETING.

(A) No person, with purpose to prevent or disrupt a lawful meeting, procession, or gathering, shall do either of the following:

(1) Do any act which obstructs or interferes with the due conduct of the meeting, procession, or gathering;

(2) Make any utterance, gesture, or display which outrages the sensibilities of the group.

(B) Whoever violates this section is guilty of disturbing a lawful meeting, a misdemeanor of the fourth degree. (R.C. § 2917.12) Penalty, see § 130.99

§ 132.06 MISCONDUCT AT AN EMERGENCY.

(A) No person shall knowingly:

(1) Hamper the lawful operations of any law enforcement officer, fireman, rescuer, medical person, or other authorized person, engaged in his duties at the scene of a fire, accident, disaster, riot, or emergency of any kind;

(2) Fail to obey the lawful order of any law enforcement officer engaged in his duties at the scene of or in connection with a fire, accident, disaster, riot, or emergency of any kind.

(B) Nothing in this section shall be construed to limit access or deny information to any news media representative in the lawful exercise of his duties.

(C) Whoever violates this section is guilty of misconduct at an emergency, a minor misdemeanor. If violation of this section creates a risk of physical harm to persons or property, misconduct at an emergency is a misdemeanor of the fourth degree. (R.C. § 2917.13) Penalty, see § 130.99

§ 132.07 TELEPHONE HARASSMENT.

(A) No person shall knowingly make or cause to be made a telephone call, or knowingly permit a telephone call to be made from a telephone under his control, to another, if the caller does any of the following:

(1) Fails to identify himself to the recipient of the telephone call and makes the telephone call with purpose to harass, abuse, or annoy any person at the premises to which the telephone call is made, whether or not conversation takes place during the telephone call;

(2) Describes, suggests, requests, or proposes that the caller, recipient of the telephone call, or any other person engage in, any sexual activity as defined in § 133.01, and the recipient of the telephone call, or another person at the premises to which the telephone call is made, has requested, in a previous telephone call or in the immediate telephone call, the caller not to make a telephone call to the recipient of the telephone call or to the premises to which the telephone call is made;

(3) During the telephone call, violates § 135.05;

(4) Knowingly states to the recipient of the telephone call that he intends to cause damage to or destroy public or private property, and the recipient of the telephone call, any member of the family of the recipient of the telephone call, or any other person who resides at the premises to which the telephone call is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged;

(5) Knowingly makes the telephone call to the recipient of the telephone call, to another person at the premises to which the telephone call is made, or to the premises to which the telephone call is made, and the recipient of the telephone call, or another person at the premises to which the telephone call is made, has previously told the caller not to call the premises to which the telephone call is made or not to call any persons at the premises to which the telephone call is made.

(B) No person shall make or cause to be made a telephone call or permit a telephone call to be made from a telephone under his control, with purpose to abuse, threaten, annoy, or harass another person.

(C) Whoever violates this section is guilty of telephone harassment, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of this section, then telephone harassment is a felony of the fourth degree. (R.C. § 2917.21) Penalty, see § 130.99

§ 132.08 INDUCING PANIC.

(A) No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:

(1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false;

(2) Threatening to commit any offense of violence;

(3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

(B) Division (A) (1) of this section does not apply to any person conducting an authorized fire or emergency drill.

(C) Whoever violates this section is guilty of inducing panic, a misdemeanor of the first degree. If violation of this section results in physical harm to any person, inducing panic is a felony of the fourth degree and shall be prosecuted under appropriate state law. (R.C. §2917.31) Penalty, see §130.99

§ 132.09 MAKING FALSE ALARMS.

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

(1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;

(2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;

(3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that the offense did not occur.

(B) This section does not apply to any person conducting an authorized fire or emergency drill.

(C) Whoever violates this section is guilty of making false alarms, a misdemeanor of the first degree. (R.C. § 2917.32) Penalty, see § 130.99

§ 132.10 PERSONATING AN OFFICER.

(A) No person, with purpose to defraud or knowing that he is facilitating a fraud, or with purpose to induce another to purchase property or services, shall personate a law enforcement officer, or an inspector, investigator, or agent of any governmental agency.

(B) Whoever violates this section is guilty of personating an officer, a misdemeanor of the first degree. (R.C. § 2913.44) Penalty, see § 130.99

§ 132.11 UNLAWFUL DISPLAY OF LAW ENFORCEMENT EMBLEM.

(A) No person who is not entitled to do so shall knowingly display on a motor vehicle the emblem of a law enforcement agency or an organization of law enforcement officers.

(B) Whoever violates this section is guilty of the unlawful display of the emblem of a law enforcement agency or an organization of law enforcement officers, a minor misdemeanor. (R.C. §2913.441) Penalty, see §130.99

§ 132.12 IMPERSONATING A PEACE OFFICER.

(A) As used in this section:

(1) "PEACE OFFICER" means a sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation, or township constable, who is employed by a political subdivision of this state, a member of a police force employed by a metropolitan housing authority under R.C. § 3735.31(D), a state university law enforcement officer appointed under R.C. § 3345.04, an Ohio veterans' home policeman appointed under R.C. § 5907.02, or a state highway patrolman and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws, ordinances, or rules of the state or any of its political subdivisions.

(2) "PRIVATE POLICEMAN" means any security guard, special policeman, private detective, or other person who is privately employed in a police capacity.

(3) "IMPERSONATE" means to act the part of, assume the identity of, wear the uniform or any part of the uniform of, or display the identification of a particular person or of a member of a class of persons with purpose to make another person believe that the actor is that particular person or is a member of that class of persons.

(B) No person shall impersonate a peace officer or a private policeman.

(C) No person, by impersonating a peace officer or a private policeman, shall arrest or detain any person, search any person, or search the property of any person.

(D) No person, with purpose to commit or facilitate the commission of an offense, shall impersonate a peace officer, a private policeman, or an officer, agent, or employee of the state.

(E) It is an affirmative defense to a charge under division (B) of this section that the impersonation of the peace officer was for a lawful purpose.

(F) Whoever violates division (B) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates division (C) or (D) of this section is guilty of a misdemeanor of the first degree. If the purpose of a violation of division (D) of this section is to commit or facilitate the commission of a felony, a violation of division (D) is a felony of the third degree and shall be prosecuted under appropriate state law. (R.C. § 2921.51) Penalty, see § 130.99

CHAPTER 133: OFFENSES AGAINST MORALS

Section

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§ 133.01 DEFINITIONS.

For the purpose of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

(A) Any material or performance is "HARMFUL TO JUVENILES," if it is offensive to prevailing standards in the adult community with respect to what is suitable for juveniles, and if any of the following apply:

(1) It tends to appeal to the prurient interest of juveniles;

(2) It contains a display, description, or representation of sexual activity, masturbation, sexual excitement, or nudity;

(3) It contains a display, description, or representation of bestiality or extreme or bizarre violence, cruelty, or brutality;

(4) It contains a display, description, or representation of human bodily functions of elimination;

(5) It makes repeated use of foul language;

(6) It contains a display, description, or representation in lurid detail of the violent physical torture, dismemberment, destruction, or death of a human being;

(7) It contains a display, description, or representation of criminal activity that tends to glorify or glamorize the activity and that, with respect to juveniles, has a dominant tendency to corrupt.

(B) "JUVENILE." An unmarried person under the age of 18.

(C) "MATERIAL." Any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonograph record, or tape, or other tangible thing capable of arousing interest through sight, sound, or touch.

(D) "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.

(E) 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.

(F) "PERFORMANCE." Any motion picture, preview, trailer, play, show, skit, dance, or other exhibition performed before an audience.

(G) "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.

(I) "SEXUAL ACTIVITY." Sexual conduct or sexual contact, or both.

(J) "SEXUAL CONDUCT." Vaginal intercourse between a male and female, and anal intercourse, fellatio, and cunnilingus between persons regardless of sex. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

(K) "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.

(L) "SEXUAL EXCITEMENT." The condition of human male or female genitals when in a state of sexual stimulation or arousal.

(M) "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 authorized by R.C. §3103.06;

(2) During the pendency of an action between the parties for annulment, divorce, dissolution of marriage, or alimony;

(3) In the case of an action for alimony, after the effective date of the judgment for alimony. (R.C. §2907.01)

§ 133.02 CORRUPTION OF A MINOR.

(A) No person, 18 years of age or older, shall engage in sexual conduct with another, not the spouse of the offender, when the offender knows the other person is over 12 but not over 15 years of age, or the offender is reckless in that regard.

(B) Whoever violates this section is guilty of corruption of a minor, a felony of the third degree and shall be prosecuted under appropriate state law. If the offender is less than 4 years older than the other person, corruption of a minor is a misdemeanor of the first degree. (R.C. §2907.04) Penalty, see §130.99

§ 133.03 SEXUAL IMPOSITION.

(A) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more other persons to have sexual contact when any of the following apply:

(1) The offender knows that the sexual contact is offensive to the other person, or one of the persons, or is reckless in that regard.

(2) The offender knows that the other person's, or one of the other persons', ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired.

(3) The offender knows that the other person or one of the other persons, submits because of being unaware of the sexual contact.

(4) The other person, or one of the other persons, is over 12 but not over 15 years of age, whether or not the offender knows the age of the person, and the offender is at least 18 years of age and 4 or more years older than the other person.

(B) No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.

(C) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. (R.C. §2907.06) Penalty, see §130.99

§ 133.04 IMPORTUNING.

(A) No person shall solicit a person under 13 years of age to engage in sexual activity with the offender, whether or not the offender knows the age of the person.

(B) No person shall solicit a person of the same sex to engage in sexual activity with the offender, when the offender knows the solicitation is offensive to the other person, or is reckless in that regard.

(C) No person shall solicit another, not the spouse of the offender, to engage in sexual conduct with the offender, when the offender is 18 years of age or older and 4 or more years older than the other person, and the other person is over 12 but not over 15 years of age, whether or not the offender knows the age of the other person.

(D) Whoever violates this section is guilty of importuning. Violation of division (A) or (B) of this section is a misdemeanor of the first degree. Violation of division (C) of this section is a misdemeanor of the fourth degree. (R.C. §2907.07) Penalty, see §130.99

§ 133.05 VOYEURISM.

(A) No person, for the purpose of sexually arousing or gratifying himself or herself, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.

(B) Whoever violates this section is guilty of voyeurism, a misdemeanor of the third degree. (R.C. §2907.08) Penalty, see §130.99

§ 133.06 PUBLIC INDECENCY.

(A) No person shall recklessly do any of the following, under circumstances in which his or her conduct is likely to be viewed by and affront others, not members of his or her household:

(1) Expose his or her private parts, or engage in masturbation;

(2) Engage in sexual conduct;

(3) Engage in conduct which to an ordinary observer would appear to be sexual conduct or masturbation.

(B) Whoever violates this section is guilty of public indecency. If the offender previously has not been convicted of or pleaded guilty to a violation of this section, public indecency is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, public indecency is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to two violations of this section, public indecency is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of this section, public indecency is a misdemeanor of the first degree. (R.C. §2907.09) Penalty, see §130.99

§ 133.07 PROCURING.

(A) No person, knowingly and for gain, shall do either of the following:

(1) Entice or solicit another to patronize a prostitute or brothel;

(2) Procure a prostitute for another to patronize, or take or direct another at his or her request to any place for the purpose of patronizing a prostitute.

(B) No person, having authority or responsibility over the use of premises, shall knowingly permit the premises to be used for the purpose of engaging in sexual activity for hire.

(C) Whoever violates this section is guilty of procuring, a misdemeanor of the first degree. (R.C. §2907.23) Penalty, see §130.99

§ 133.08 SOLICITING.

(A) No person shall solicit another to engage with the other person in sexual activity for hire.

(B) Whoever violates this section is guilty of soliciting, a misdemeanor of the third degree. (R.C. §2907.24) Penalty, see §130.99

§ 133.09 PROSTITUTION.

(A) No person shall engage in sexual activity for hire.

(B) Whoever violates this section is guilty of prostitution, a misdemeanor of the third degree. (R.C. §2907.25) Penalty, see §130.99

§ 133.10 DISSEMINATING MATTER HARMFUL TO JUVENILES.

(A) No person, with knowledge of its character or content, shall recklessly do any of following:

(1) Sell, deliver, furnish, disseminate, provide, exhibit, rent, or present to a juvenile any material or performance that is obscene or harmful to juveniles;

(2) Offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present to a juvenile any material or performance that is obscene or harmful to juveniles;

(3) Allow any 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 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 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, clergyman, 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) Whoever violates this section is guilty of disseminating matter harmful to juveniles. If the material or performance involved is harmful to juveniles but not obscene, violation of this section is a misdemeanor of the first degree. If the material or performance involved is obscene, and the juvenile to whom it is sold, delivered,

(1) Create, reproduce, or publish any obscene material, when the offender knows that the material is to be used for commercial exploitation or will be publicly disseminated or displayed, or when he is reckless in that regard;

(2) Exhibit or advertise for sale or dissemination, or sell or publicly disseminate or display any obscene material;

(3) Create, direct, or produce an obscene performance, when the offender knows that it is to be used for commercial exploitation or will be publicly presented, or when he is reckless in that regard;

(4) Advertise an obscene performance for presentation, or present or participate in presenting an obscene performance, when the performance is presented publicly, or when admission is charged;

(5) Possess or control any obscene material with purpose to violate division (A) (2) or (4) of this section.

(B) It is an affirmative defense to a charge under this section, that the material or performance involved was disseminated or presented for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, clergyman, prosecutor, judge, or other person having a proper interest in the material or performance.

(C) Whoever violates this section is guilty of pandering obscenity, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of this section or of § 133.10, then pandering obscenity is a felony of the fourth degree and shall be prosecuted under appropriate state law. (R.C. § 2907.32) Penalty, see § 130.99

§ 133.12 DECEPTION TO OBTAIN MATTER HARMFUL TO JUVENILES.

(A) No person, for the purpose of enabling a juvenile to obtain any material or gain admission to any performance which is harmful to juveniles, shall do either of the following:

(1) Falsely represent that he is the parent, guardian, or spouse of the juvenile;

(2) Furnish the juvenile with any identification or document purporting to show that the juvenile is 18 years of age or over or married.

(B) No juvenile, for the purpose of obtaining any material or gaining admission to any performance which is harmful to juveniles, shall do either of the following:

(1) Falsely represent that he is 18 years of age or over or married;

(2) Exhibit any identification or document purporting to show that he is 18 years of age or over or married.

(C) Whoever violates this section is guilty of deception to obtain matter harmful to juveniles, a misdemeanor of the second degree. A juvenile who violates division (B) of this section shall be adjudged an unruly child, with the disposition of the case as may be appropriate under R.C. Chapter 2151. (R.C. § 2907.33) Penalty, see § 130.99

CHAPTER 134: GAMBLING

Section

134.01 Definitions
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134.03 Operating a gambling house
134.04 Public gaming
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134.09 Bingo games for amusement only

§ 134.01 DEFINITIONS.

For the purpose of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

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

(B) "BINGO."

(1) A game with all of the following characteristics:

(a) The participants use bingo cards that are divided into 25 spaces arranged in 5 horizontal and 5 vertical rows of spaces, with each space, except the central space, being designated by a combination of a letter and a number and with the central space being designated as a free space;

(b) The participants cover the spaces on the bingo cards that correspond to combinations of letters and numbers that are announced by a bingo game operator;

(c) A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically, from a receptacle that contains 75 objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the 75 possible combinations of a letter and a number that can appear on the bingo cards;

(d) The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers as described in division (B) (1) (c) of this section, that a predetermined and preannounced pattern of spaces has been covered on a bingo card being used by the participant.

(2) Any scheme or game other than a game as defined in division (B) (1) of this section with the following characteristics:

(a) The participants use cards, sheets, or other devices that are divided into spaces arranged in horizontal, vertical, or diagonal rows of spaces, with each space, except free spaces, being designated by a single letter, number, or symbol; by a combination of letters, numbers, or symbols; by a combination of a letter and a number, a letter and a symbol, or a number and a symbol; or by any combination of letters, numbers, and symbols, with some or none of the spaces being designated as a free, complimentary, or similar space;

(b) The participants cover the spaces on the cards, sheets, or devices that correspond to letters, numbers, symbols, or combinations of such that are announced by a bingo game operator or otherwise transmitted to the participants;

(c) A bingo game operator announces, or otherwise transmits to the participants, letters, numbers, symbols, or any combination of such as set forth in division (B) (2) (a) of this section that appear on objects that a bingo game operator selects by chance that correspond to one of the possible letters, numbers, symbols, or combinations of such that can appear on the bingo cards, sheets, or devices;

(d) The winner of the bingo game is any participant who properly announces that a predetermined and preannounced pattern of spaces has been covered on a card, sheet, or device being used by the participant.

(C) "BINGO GAME OPERATOR." Any person, except security personnel, who performs work or labor at the site of a bingo game including but not limited to collecting money from participants, handing out bingo cards or objects to cover spaces on the bingo cards, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on the bingo cards, calling out the combinations of letters and numbers, distributing prizes to the winner of the bingo game, and preparing, selling, and serving food or beverages.

(D) "BINGO SESSION." A period, not to exceed 5 continuous hours, during which a person conducts one or more bingo games.

(E) "BOOKMAKING." The business of receiving or paying off bets.

(F) "CHARITABLE BINGO GAME." Any bingo game that is conducted by a charitable organization that has obtained a bingo license pursuant to R.C. § 2915.08 and the proceeds of which are used for a charitable purpose.

(G) "CHARITABLE ORGANIZATION." Any tax exempt religious, educational, veteran's, fraternal, service, nonprofit medical, volunteer rescue service, or volunteer firemen's, senior citizen's, youth athletic or youth athletic park organization. An organization

is tax exempt if the organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is exempt from federal income taxation under subsection 501 (A) and described in subsection 501 (c) (3), 501 (c) (4), 501 (c) (8), 501 (c) (10) or 501 (c) (19) of the Internal Revenue Code. To qualify as a charitable organization, an organization, except a volunteer rescue service or volunteer firemen's organization, shall have been in continuous existence as such in this state for a period of 2 years immediately preceding either the making of an application for a bingo license under R.C. § 2915.08 or the conducting of any scheme of chance or game of chance as provided in R.C. § 2915.02 (C) or § 134.02 (C).

(H) "CONDUCT." To back, promote, organize, manage, carry on, or prepare for the operation of a scheme or game of chance but does not include any act performed by a bingo game operator.

(I) "EDUCATIONAL ORGANIZATION." Any organization within this state that is not organized for profit, the primary purpose of which is to educate and develop the capabilities of individuals through instruction, and that operates or contributes to the support of a school, academy, college, or university.

(J) "FRATERNAL ORGANIZATION." Any society, order, or association within this state, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge, or chapter of a national or state organization, and that exists exclusively for the common business or brotherhood of its members, and that has been in continuous existence in this state for a period of 5 years.

(K) "GAMBLING DEVICE."

(1) A book, totalizer, or other equipment for recording bets;

(2) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance, except a charitable bingo game, or evidencing a bet;

(3) A deck of cards, dice, gaming table, roulette wheel, slot machine, punch board, or other apparatus designed for use in connection with a game of chance;

(4) Any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes.

(L) "GAMBLING OFFENSE." Any of the following:

(1) A violation of §§ 134.02 to 134.05, inclusive, and R.C. § 2915.06;

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

(3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States, of which gambling is an element;

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

(M) "GAME OF CHANCE." Poker, craps, roulette, a slot machine, a punch board, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely or wholly by chance.

(N) "GROSS RECEIPTS." All money or assets, including admission fees, that a person receives from a bingo session that the person conducts without the deduction of any amounts for prizes paid out during the session or for the expenses of conducting the bingo session. "GROSS RECEIPTS" does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting a bingo session, or by a bona fide auxiliary unit or society of a charitable organization, at a bingo session conducted by the charitable organization, provided all of the following apply.

(1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two years prior to the bingo session.

(2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage.

(3) The food and beverages are sold at customary and reasonable prices.

(4) No person preparing, selling, or serving the food or beverages at the site of the bingo game receives directly or indirectly any form of compensation for the preparation, sale, or service of the food or beverages.

(O) "INTERNAL REVENUE CODE." The Internal Revenue Code of 1954, 68A Stat. 3, 26 U.S.C. 1, as now or hereafter amended.

(P) "NONPROFIT MEDICAL ORGANIZATION." Any organization, that has been incorporated as a nonprofit corporation for at least 5 years and that has continuously operated and will be operated exclusively to provide or to contribute to the support of organizations or institutions organized and operated exclusively to provide hospital, medical, research, or therapeutic services for the public.

(Q) "PARTICIPANT." Any person who plays bingo by covering the spaces on a bingo card that correspond to combinations of letters and numbers that are announced by a bingo game operator.

(R) "RELIGIOUS ORGANIZATION." Any church, body of communicants, or group that is not organized or operated for profit, that gathers in common membership for regular worship and religious observances.

(S) "SCHEME OF CHANCE." A lottery, numbers game, pool, or other scheme in which a participant gives a valuable consideration for a chance to win a prize.

(T) "SCHEME OR GAME OF CHANCE CONDUCTED FOR PROFIT." Any scheme or game of chance designed to produce income for the person who conducts or operates the scheme or game of chance, but does not include a charitable bingo game.

(U) "SECURITY PERSONNEL." Any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, township constable, or member of an organized police department of a municipal corporation or has successfully completed a peace officer's training course pursuant to R.C. §§109.71 to 109.79 and who is hired to provide security for the premises on which a bingo game is conducted.

(V) "SENIOR CITIZEN'S ORGANIZATION." Any private organization, not organized for profit, that is organized and operated exclusively to provide recreational or special services for persons who are 55 years of age or older and that is described and qualified under subsection 501 (c) (3) of the Internal Revenue Code.

(W) "SERVICE ORGANIZATION." Any organization, not organized for profit, that is organized and operated exclusively to provide or to contribute to the support of organizations or institutions organized and operated exclusively to provide medical and therapeutic services for persons who are crippled, born with birth defects, or have any other mental or physical defect or those organized and operated exclusively to protect or to contribute to the support of organizations or institutions organized and operated exclusively to protect animals from inhumane treatment.

(X) "TO USE GROSS RECEIPTS FOR A CHARITABLE PURPOSE." The proceeds of the bingo game are used by, or given, donated, or otherwise transferred to, any organization that is described in subsection 509 (a) (1), 509 (a) (2), or 509 (a) (3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501 (a) and described in 501 (c) (3) of the Internal Revenue Code. That the proceeds of the bingo game are used by, or given, donated, or otherwise transferred to a veteran's organization, as defined in division (Y) of this section, that is a post, chapter, or organization of war veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least 75% of the members of which are war veterans and substantially all of the other members of which are individuals who are veterans (but not war veterans) or are cadets, or are spouses, widows or widowers of war veterans, or such individuals, provided that no part of the net earnings of such post or organization inures to the benefit of any private shareholder or individual, and further provided that the bingo game proceeds are used by the post or organization for the charitable purposes set forth in R.C. §5739.02 (B) (12), are used for awarding scholarships to or for attendance at an institution mentioned in that division of the revised code, are donated to a governmental agency, or are used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief; that the proceeds of the bingo game are used by, or given, donated, or otherwise transferred to a fraternal organization that has been in continuous existence in this state for 15 years for use exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children

or animals and contributions for such use would qualify as a deductible charitable contribution under subsection 170 of the Internal Revenue Code; or that the proceeds of the bingo game are used by a volunteer firemen's organization and are used by the organization for the purposes set forth in division (Z) of this section.

(Y) "VETERAN'S ORGANIZATION." Any individual post of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post or auxiliary unit has been incorporated as a nonprofit corporation for at least two years and has received a letter from the state headquarters of the National Veteran's Association indicating that the individual post or auxiliary unit is in good standing with the National Veteran's Association. As used in this division, "NATIONAL VETERAN'S ASSOCIATION" means any veteran's association that has been in continuous existence as such for a period of at least ten years and either is incorporated by an act of the United States Congress or has a national dues-paying membership of at least 5000 persons.

(Z) "VOLUNTEER FIREMEN'S ORGANIZATION." Any organization of volunteer firemen, as defined in R.C. §146.01, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company.

(AA) "VOLUNTEER RESCUE SERVICE ORGANIZATION." Any organization of volunteers organized to function as an emergency medical service organization as defined in R.C. § 4765.01.

(BB) "YOUTH ATHLETIC ORGANIZATION." Any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are 21 years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

(CC) "YOUTH ATHLETIC PARK ORGANIZATION." Any organization, not organized for profit, that satisfies both of the following:

(1) It owns, operates, and maintains playing fields that satisfy both of the following:

(a) The playing fields are used at least 100 days per year for athletic activities by one or more organizations, not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are 18 years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

(b) The playing fields are not used for any profit-making activity at any time during the year.

(2) It uses the proceeds of the bingo games it conducts exclusively for the operation, maintenance, and improvement of its playing fields of the type described in subsection (1).
(R.C. § 2915.01)

(3) Knowingly procure, transmit, exchange, or engage in conduct that facilitates the procurement, transmission, or exchange of information for use in establishing odds or determining winners in connection with bookmaking or with any scheme or game of chance conducted for profit;

(4) Engage in betting or in playing any scheme or game of chance, except a charitable bingo game, as a substantial source of income or livelihood;

(5) With purpose to violate division (A) (1), (2), (3), or (4) of this section, acquire, possess, control, or operate any gambling device.

(B) For purposes of division (A) (1) of this section, a person facilitates bookmaking if he in any way knowingly aids an illegal bookmaking operation, including, without limitation, placing a bet with a person engaged in or facilitating illegal bookmaking. For purposes of division (A) (2) of this section, a person facilitates a scheme or game of chance conducted for profit if he in any way knowingly aids in the conduct or operation of any such scheme or game, including, without limitation, playing any such scheme or game.

(C) This section does not prohibit conduct in connection with gambling expressly permitted by law.

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

(1) Schemes of chance conducted by a charitable organization that is and has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is exempt from federal income taxation under subsection 501 (a) and described in subsection 501 (c) (3) of the Internal Revenue Code, provided that all of the money or assets received from the scheme of chance after deduction only of prizes paid out during the conduct of the scheme of chance are used by, or given, donated, or otherwise transferred to, any organization that is described in subsection 509 (a) (1), 509 (a) (2), or 509 (a) (3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501 (a) and described in subsection 501 (c) (3) of the Internal Revenue Code, and provided that the scheme of chance is not conducted during, or within 10 hours of, a bingo game conducted for amusement purposes only pursuant to R. C. §2915.12.

(2) Games of chance, if all of the following apply:

(a) The games of chance are not craps for money, roulette for money, or slot machines;

(b) The games are conducted by a charitable organization that is, and has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is, exempt from federal income taxation under

subsection 501 (a) and described in subsection 501 (c) (3) of the Internal Revenue Code;

(c) The games are conducted at festivals of the organization that are conducted for a period of 4 consecutive days or less and not more than twice a year, and are conducted on premises owned by the charitable organization for a period of no less than one year immediately preceding the conducting of the games or on premises leased from a governmental unit;

(d) All of the money or assets received from these games of chance after deduction only of prizes paid out during the conduct of the games of chance are used by, or given, donated, or otherwise transferred to, any organization that is described in subsection 509 (a) (1), 509 (a) (2), or 509 (a) (3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501 (a) and described in subsection 501 (c) (3) of the Internal Revenue Code;

(e) The games are not conducted during, or within 10 hours of, a bingo game conducted for amusement purposes only pursuant to R.C. §2915.23.

No person shall receive any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, for operating or assisting in the operation of any scheme or game of chance.

(3) Any tag fishing tournament operated under a permit issued under R.C. § 1533.92 as "tag fishing tournament" is defined in R.C. § 1531.01.

(E) Division (D) of this section shall not be construed to authorize the sale, lease, or other temporary or permanent transfer of the right to conduct schemes of chance or games of chance, as granted by division (D) of this section, by any charitable organization that is granted that right.

(F) Whoever violates this section is guilty of gambling, a misdemeanor of the first degree. If the offender has previously been convicted of any gambling offense, gambling is a felony of the fourth degree and shall be prosecuted under appropriate state law. (R.C. §2915.02) Penalty, see §130.99

§ 134.03 OPERATING A GAMBLING HOUSE.

(A) No person, being the owner or lessee, or having custody, control, or supervision of premises, shall:

(1) Use or occupy the premises for gambling in violation of § 134.02;

(2) Recklessly permit the premises to be used or occupied for gambling in violation of §134.02.

(B) Whoever violates this section is guilty of operating a gambling house, a misdemeanor of the first degree. If the offender has previously been convicted of a gambling offense, operating a gambling house is a felony of the fourth degree and shall be prosecuted under appropriate state law.

(C) Premises used or occupied in violation of this section constitute a nuisance subject to abatement pursuant to R.C. §§3767.01 to 3767.99. (R.C. §2915.03) Penalty, see §130.99

§ 134.04 PUBLIC GAMING.

(A) No person, while at a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall make a bet or play any game of chance.

(B) No person, being the owner or lessee, or having custody, control, or supervision of a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall recklessly permit the premises to be used or occupied in violation of division (A) of this section.

(C) This section does not prohibit conduct in connection with gambling expressly permitted by law.

(D) Whoever violates this section is guilty of public gaming, a minor misdemeanor. If the offender has previously been convicted of any gambling offense, public gaming is a misdemeanor of the fourth degree.

(E) Premises used or occupied in violation of division (B) of this section constitute a nuisance subject to abatement pursuant to R.C. §§3767.01 to 3767.99. (R.C. §2915.04) Penalty, see §130.99

§ 134.05 CHEATING.

(A) No person, with purpose to defraud or knowing that he is facilitating a fraud, shall engage in conduct designed to corrupt the outcome of:

(1) The subject of a bet;

(2) A contest of knowledge, skill, speed, strength, or endurance;

(3) A scheme or game of chance.

(B) (1) Until July 1, 1983, whoever violates this section is guilty of cheating, a misdemeanor of the first degree. If the potential gain from cheating is $150 or more, or if the offender has previously been convicted of any gambling offense or of any theft offense as defined in §131.01, then cheating is a felony of the fourth degree and shall be prosecuted under appropriate state law.

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(2) Effective July 1, 1983, whoever violates this section is guilty of cheating, a misdemeanor of the first degree. If the potential gain from cheating is $300 or more, or if the offender has previously been convicted of any gambling offense or of any theft offense as defined in §131.01, then cheating is a felony of the fourth degree and shall be prosecuted under appropriate state law. (R.C. §2915.05) Penalty, see §130.99

§ 134.06 REGULATIONS CONCERNING OPERATION.

(A) A charitable organization that conducts a bingo game shall:

(1) Own all of the equipment used to conduct the bingo game or lease the equipment from a charitable organization that is licensed to conduct a bingo game for a rental rate that is not more than is customary and reasonable for such equipment;

(2) Conduct the bingo game on premises owned by the charitable organization, premises owned by another charitable organization and leased from that charitable organization for a rental rate not in excess of $250 per bingo session, or premises leased from a person other than a charitable organization for a rental rate that is not more than is customary and reasonable for premises that are similar in location, size, and quality, but not in excess of $250 per bingo session. If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo games, the lessor of the premises shall provide only the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo equipment or any other type of service or equipment. A charitable organization shall not lease premises that it owns to more than one other charitable organization per calendar week for the purpose of conducting bingo games on the premises. A person who is not a charitable organization shall not lease premises that he owns, leases, or otherwise is empowered to lease to more than one charitable organization per calendar week for conducting bingo games on the premises. In no case shall more than 2 bingo sessions be conducted on any premises in any calendar week.

(3) Display its bingo license conspicuously at the location where the bingo game is conducted;

(4) Conduct the bingo game in accordance with the definition of bingo set forth in §134.01 (B) (1).

(B) A charitable organization that conducts a bingo game shall not:

(1) Pay any compensation to a bingo game operator for operating a bingo game that is conducted by the charitable organization or for preparing, selling, or serving food or beverages at the site of the bingo game, permit any auxiliary unit or society of the charitable organization to pay compensation to any bingo game

operator who prepares, sells, or serves food or beverages at a bingo session conducted by the charitable organization, or permit any auxiliary unit or society of the charitable organization to prepare, sell, or serve food or beverages at a bingo session conducted by the charitable organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;

(2) Pay consulting fees to any person for any services performed in relation to the bingo game;

(3) Pay concession fees to any person who provides refreshments to the participants in the bingo game;

(4) Conduct more than 2 bingo sessions in any 7 day period;

(5) Pay out more than $3500 in prizes during any bingo session that is conducted by the charitable organization;

(6) Conduct a bingo session at any time during the 10-hour period between midnight and 10:00 a.m. at any time during or within 10 hours of, a bingo game conducted for amusement only pursuant to R.C. §2915.12 or at any location not specified on its bingo license, or on any day of the week or during any time period not specified on its bingo license. If circumstances beyond its control make it impossible for the charitable organization to conduct a bingo session at the location specified on its bingo license, or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its bingo license, the charitable organization may apply in writing to the attorney general for an amended bingo license, pursuant to R.C. §2915.08 (F). A charitable organization may apply only once in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its bingo license. If the amended license is granted, the organization may conduct bingo sessions at the location, on the day of the week, and at the time specified on its amended license.

(7) Permit any person whom the charitable organization knows, or should have known, is under the age of 18 to work as a bingo game operator;

(8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;

(9) Permit the lessor of the premises on which bingo is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo equipment, or any other type of service or equipment.

(C) A bingo game operator shall not receive or accept any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the

source for operating a bingo game or providing other work or labor at the site of the bingo game.

(D) Notwithstanding the provisions of division (A) (2), a charitable organization that has, prior to December 6, 1977, entered into written agreements for the lease of premises it owns to another charitable organization or other charitable organizations for the conducting of bingo sessions so that more than 2 bingo sessions are conducted per calendar week on the premises, and a person who is not a charitable organization that has prior to December 6, 1977, entered into written agreements for the lease of premises he owns to charitable organizations for the conducting of more than 2 bingo sessions per calendar week on the premises, may continue to lease the premises to those charitable organizations, provided that no more than 4 sessions are conducted per calendar week, provided that the lessor organization or person has notified the attorney general in writing of the organizations that will conduct the sessions and the days of the week and the times of the day on which the sessions will be conducted, provided that the initial lease entered into with each organization that will conduct the sessions was filed with the attorney general prior to December 6, 1977, and provided that each organization that will conduct the sessions was issued a license to conduct bingo games by the attorney general prior to December 6, 1977.

(E) Whoever violates division (A) (1), (A) (2), (A) (3), (A) (4), or (B) or (C) of this section is guilty of a minor misdemeanor. If the offender has previously been convicted of a violation of division (A) (1), (A) (2), (A) (3), (A) (4), or (B) or (C) of this section, a violation of division (A) (1), (A) (2), (A) (3), (A) (4), or (B) or (C) of this section is a misdemeanor of the first degree. (R.C. §2915.09) Penalty, see §130.99

§ 134.07 RECORDS TO BE KEPT.

(A) A charitable organization that conducts a bingo session or scheme or game of chance pursuant to §134.02 (D) shall maintain the following records for at least 3 years from the date on which the bingo session or scheme or game of chance is conducted:

(1) An itemized list of the gross receipts of each session or scheme or game of chance;

(2) An itemized list of all expenses other than prizes that are incurred in conducting the bingo session, the name of each person to whom the expenses are paid, and a receipt for all of the expenses;

(3) A list of all prizes awarded during the bingo session or scheme or game of chance conducted by the charitable organization and the name and address of all persons who are winners of prizes of $100 or more in value;

(4) An itemized list of the charitable recipients of the proceeds of the bingo session or scheme or game of chance, including the name and address of each recipient to whom the money is distributed, and if the organization uses the proceeds of a bingo session or the money or assets received from a scheme or game of chance for any purpose set forth in §§ 134.01 (X) or 134.02 (D) the a list of each purpose and an itemized list of each expenditure for each purpose;

(5) The number of persons who participate in any bingo session or scheme or game of chance that is conducted by the charitable organization.

(6) A list of receipts from the sale of food and beverages by the charitable organization or one of its auxiliary units or societies, if the receipts were excluded from the definition of gross receipts under § 134.01(N);

(7) An itemized list of all expenses incurred at each bingo session conducted by the charitable organization in the sale of food and beverages by the charitable organization or by an auxiliary unit or society of the charitable organization, the name of each person to whom the expenses are paid, and a receipt for all of the expenses.

(B) The attorney general, or any local law enforcement agency, may:

(1) Investigate any charitable organization or any officer, agent, trustee, member, or employee of the organization;

(2) Examine the accounts and records of the organization;

(3) Conduct inspections, audits, and observations of bingo games or schemes or games of chance while they are in session;

(4) Conduct inspections of the premises where bingo games or schemes or games of chance are operated;

(5) Take any other necessary and reasonable action to determine if a violation of any provision of R.C. §§ 2915.01, 2915.02, and 2915.07 through 2915.12 or §§ 134.02, 134.02, and 134.06 through 134.09 has occurred.

(C) If any local law enforcement agency has reasonable grounds to believe that a charitable organization or an officer, agent, trustee, member, or employee of the organization has violated any provision of R.C. §§ 2915.01 to 2915.12, or §§ 134.01 through 134.09 the local law enforcement agency may proceed by action in the proper court to enforce R.C. §§ 2915.01 to 2915.12, or §§ 134.01 through 134.09 provided that the local law enforcement agency shall give written notice to the attorney general when commencing an action as described in this division.

(D) No person shall destroy, alter, conceal, withhold, or deny access to any accounts or records, of a charitable organization that have been requested for examination, or obstruct, impede, or interfere with any inspection, audit, or observation of a bingo game or scheme or game of change or premises where a bingo game or scheme or game of chance is operated, or refuse to comply with any reasonable request of, or obstruct, impede, or interfere with any other reasonable action undertaken by, the attorney general or a local law enforcement agency pursuant to division (B) of this section.

(E) Whoever violates division (A) or (D) of this section is guilty of a misdemeanor of the first degree. (R.C. § 2915.10) Penalty, see § 130.99

§ 134.08 REQUIREMENTS FOR BINGO GAME OPERATORS.

(A) No person shall be a bingo game operator unless he is 18 years of age or older.

(B) No person who has been convicted of a felony or a gambling offense in any jurisdiction shall be a bingo game operator.

(C) Whoever violates division (A) of this section is guilty of a misdemeanor of the third degree. Whoever violates division (B) of this section is guilty of a misdemeanor of the first degree. (R.C. § 2915.11) Penalty, see § 130.99

§ 134.09 BINGO GAMES FOR AMUSEMENT ONLY.

Sections 134.06 to 134.08 do not apply to bingo games that are conducted for the purpose of amusement only. A bingo game is conducted for the purpose of amusement only if it complies with all of the following requirements:

(A) The participants do not pay any money or any other thing of value including an admission fee or any fee, for bingo cards, sheets, objects to cover the spaces, or other devices used in playing bingo, for the privilege of participating in the bingo game, or to defray any costs of the game, or pay tips or make donations during or immediately before or after the bingo game;

(B) All prizes awarded during the course of the game are non-monetary, and in the form of merchandise, goods, or entitlements to goods or services only, and the total value of all prizes awarded during the game is less than $25;

(C) No commission, wages, salary, reward, tip, donation, gratuity, or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game;

(D) The bingo game is not conducted either during or within 10 hours of:

(1) A bingo session during which a charitable bingo game is conducted pursuant to §§ 134.06 through 134.08;

(2) A scheme or game of chance other than a bingo game conducted pursuant to this section.

(E) The number of players participating in the bingo game does not exceed 50.

(F) The attorney general, or any local law enforcement agency, may investigate the conduct of amusement bingo if there is reason to believe that a purported amusement bingo game is operated in violation of this section. A local law enforcement agency may proceed by action in the proper court to enforce this section if the local law enforcement agency gives written notice to the attorney general when commencing the action.

(G) Whoever conducts a bingo game that is not a charitable bingo game and that does not conform to divisions (A), (B), (C), (D), and (E) of this section is guilty of a misdemeanor of the first degree on the first offense, and is guilty of a felony of the fourth degree for each subsequent offense. Felony offenses shall be prosecuted under appropriate state statute. (R.C. § 2915.12) Penalty, see § 130.99

CHAPTER 135: OFFENSES AGAINST PERSONS

Section

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§ 135.01 NEGLIGENT HOMICIDE.

(A) No person shall negligently cause the death of another by means of a deadly weapon or dangerous ordnance as defined in R.C. §2923.11.

(B) Whoever violates this section is guilty of negligent homicide, a misdemeanor of the first degree.
(R.C. §2903.05) Penalty, see §130.99

§ 135.02 VEHICULAR HOMICIDE.

(A) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall negligently cause the death of another.

(B) Whoever violates this section is guilty of vehicular homicide, a misdemeanor of the first degree. If the offender has previously has been convicted of an offense under this section or R.C. §§ 2903.06 or 2903.08, vehicular homicide is a felony of the fourth degree and shall be prosecuted under appropriate state law.

(1) If the jury or judge as trier of fact finds that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, at the time of the commission of the offense, then the offender's driver's or commercial driver's license or permit or nonresident operating privileges shall be permanently revoked pursuant to R.C. § 4507.16.

(2) When the trier of fact determines whether the offender was under the influence of alcohol, a drug of abuse, or alcohol and

a drug of abuse, the concentration of alcohol in the offender's blood, breath, or urine as shown by a chemical test taken pursuant to §73.011 or R.C. §§ 1547.111 or 4511.191 may be considered as competent evidence and the offender shall be presumed to have been under the influence of alcohol if there was at the time the bodily substance was withdrawn for the chemical test a concentration of .10 of 1% or more by weight of alcohol in the offender's blood, ten-hundredths of one gram or more by weight of alcohol per 210 liters of his breath, or fourteen-hundredths of one gram or more by weight of alcohol per 100 milliliters of his urine.
(R.C. § 2903.07) Penalty, see §130.99

Statutory reference:
Repeat offenders, see R.C. § 2903.07(C)
Trial judge to suspend or revoke driver's license, or the like, see R.C. §4507.16

§ 135.03 ASSAULT.

(A) No person shall knowingly cause or attempt to cause physical harm to another.

(B) No person shall recklessly cause serious physical harm to another.

(C) Whoever violates this section is guilty of assault, a misdemeanor of the first degree.
(R.C. § 2903.13) Penalty, see §130.99

Statutory reference:
Felony offenses, see R.C. § 2903.13(C)(1) and (2)

§ 135.04 NEGLIGENT ASSAULT.

(A) No person shall negligently, by means of a deadly weapon or dangerous ordnance as defined in R.C. §2923.11, cause physical harm to another.

(B) Whoever violates this section is guilty of negligent assault, a misdemeanor of the third degree.
(R.C. §2903.14) Penalty, see §130.99

§ 135.05 AGGRAVATED MENACING.

(A) No person shall knowingly cause another to believe that the offender will cause serious physical harm to the person or property of the other person or member of his immediate family.

(B) Whoever violates this section is guilty of aggravated menacing, a misdemeanor of the first degree.
(R.C. §2903.21) Penalty, see §130.99

§ 135.06 MENACING.

(A) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person or member of his immediate family.

(B) Whoever violates this section is guilty of menacing, a misdemeanor of the fourth degree. (R.C. §2903.22) Penalty, see §130.99

§ 135.061 MENACING BY STALKING.

(A) No person by engaging in a pattern of conduct shall knowingly cause another to believe that the offender will cause physical harm to the other person or cause mental distress to the other person.

(B) Whoever violates this section is guilty of menacing by stalking, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section involving the same person who is the victim of the current offense, menacing by stalking is a felony of the fourth degree and shall be prosecuted under appropriate state law.

(C) As used in this section:

(1) "PATTERN OF CONDUCT" means two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents.

(2) "MENTAL DISTRESS" means any mental illness or condition that involves some temporary substantial incapacity or mental illness or condition that would normally require psychiatric treatment. (R.C. § 2903.211) Penalty, see § 130.99

Statutory reference:
Conditions of bail for violators, see R.C. § 2903.212
Anti-stalking protection order as pretrial condition of release, see R.C. § 2903.213

§ 135.062 VIOLATING ANTI-STALKING PROTECTION ORDER.

(A) No person shall recklessly violate any terms of an anti-stalking protection order issued pursuant to R.C. § 2903.213.

(B) Whoever violates this section is guilty of violating an anti-stalking protection order. If the offender previously has not been convicted of or pleaded guilty to a violation of this section, §§ 131.061, 135.05 through 135.061 or a violation of R.C. §§ 2903.21, 2903.211, 2903.22, or 2911.211 that involves the same person who is the subject of the anti-stalking protection order, violating an anti-stalking protection order is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, §§ 131.061, 135.05 through 135.061, or one violation of R.C. §§ 2903.21, 2903.211, 2903.22, or 2911.211 that involves the same person who is the subject of the anti-stalking

protection order, violating an anti-stalking protection order is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, §§ 131.061, 315.05 through 135.061, or to two or more violations of R.C. §§ 2903.21, 2903.211, 2903.22, or 2911.211 that involve the same person who is the subject of the anti-stalking protection order, violating an anti-stalking protection order is a felony of the fourth degree and shall be prosecuted under appropriate state law.
(R.C. § 2903.214) Penalty, see § 130.99

Statutory reference:
Mental evaluations of defendants, see R.C. § 2903.215

§ 135.07 UNLAWFUL RESTRAINT.

(A) No person, without privilege to do so, shall knowingly restrain another of his liberty.

(B) Whoever violates this section is guilty of unlawful restraint, a misdemeanor of the third degree.
(R.C. §2905.03) Penalty, see §130.99

§ 135.08 CHILD STEALING.

(A) No person, by any means, and with purpose, to withhold a minor from the legal custody of his parent, guardian, or custodian, shall remove the minor from the place where he is found.

(B) It is an affirmative defense to a charge under this section that the actor reasonably believed that his conduct was necessary to preserve the minor's health or welfare.

(C) Whoever violates this section is guilty of child stealing.

(1) If the offender is a natural or adoptive parent, or a step-parent of the minor, but not entitled to legal custody of the minor when the offense is committed, child stealing is a misdemeanor of the first degree unless:

(a) The offender removes the child from this state or the offender previously has been convicted of child stealing or of kidnapping or abduction involving a minor, in which case child stealing is a felony of the fourth degree;

(b) Physical harm is done to the minor, in which case child stealing is a felony of the second degree, and shall be prosecuted under appropriate state law.

(2) If the offender is not a natural or adoptive parent, or a step-parent of the minor, child stealing is an aggravated felony of the second degree, unless physical harm is done to the minor, in which case child stealing is an aggravated felony of the first degree, and shall be prosecuted under appropriate state law. (R.C. §2905.04) Penalty, see §130.99

§ 135.09 COERCION.

(A) No person, with purpose to coerce another into taking or refraining from action concerning which he has a legal freedom of choice, shall do any of the following:

(1) Threaten to commit any offense;

(2) Utter or threaten any calumny 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 personal or business repute, or to impair his 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 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 is not a party, offering or agreeing to dismiss, or dismissing one or more charges pending against an accused, or offering or agreeing to impose, or imposing a certain sentence or modification of sentence;

(3) Imposing probation on certain conditions, including without limitation requiring the offender to make restitution or redress to the victim of his 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 purpose was limited to:

(1) Compelling another to refrain from misconduct or to desist from further misconduct;

(2) Preventing or redressing a wrong or injustice;

(3) Preventing another from taking action for which the actor reasonably believed the other person to be disqualified;

(4) Compelling another to take action which the actor reasonably believed the other person to be under a duty to take.

(D) Whoever violates this section is guilty of coercion, a misdemeanor of the second degree.

(E) As used in this section, "THREAT" includes a direct threat and a threat by innuendo. (R.C. §2905.12) Penalty, see §130.99

§ 135.10 BIGAMY.

(A) No married person shall marry another or continue to cohabit with such other person in this state.

(B) It is an affirmative defense to a charge under this section that the actor's spouse was continuously absent for 5 years immediately preceding the purported subsequent marriage, and was not known by the actor to be alive within that time.

(C) Whoever violates this section is guilty of bigamy, a misdemeanor of the first degree. (R.C. §2919.01) Penalty, see §130.99

§ 135.11 UNLAWFUL ABORTION.

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

(1) "ABORTION." The purposeful termination of a human pregnancy by any person, including the pregnant woman herself, with an intention other than to produce a live birth or to remove a dead fetus or embryo. "ABORTION" is the practice of medicine or surgery for the purposes of R.C. §4731.41.

(2) "UNEMANCIPATED." A woman who is unmarried and under 18 years of age who has not entered the armed services of the United States, has not become employed and self-subsisting, or has not otherwise become independent from the care and control of her parent, guardian, or custodian.

(B) No person shall perform or induce an abortion without the informed consent of the pregnant woman.

(C) No person shall knowingly perform or induce an abortion upon a woman who is pregnant, unmarried, under 18 years of age, and unemancipated unless at least one of the circumstances enumerated in R.C. § 2919.12(B) applies.

(D) Whoever violates this section is guilty of unlawful abortion, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section, unlawful abortion is a felony of the fourth degree, punishable under appropriate state law, and is liable to the pregnant woman for civil compensatory and exemplary damages. (R.C. §§2919.11, 2919.12) Penalty, see §130.99

§ 135.12 ABORTION TRAFFICKING.

(A) No person shall experiment upon or sell the product of human conception which is aborted. Experiment does not include autopsies pursuant to R.C. §§313.13 and 2108.50.

(B) Whoever violates this section is guilty of abortion trafficking, a misdemeanor of the first degree.
(R.C. §2919.14) Penalty, see §130.99

§ 135.13 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 handicapped child who is under age 21;

(3) His or her aged or infirm parent or adoptive parent, who from lack of ability and means is unable to provide adequately for his or her own support;

(4) Any person whom, by law or by court order or decree, the offender is legally obligated to support.

(B) No person shall aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming a dependent child, as defined in R.C. § 2151.04, or a neglected child, as defined in R.C. § 2151.03.

(C) It is an affirmative defense to a charge under division (A) of this section of failure to provide adequate support that the accused was unable to provide adequate support, but did provide such support as was within his ability and means.

(D) It is an affirmative defense to a charge under (A)(3) above that the parent abandoned the accused, or failed to support the accused as required by law, while the accused was under age 18, or was mentally or physically handicapped and under age 21.

(E) Whoever violates 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) of this section or there has been a court finding that the offender has failed to provide support under division (A)(2) 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) of this section is a felony of the fourth degree, punishable under appropriate state law. If the offender

is guilty of nonsupport of dependents by reason of failing to provide support to his child as required by a child support order issued on or after April 15, 1985, pursuant to R.C. §§ 2151.23, 3105.21, 3109.05, 3111.13, 3113.04, 3113.31, or 3115.22, 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. Whoever violates division (B) above is guilty of contributing to the nonsupport of dependents, a misdemeanor of the first degree. Each day of violation of division (B) above is a separate offense.
(R.C. §2919.21) Penalty, see §130.99

§ 135.14 ENDANGERING CHILDREN.

(A) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under 18 years of age or a mentally or physically handicapped child under 21 years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection, or support. It is not a violation of a duty of care, protection, or support under this division when the parent, guardian, custodian, or person having custody or control of a child treats the physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

(B) No person shall abuse a child under 18 years of age or a mentally or physically handicapped child under 21 years of age.

(C) Whoever violates this section is guilty of endangering children, a misdemeanor of the first degree. If the violation results in serious physical harm to the child involved, or if the offender has previously been convicted of an offense under this section or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, endangering children is a felony of the fourth degree and shall be prosecuted under appropriate state law.
(R.C. §2919.22) Penalty, see §130.99

Statutory reference:
Torturing children, administering corporal punishment, administering unwarranted disciplinary measures, or allowing child to participate in production of obscene matter, felony offenses, see R.C. § 2919.22(B), (C)

§ 135.15 INTERFERENCE WITH CUSTODY.

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

(1) A child under the age of 18, or a mentally or physically handicapped child under the age of 21;

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

(3) A person committed by law to an institution for the mentally ill or mentally retarded.

(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 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 shelter, protection, or influence.

(D) Whoever violates this section is guilty of interference with custody. If the child who is the subject of a violation of division (A)(1) above is not kept or harbored in a foreign country, a violation of division (A)(1) above is a misdemeanor of the third degree. If the child who is the subject of a violation of division (A)(1) is kept or harbored in a foreign county, a violation of division (A)(1) above is a felony of the fourth degree. A violation of division (A)(2) or (3) above is a misdemeanor of the third degree. A violation of division (B) above is a misdemeanor of the first degree. Each day of violation of division (B) above is a separate offense.
(R.C. §2919.23) Penalty, see §130.99

§ 135.151 INTERFERENCE WITH SUPPORT ORDERS.

(A) No person, by using physical harassment or threats of violence against another person, shall interfere with the other person in his initiation or continuance of, or attempt to prevent the other person from initiating or continuing, an action to issue or modify a support order under R.C. Chapter 3115, or under R.C. §§ 2151.23, 2151.231, 2151.36, 2151.49, 3105.18, 3105.21, 3109.05, 3111.13, 3113.04, 3113.07, or 3113.31.

(B) Whoever violates this section is guilty of interfering with an action to issue or modify a support order, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section or of R.C. § 3111.25, interfering with an action to issue or modify a support order is a felony of the fourth degree and shall be prosecuted under appropriate state law.
(R.C. § 2919.231) Penalty, see § 130.99

§ 135.16 DOMESTIC VIOLENCE.

(A) For the purpose of this section:

(1) "FAMILY OR HOUSEHOLD MEMBER" means any of the following, who is residing or has resided with the offender:

(a) A spouse, a person living as a spouse, or a former spouse of the offender;

(b) A parent or a child of the offender, or another person related by consanguinity or affinity to the offender;

(c) A parent or a child of a spouse, person living as a spouse, or former spouse of the offender, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the offender.

(2) "PERSON LIVING AS A SPOUSE" means a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, who otherwise has cohabited with the offender within one year prior to the date of the alleged commission of the act in question or who is the natural parent of the offender's child.

(B) No person shall knowingly cause or attempt to cause physical harm to a family or household member.

(C) No person shall recklessly cause serious physical harm to a family or household member.

(D) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

(E) Whoever violates this section is guilty of domestic violence. A violation of division (D) is a misdemeanor of the fourth degree. A violation of division (B) or (C) is a misdemeanor of the first degree. If the offender previously has been convicted of domestic violence, or a violation of R.C. §§ 2903.11, 2903.12, 2903.13, 2903.211 or 2911.211 involving a person who was a family or household member at the time of such violation, a violation of division (B) or (C) is a felony of the fourth degree and a violation of division (D) is a misdemeanor of the third degree.
(R.C. § 2919.25) Penalty, see § 130.99

§ 135.17 HAZING PROHIBITED.

(A) As used in this section, "HAZING" means doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person.

(B) (1) No person shall recklessly participate in the hazing of another.

(2) No administrator, employee, or faculty member of any primary, secondary, or post-secondary school or of any other educational institution, public or private, shall recklessly permit the hazing of any person.

(C) Whoever violates this section is guilty of hazing, a misdemeanor of the fourth degree. (R.C. §2903.31) Penalty, see §130.99

§ 135.18 CONTRIBUTING TO UNRULINESS OR DELINQUENCY OF A CHILD.

(A) No person shall do either of the following:

(1) Aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming an unruly child, as defined in R.C. § 2151.022, or a delinquent child, as defined in R.C. § 2151.02;

(2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child, as defined in R.C. § 2151.022, or a delinquent child, as defined in R.C. § 2151.02.

(B) Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of violation of this section is a separate offense. (R.C. § 2919.24) Penalty, see § 130.99

CHAPTER 136: OFFENSES AGAINST JUSTICE AND ADMINISTRATION

Section

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§ 136.01 DEFINITIONS.

For the purpose of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

(A) "CAMPAIGN COMMITTEE," "CONTRIBUTION," "POLITICAL ACTION COMMITTEE," and "POLITICAL PARTY" have the same meaning as in R.C. § 3517.01.

(B) "DETENTION." Arrest, or confinement in any facility for custody of persons charged with or convicted of crime or alleged or found to be delinquent or unruly, or detention for extradition or deportation. Detention does not include supervision of probation or parole, nor constraint incidental to release on bail.

(C) "DETENTION FACILITY." Any place used for the confinement of a person charged with or convicted of crime or alleged or found to be delinquent or unruly.

(D) "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.

(E) "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 directs, conducts, or participates in directing or conducting party affairs at any level of responsibility.

(F) "PROVIDER AGREEMENT" and "MEDICAL ASSISTANCE PROGRAM" have the same meanings as in R.C. § 2913.40.

(G) "PUBLIC OFFICIAL." 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 including without limitation legislators, judges, and law enforcement officers.

(H) "PUBLIC SERVANT." Any of the following:

(1) Any public official;

(2) Any person performing ad hoc a governmental function, including without limitation a juror, member of a temporary commission, master, arbitrator, advisor, or consultant;

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

(I) "VALUABLE THING" or "VALUABLE BENEFIT." Includes, but is not limited to, a contribution.
(R.C. § 2921.01)

§ 136.02 FALSIFICATION.

(A) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following apply:

(1) The statement is made in any official proceeding.

(2) The statement is made with purpose to incriminate another.

(3) The statement is made with purpose to mislead a public official in performing his official function.

(4) The statement is made with purpose to secure the payment of workmen's compensation, unemployment compensation, aid for the aged, aid for the blind, aid for the permanently and totally disabled, aid to dependent children, general assistance, retirement benefits, 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 other person empowered to administer oaths.

(7) The statement is in writing on or in connection with a report or return which is required or authorized by law.

(8) The statement is in writing, and is made with purpose to induce another to extend credit to or employ the offender, or to confer any degree, diploma, certificate of attainment, award of excellence, or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to his detriment.

(9) The statement is made with purpose to commit or facilitate the commission of a theft offense involving a motor vehicle.

(10) The statement is made with purpose to commit or facilitate the commission of a theft offense involving the proceeds of an insurance policy.

(11) 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.

(B) It is no defense to a charge under division (A) (4) of this section that the oath or affirmation was administered or taken in an irregular manner.

(C) Where 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 division (A)(1), (2), (3), (4), (5), (6), (7), (8), or (11) of this section is guilty of falsification, a misdemeanor of the first degree.

(2) Whoever violates division (A)(9) of this section is guilty of falsification of a report of a motor vehicle theft, a felony of the third degree, and shall be prosecuted under appropriate state law.

(3) Whoever violates division (A)(10) of this section is guilty of falsification of an insurance claim. If the amount of the claim is less than $300, falsification of an insurance claim is a misdemeanor of the first degree. If the amount of the claim is $300 or more and is less than $5,000, or if the offender previously has been convicted of a theft offense, falsification of an insurance claim is a felony of the fourth degree, and shall be prosecuted under appropriate state law. If the amount of the claim is $5,000 or more, or if the claim is made for the theft of a motor vehicle, or if the offender previously has been convicted of two or more theft offenses, falsification of an insurance claim is a felony of the third degree, and shall be prosecuted under appropriate state law. (R.C. §2921.13) Penalty, see §130.99

§ 136.03 COMPOUNDING A CRIME.

(A) No person shall knowingly demand, accept, or agree to accept anything of value in consideration of abandoning or agreeing to abandon a pending criminal prosecution.

(B) It is an affirmative defense to a charge under this section when both of the following apply:

(1) The pending prosecution involved is for a violation of §§ 131.08, 131.11, or division (B) (2) of §131.12 which the actor under this section was the victim.

(2) The thing of value demanded, accepted, or agreed to be accepted, in consideration of abandoning or agreeing to abandon the prosecution, did not exceed an amount which the actor reasonably believed due him as restitution for the loss caused him by the offense.

(C) When a prosecuting witness abandons or agrees to abandon a prosecution under division (B) of this section, the abandonment or agreement in no way binds the state to abandoning the prosecution.

(D) Whoever violates this section is guilty of compounding a crime, a misdemeanor of the first degree. (R.C. §2921.21)
Penalty, see §130.99

§ 136.04 FAILURE TO REPORT A CRIME.

(A) No person, knowing that a felony has been or is being committed, shall knowingly fail to report the information to law enforcement authorities.

(B) Except for conditions that are within the scope of division (E) of this section, no physician, limited practitioner, nurse, or 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 him, or any serious physical harm to persons that he 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 any person shall fail to report the death immediately to any physician whom the person knows to be treating the deceased for a condition from which death at that time would not be unexpected, or to a law enforcement officer, ambulance service, emergency squad, or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained.

(D) No person shall fail to provide upon request of the person to whom he has made a report required by division (C) of this

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

(E) (1) As used in this division, "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.

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

(3) No manager, superintendent, or other person in charge of a hospital, sanitarium, or other medical facility in which a person is attended or treated for any burn injury inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson bureau, if there is such a bureau in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

(4) No person who is required to report any burn injury under division (E)(2) or (3) of this section shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the office of the state fire marshal. The report shall be made on a form provided by the state fire marshal.

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

(F) Division (A) or (D) of this section does not require disclosure of information, when any of the following applies:

(1) The information is privileged by reason of the relationship between attorney and client, doctor and patient, licensed psychologist or licensed school psychologist and client, clergyman or rabbi or minister or priest and any person communicating information confidentially to him for a religious counseling purpose in his 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 R.C. §§2739.04 or 2739.12.

(4) Disclosure of the information would amount to disclosure by an ordained clergyman of an organized religious body confidential communication made to him in his capacity as such by a person seeking his aid or counsel.

(5) Disclosure would amount to revealing information acquired by the actor in the course of his duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or organization certified pursuant to R.C. §3793.06.

(6) Disclosure would amount to revealing information acquired by the actor in the course of his duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of R.C. §§2907.02, 2907.05, or 2907.12.

As used herein "COUNSELING SERVICES" include services provided in an informal setting by a person who, by education or experience, is competent to provide such services.

(G) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.

(H) Whoever violates division (A) or (B) of this section is guilty of failure to report a crime. Violation of division (A) of this section is a misdemeanor of the fourth degree. Violation of division (B) of this section is a misdemeanor of the second degree.

(I) Whoever violates division (C) or (D) of this section is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.

(J) (1) Whoever negligently violates division (E) of this section is guilty of a minor misdemeanor.

(2) Whoever knowingly violates division (E) of this section is guilty of a misdemeanor of the second degree. (R.C. §2921.22) Penalty, see §130.99

§ 136.05 FAILURE TO AID A LAW ENFORCEMENT OFFICER.

(A) No person shall negligently fail or refuse to aid a law enforcement officer, when called upon for assistance in preventing or halting the commission of an offense, or in apprehending or detaining an offender, when the aid can be given without a substantial risk of physical harm to the person giving it.

(B) Whoever violates this section is guilty of failure to aid a law enforcement officer, a minor misdemeanor. (R.C. §2921.23) Penalty, see §130.99

§ 136.06 OBSTRUCTING OFFICIAL BUSINESS.

(A) No person, without privilege to do so and with purpose to prevent, obstruct, or delay the performance by a public official of any authorized act within his official capacity, shall do any act which hampers or impedes a public official in the peformance of his lawful duties.

(B) Whoever violates this section is guilty of obstructing official business, a misdemeanor of the second degree. (R.C. §2921.31) Penalty, see §130.99

§ 136.07 OBSTRUCTING JUSTICE.

(A) No person, with purpose to hinder the discovery, apprehension, prosecution, conviction, or punishment of another for crime, or to assist another to benefit from the commission of a crime, shall do any of the following:

(1) Harbor or conceal the other person;

(2) Provide the other person with money, transportation, a weapon, a disguise, or other means of avoiding discovery or apprehension;

(3) Warn the other person of impending discovery or apprehension;

(4) Destroy or conceal physical evidence of the crime, or induce any person to withhold testimony or information or to elude legal process summoning him to testify or supply evidence;

(5) Communicate false information to any person.

(B) Whoever violates this section is guilty of obstructing justice, a misdemeanor of the first degree. If the crime committed by the person aided is a felony, obstructing justice is a felony of the fourth degree and shall be prosecuted under appropriate state law. (R.C. §2921.32) Penalty, see §130.99

§ 136.08 RESISTING ARREST.

(A) No person, recklessly or by force, shall resist or interfere with a lawful arrest of himself or another.

(B) Whoever violates this section is guilty of resisting arrest, a misdemeanor of the second degree. (R.C. §2921.33) Penalty, see §130.99

§ 136.09 HAVING AN UNLAWFUL INTEREST IN A PUBLIC CONTRACT.

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

(1) During his term of office or within one year thereafter, occupy any position of profit in the prosecution of a public contract authorized by him or by a legislative body, commission, or board of which he was a member at the time of authorization, and not let by competitive bidding in which his is not the lowest and best bid;

(2) Have an interest in the profits or benefits of a public contract entered into by or for the use of the political subdivision or governmental agency or instrumentality with which he is connected;

(3) Have an interest in the profits or benefits of a public contract which is not let by competitive bidding when required by law, and which involves more than $150.

(B) In the absence of bribery or a purpose to defraud, a public servant, member of his family, or any of his associates shall not be considered as having an interest in a public contract or the investment of public funds, when all of the following apply:

(1) The interest of the person is limited to owning or controlling shares of the corporation, or being a creditor of the corporation or other organization, which is the contractor on the public contract involved, or which is the issuer of the security in which public funds are invested;

(2) The shares owned or controlled by the person do not exceed 5% of the outstanding shares of the corporation, and the amount due the person as creditor does not exceed 5% of the total indebtedness of the corporation or other organization;

(3) The person, prior to the time the public contract is entered into, files with the political subdivision or governmental agency or instrumentality involved, an affidavit giving his exact status in connection with the corporation or other organization.

(C) This section does not apply to a public contract in which a public servant, member of his family, or one of his business associates has an interest, when all of the following apply:

(1) The subject of the public contract is necessary supplies or services for the political subdivision or governmental agency or instrumentality involved;

(2) The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the political subdivision or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public servant's becoming associated with the political subdivision or governmental agency or instrumentality involved;

(3) The treatment accorded the political subdivision or governmental agency or instrumentality is either preferential to or the same as that accorded other customers or clients in similar transactions;

(4) The entire transaction is conducted at arm's length, with full knowledge by the political subdivision or governmental agency or instrumentality involved, of the interest of the public servant, member of his family, or business associate, and the public servant takes no part in the deliberations or decision of the political subdivision or governmental agency or instrumentality with respect to the public contract.

(D) Whoever violates this section is guilty of having an unlawful interest in a public contract. Violation of division (A) (1), (2), or (3) of this section is a misdemeanor of the first degree.

(E) It is not a violation of this section for a prosecuting attorney to appoint assistants and employees in accordance with R.C. § 309.06 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 R.C. § 733.621.

(F) (1) As used in this section, "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 or 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 R.C. § 733.621.
(R.C. § 2921.42) Penalty, see § 130.99

§ 136.10 SOLICITING OR RECEIVING IMPROPER COMPENSATION.

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

(1) Any compensation, other than as allowed by R.C. §§ 102.03(G), (H), (I), or other provisions of law, to perform his official duties, to perform any other act or service in the public servant's public capacity, for the general performance of the duties of the public servant's public office or public employment, or as a supplement to the public servant's public compensation;

(2) Additional or greater fees or costs than are allowed by law to perform his official duties.

(B) No public servant for his own personal or business use and no person for his own personal or business use or for the personal or business use of a public servant or party official, shall solicit or accept anything of value in consideration of either of the following:

(1) Appointing or securing, maintaining, or renewing the appointment of any person to any public office, employment, or agency;

(2) Preferring, or maintaining the status of, any public employee with respect to his compensation, duties, placement, location, promotion, or other material aspects of his employment.

(C) No person for the benefit of a political party, campaign committee, or a political action committee shall coerce any contribution in consideration of either of the following:

(1) Appointing or securing, maintaining, or renewing the appointment of any person to any public office, employment, or agency;

(2) Preferring, or maintaining the status of, any public employee with respect to his compensation, duties, placement, location, promotion, or other material aspects of his employment.

(D) Whoever violates this section is guilty of soliciting improper compensation, a misdemeanor of the first degree.

(E) A public servant who is convicted of a violation of this section is disqualified from holding any public office, employment, or position of trust in this state for a period of 7 years from the date of conviction.

(F) Divisions (A), (B), and (C) of this section do not prohibit any person from making voluntary contributions to a political party, campaign committee, or political action committee or prohibit a political party, campaign committee, or political action committee from accepting voluntary contributions. (R.C. §2921.43) Penalty, see §130.99

§ 136.11 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 his 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 his office, or recklessly do any act expressly forbidden by law with respect to his office.

(F) Whoever violates this section is guilty of dereliction of duty, a misdemeanor of the second degree. (R.C. § 2921.44)

§ 136.12 INTERFERING WITH CIVIL RIGHTS.

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

(B) Whoever violates this section is guilty of interfering with civil rights, a misdemeanor of the first degree. (R.C. §2921.45) Penalty, see §130.99

§ 136.13 ILLEGAL CONVEYANCE OF PROHIBITED ITEMS ONTO GROUNDS OF A DETENTION OR MENTAL HEALTH OR RETARDATION FACILITY.

(A) No person shall knowingly convey, or attempt to convey, onto the grounds of a detention facility or of an institution that is under the control of the department of mental health or the department of mental retardation and developmental disabilities, any intoxicating liquor, as defined in R.C. §4301.01.

(B) Division (A) of this section does not apply to any person who conveys or attempts to convey an item onto the grounds of a detention facility or of an institution under the control of the department of mental health or the department of mental retardation and developmental disabilities, written authorization of the person in charge of the detention facility or the institution and in accordance with the written rules of the detention facility or the institution.

(C) No person shall knowingly deliver, or attempt to deliver, to any person who is confined in a detention facility or to any patient in an institution under the control of the department of mental health or the department of mental retardation and developmental disabilities, any item listed in division (A).

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

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

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

(E) The person in charge of a detention facility shall, on the grounds of the detention facility, have the same power as a peace officer, as defined in R.C. §2935.01, to arrest a person who violates this section.

(F) Whoever violates division (A) of this section or commits a violation of division (C) of this section involving any intoxicating liquor is guilty of illegal conveyance of intoxicating liquor onto the grounds of a detention facility or a mental health or mental retardation and developmental disabilities institution, a misdemeanor of the second degree. (R.C. §§2921.36, 2921.37) Penalty, see §130.99

§ 136.14 FALSE REPORT OF CHILD ABUSE OR NEGLECT.

(A) No person shall knowingly make or cause another person to make a false report under R.C. § 2151.421(B) alleging that any person has committed an act or omission that resulted in a child being an abused child as defined in R.C. § 2151.031 or a neglected child as defined in R.C. § 2151.03.

(B) Whoever violates this section is guilty of making or causing a false report of child abuse or child neglect, a misdemeanor of the first degree.
(R.C. § 2921.14) Penalty, see § 130.99

CHAPTER 137: WEAPONS CONTROL

Section

137.01 Definitions
137.02 Carrying concealed weapons
137.03 Using weapons while intoxicated
137.04 Improperly handling firearms in a motor vehicle
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137.07 Unlawful transactions in weapons
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137.09 Discharging firearms

Cross-reference:
Using weapons to endanger or damage aircraft, airport operations, see § 131.23

§ 137.01 DEFINITIONS.

For the purpose of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

(A) "AUTOMATIC FIREARM." Any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "AUTOMATIC FIREARM" also means any semi-automatic firearm designed or specially adapted to fire more than 31 cartridges without reloading, other than a firearm chambering only .22 caliber short, long, or long-rifle cartridges.

(B) "BALLISTIC KNIFE." A knife with a detachable blade that is propelled by a spring-operated mechanism.

(C) "DANGEROUS ORDNANCE." Any of the following, except as provided in division (D) of this section:

(1) Any automatic or sawed-off firearm, zip-gun, or ballistic knife;

(2) Any explosive device or incendiary device;

(3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid, and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, cyclotol, and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid- oxygen blasting explosives, blasting powder, and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating, or demolitions;

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo, or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon; therefor.

(5) Any firearm muffler or silencer;

(6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.

(D) "DANGEROUS ORDNANCE." Does not include any of the following:

(1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;

(2) Any pistol, rifle, or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon, unless the firearm is an automatic or sawed-off firearm;

(3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic, or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills, and percussion caps possessed and lawfully used to fire a cannon of a type defined in division (D) (3) of this section during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers, and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio, or museum piece;

(6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921 (A) (4), as amended, and regulations issued under that act.

(E) "DEADLY WEAPON." Any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.

(F) "EXPLOSIVE DEVICE." Any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "EXPLOSIVE DEVICE" includes without limitation any bomb, any explosive demolition device, any blasting

cap, or detonator containing an explosive charge, and any pressure vessel which has been knowingly tampered with or arranged so as to explode.

(G) "FIREARM."

(1) Any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "FIREARM" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.

(2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.

(H) "HANDGUN." Any firearm designed to be fired while being held in one hand.

(I) "INCENDIARY DEVICE." Any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(J) "SAWED-OFF FIREARM." A shotgun with a barrel less than 18 inches long, or a rifle with a barrel less than 16 inches long, or a shotgun or rifle less than 26 inches long overall.

(K) "SEMI-AUTOMATIC FIREARM." Any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(L) "ZIP-GUN." Any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter's pistol, not designed as a firearm, but which is specially adapted for use as a firearm;

(3) Any industrial tool, signalling device, or safety device, not designed as a firearm, but which as designed is capable of use as such, when possessed, carried, or used as a firearm. (R.C. §2923.11)

§ 137.02 CARRYING CONCEALED WEAPONS.

(A) No person shall knowingly carry or have, concealed on his person or concealed ready at hand, any deadly weapon or dangerous ordnance.

(B) This section does not apply to officers, agents, or employees of this or any other state or of the United States, or to law enforcement officers, authorized to carry concealed weapons or dangerous ordnances, and acting within the scope of their duties.

(C) It is an affirmative defense to a charge under this section of carrying or having control of a weapon other than dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following apply:

(1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while he was engaged in or was going to or from his lawful business or occupation, which business or occupation was of such character or was necessarily carried on in such manner or at such a time or place as to render the actor particularly susceptible to criminal attack, that would justify a prudent man in going armed.

(2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while he was engaged in a lawful activity, and had reasonable cause to fear a criminal attack upon himself or a member of his family, or upon his home, such as would justify a prudent man in going armed.

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

(4) The weapon was being transported in a motor vehicle for any lawful purpose, and was not on the actor's person, and, if the weapon was a firearm, was carried in compliance with the applicable requirements of §137.04 (C).

(D) Whoever violates this section is guilty of carrying concealed weapons, a misdemeanor of the first degree. 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 and the violation of this section is committed at premises for which a D permit has been issued under R.C. Ch. 4303, if the weapon involved is a firearm which is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is a dangerous ordnance, then carrying concealed weapons is a felony of the third degree and shall be prosecuted under appropriate state law. 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 is a felony of the second degree and shall be prosecuted under appropriate state law. (R.C. §2923.12) Penalty, see §130.99

§ 137.03 USING WEAPONS WHILE INTOXICATED.

(A) No person, while under the influence of alcohol or any drug of abuse, shall carry or use any firearm or dangerous ordnance.

(B) Whoever violates this section is guilty of using weapons while intoxicated, a misdemeanor of the first degree. (R.C. §2923.15) Penalty, see §130.99

§ 137.04 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 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 it is unloaded, and is carried in one of the following ways:

(1) In a closed package, box, or case;

(2) In a compartment which can be reached only by leaving the vehicle;

(3) In plain sight and secured in a rack or holder made for the purpose;

(4) 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) This section does not apply to officers, agents, or employees of this or any other state or of the United States, or to law enforcement officers, authorized to carry or have loaded or accessible firearms in motor vehicles, and acting within the scope of their duties.

(E) The affirmative defenses contained in division (C) (1) and (2) of §137.02 are affirmative defenses to a charge under division (B) or (C) of this section.

(F) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of division (A) or (B) of this section is a misdemeanor of the first degree. Violation of division (C) of this section is a misdemeanor of the fourth degree.

(G) As used in this section, "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. (R.C. §2923.16) Penalty, see §130.99

§ 137.05 (RESERVED).

§ 137.06 FAILURE TO SECURE DANGEROUS ORDNANCE.

(A) No person, in acquiring, possessing, carrying, or using any dangerous ordnance, shall negligently fail to take proper precautions:

(1) To secure the dangerous ordnance against theft, or

against its acquisition or use by any unauthorized or incompetent person;

(2) To insure the safety of persons and property.

(B) Whoever violates this section is guilty of failure to secure dangerous ordnance, a misdemeanor of the second degree. (R.C. §2923.19) Penalty, see §130.99

§ 137.07 UNLAWFUL TRANSACTIONS IN WEAPONS.

(A) No person shall:

(1) Manufacture, possess for sale, sell, or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife, or similar weapon;

(2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing him to be authorized to acquire dangerous ordnance pursuant to R.C. § 2923.17, or negligently fail to take a complete record of the transaction and forthwith forward a copy of the record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;

(3) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession and under his control.

(B) Whoever violates this section is guilty of unlawful transactions in weapons. Violation of division (A) (1) or (2) of this section is a misdemeanor of the second degree. Violation of division (A) (3) of this section is a misdemeanor of the fourth degree. (R.C. §2923.20) Penalty, see §130.99

§ 137.08 IMPROPERLY FURNISHING FIREARMS TO A MINOR.

(A) No person shall:

(1) Sell any firearm to a person under age 18;

(2) Sell any handgun to a person under age 21;

(3) Furnish any firearm to a person under age 18, except for purposes of lawful hunting, or for purposes of instruction in firearms safety, care, handling, or marksmanship under the supervision or control of a responsible adult.

(B) Whoever violates this section is guilty of improperly furnishing firearms to a minor, a misdemeanor of the second degree. (R.C. §2923.21) Penalty, see §130.99

§ 137.09 DISCHARGING FIREARMS.

(A) It shall be unlawful to discharge any cannon, pistol, or other firearm of any kind whatsoever within the municipality. This section shall not prohibit the firing of a military salute or the firing of weapons by men of the nation's armed forces acting under military authority, and shall not apply to law enforcement officials in the proper enforcement of the law, or to any person in the proper exercise of the right of self-defense.

(B) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (R.C. §§3773.21, 3773.99) Penalty, see §130.99

CHAPTER 138: DRUG OFFENSES

Section

138.01 Definitions
138.02 Trafficking in controlled substances
138.03 Drug abuse
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138.10 Dispensing harmful intoxicants
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§ 138.01 DEFINITIONS.

For the purposes of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

"ACTUAL INCARCERATION." Means that an offender is required to be imprisoned for the stated period of time to which he is sentenced that is specified as a term of "ACTUAL INCARCERATION." If a person is sentenced to a term of "ACTUAL INCARCERATION," the court shall not suspend his term of "ACTUAL INCARCERATION," and shall not grant him probation or shock probation, pursuant to R.C. §§2929.51, 2947.061, 2951.02, or 2951.04, and the department of rehabilitation and correction or the adult parole authority shall not, pursuant to R.C. Chapter 2967 or its rules adopted pursuant to R.C. Chapters 2967, 5120, 5143, or 5149, grant him a furlough for employment or education, a furlough for being a trustworthy prisoner other than a furlough pursuant to R.C. §2967.27 (A)(1) or (2), parole, or shock parole until after the expiration of his term of "ACTUAL INCARCERATION," diminished as provided in R.C. §2967.19. An offender who is sentenced to a term of "ACTUAL INCARCERATION" may be transferred from an institution operated by the department of rehabilitation and correction to the custody of the department of mental health or the department of mental retardation and developmental disabilities, as provided in R.C. § 5120.17, and shall be credited with all time served in the custody of the department of mental health or the department of mental retardation and developmental disabilities against the term of actual incarceration.

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

"BULK AMOUNT." Of a controlled substance means any of the following:

(1) An amount equal to or exceeding 10 grams or 25 unit doses of a compound, mixture, preparation, or substance which is, or which contains any amount of, a schedule I opiate or opium derivative, or cocaine;

(2) An amount equal to or exceeding 10 grams of a compound, mixture, preparation, or substance which is, or contains any amount of, raw or gum opium;

(3) An amount equal to or exceeding 200 grams of marihuana, or an amount equal to or exceeding 10 grams of the resin contained in marihuana, or of any extraction or preparation of the resin contained in marihuana, or equal to or exceeding 2 grams of the resin contained in marihuana in a liquid concentrate, liquid extract, or liquid distillate form;

(4) An amount equal to or exceeding 30 grams or 10 unit doses of a compound, mixture, preparation, or substance which is, or contains any amount of, a schedule I hallucinogen other than tetrahydrocannibol, lysergic acid diethylamide, lysergic acid amide, or marihuana or a schedule I depressant;

(5) An amount equal to or exceeding 20 grams or 5 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, perparation, or substance which is, or contains any amount of, a schedule II opiate or opium derivative;

(6) An amount equal to or exceeding 1 gram or 10 unit doses of a compound, mixture, preparation, or substance which is, or contains any amount of, lysergic acid diethylamide, lysergic acid amide, or tetrahydrocannibol;

(7) An amount equal to or exceeding 5 grams or 10 unit doses of a compound, mixture, preparation, or substance which is, or contains any amount of, phencyclidine;

(8) 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 which is, or contains any amount of, a schedule II stimulant or depressant substance, or a schedule III or IV substance;

(9) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation, or substance which is, or contains any amount of, a schedule V substance. (See editor's note)

"CONTROLLED SUBSTANCE." A drug, compound, mixture, preparation, or substance included in schedule I, II, III, IV, or V of R.C. §3719.41. (See editor's note)

"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.

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

"DANGEROUS DRUG."

(1) Any drug which, under the "Federal Food, Drug, and Cosmetic Act," federal narcotic law, R.C. §§3715.01 to 3715.72, inclusive, or R.C. Chapter 3719 may be dispensed only upon a prescription;

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

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

"DISPENSE." Sell, leave with, give away, dispose of, or deliver.

"DISTRIBUTE." To deal in, ship, transport, or deliver but does not include administering or dispensing a drug.

"DRUG."

(1) Any article recognized in the official United States pharmacopeia, national formulary, or any supplement intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

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

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

(4) Any article intended for use as component of any article specified in division (1), (2), or (3) above;

but does not include devices or their components, parts, or accessories.

"DRUG ABUSE OFFENSE." Any of the following:

(1) A violation of R.C. §§2925.02, 2925.03, 2925.11, 2925.12, 2925.13, 2925.21, 2925.22, 2925.23, 2925.31, 2925.32, 2925.36, or 2925.37; (Note: the sections listed are various felony offenses.)

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

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

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

"DRUG OF ABUSE." Any controlled substance, any harmful intoxicant, and any dangerous drug, as defined in this section.

"FELONY DRUG ABUSE OFFENSE." Any drug abuse offense that would constitute a felony under the laws of this state except a violation of §138.03 or R.C. §2925.11.

"FEDERAL DRUG ABUSE CONTROL LAWS." The "Comprehensive Drug Abuse Prevention and Control Act of 1970," 84 Stat. 1242, 21 U.S.C. 801, and any amendments or additions thereto or reenactments thereof.

"FEDERAL NARCOTICS LAWS." The laws of the United States relating to opium, coca leaves, and other narcotic drugs and includes federal drug abuse control laws.

"HARMFUL INTOXICANT." Does not include beer or intoxicating liquor, but means 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 without limitation any of the following:

(1) Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, and any other preparation containing a volatile organic solvent;

(2) Any aerosol propellant;

(3) Any fluorocarbon refrigerant;

(4) Any anesthetic gas.

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

"JUVENILE." A person under 18 years of age.

"LABORATORY." A laboratory approved by the state board of pharmacy as proper to be entrusted with the custody of controlled substances and the use of controlled substances for scientific and clinical purposes and for purposes of instruction.

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

"MANUFACTURER." A person who plants, cultivates, harvests, processes, makes, prepares, or otherwise engages in any part of the production of a controlled substance by propagation, compounding, conversion, or processing, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container and other activities incident to production, except that this term does not include a pharmacist who prepares, compounds, packages, or labels a controlled substance as an incident to dispensing a controlled substance in accordance with a prescription and in the usual course of professional practice.

"MARIHUANA." All parts of any plant of the genus cannabis, whether growing or not, the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

"NOXIOUS ADDITIVE." Any element or compound designated by the board for use as a safe and effective ingredient in any product

containing the ingredient toluene, the gas, fumes, or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation, or other harmful physiological effects, which will discourage the intentional smelling or inhaling of the fumes of such product. A noxious additive shall not be added to such product if such addition would make the product unsuitable for its intended use or adversely affect the performance of the product. The addition of a noxious additive to such product is not required if the board determines that the normal chemical composition of the product creates a level of noxiousness that is sufficient to discourage the intentional smelling or inhaling of the product's fumes.

"PHARMACY." Any area, room, rooms, place of business, department, or portion of any of the foregoing, where prescriptions are filled or where drugs, dangerous drugs, or poisons are compounded, sold, offered, or displayed for sale, dispensed, or distributed to the public.

"PHARMACIST." A person registered with the state board of pharmacy as a compounder and dispenser of drugs.

"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 occcupation of the premises upon which the thing or substance is found.

"PRACTITIONER." Any of the following:

(1) A person who is licensed pursuant to R.C. Chapter 4715, 4731, or 4741 and authorized by law to write prescriptions for drugs or dangerous drugs.

(2) A professional association, as defined in R.C. §1785.01, organized by an individual who is, or a group of individuals who are, licensed pursuant to R.C. Chapter 4715, 4731, or 4741 and authorized by law to write prescriptions for drugs or dangerous drugs.

(3) A partnership of individuals who are licensed pursuant to R.C. Chapter 4715, 4731, or 4741 and authorized by law to write prescriptions for drugs or dangerous drugs.

"PRESCRIPTION." A written or oral order for a controlled substance for the use of a particular person or a particular animal given by a practitioner in the course of professional practice and in accordance with the regulations promulgated by the director of the United States drug enforcement administration, pursuant to the federal drug abuse control laws.

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

"SAMPLE DRUG." A drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a practitioner, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.

"SCHOOL." Any school operated by a board of education or any school for which the state board of education prescribes minimum standards under R.C. § 3301.07, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a criminal offense is committed.

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

"SCHOOL PREMISES." Either of the following:

(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 or the governing body of a 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.

"UNIT DOSE." An amount or unit or a compound, mixture, or preparation containing a controlled substance, such amount or unit being separately identifiable and in such form as to indicate that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual. (R.C. §§2925.01, 3719.01, 3719.011, 4729.02)

Editor's Note:
The schedules referred to in this section contain comprehensive lists of the following classes of substances.

Schedule I

(A) Narcotics - opiates

(B) Narcotics - opium derivatives

(C) Hallucinogens

(D) Depressants

(E) Stimulants

(F) Temporary listing of substances subject to emergency scheduling

Schedule II

(A) Narcotics - opium and opium derivatives

(B) Narcotics - opiates

(C) Stimulants

(D) Depressants

(E) Hallucinogenic substances

(F) Immediate precursors

(G) Other substances

Schedule III

(A) Stimulants

(B) Depressants

(C) Narcotic antidotes

(D) Narcotics - narcotic preparations

Schedule IV

(A) Narcotic drugs

(B) Depressants

(C) Fenfluramine

(D) Stimulants

(E) Other substances

Schedule V

(A) Narcotic drugs

(B) Narcotics - narcotic preparations

(C) Stimulants

§ 138.02 TRAFFICKING IN CONTROLLED SUBSTANCES.

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

(1) Sell or offer to sell a controlled substance in an amount less than the minimum bulk amount as defined in R.C. § 2925.01;

(2) Prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance, when the offender knows or has reasonable cause to believe such drug is intended for sale or resale by the offender or another;

(3) Cultivate, manufacture, or otherwise engage in any part of the production of a controlled substance;

(4) Possess a controlled substance in an amount equal to or exceeding the bulk amount but in an amount less than three times that amount;

(5) Sell or offer to sell a controlled substance in an amount equal to or exceeding the bulk amount but in an amount less than three times that amount;

(6) Possess a controlled substance in an amount equal to or exceeding three times the bulk amount;

(7) Sell or offer to sell a controlled substance in an amount equal to or exceeding three times the bulk amount;

(8) Provide money or other items of value to another person with the purpose that the recipient of the money or items of value would use them to obtain controlled substances for the purpose of selling or offering to sell the controlled substances in amounts exceeding a bulk amount or for the purpose of violating division (A)(3) of this section.

(B) This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with R.C. Chapters 3719, 4715, 4729, 4731, and 4741.

(C) If the drug involved is any compound, mixture, preparation, or balance included in schedule I with the exception of marihuana or in schedule II, whoever violates this section is guilty of aggravated trafficking.

(1) Where the offender has violated division (A)(1) of this section, aggravated trafficking is a felony of the third degree, and shall be prosecuted by the state under appropriate state law except that 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 or the offender previously has been convicted of a felony drug abuse offense, aggravated trafficking is a felony of the second degree and shall be prosecuted by the state under appropriate state law.

(2) Where the offender has violated division (A)(2) of this section, aggravated trafficking is a felony of the third degree, and shall be prosecuted by the state under appropriate state law except that if the offender previously has been convicted of a felony drug abuse offense, aggravated trafficking is a felony of the second degree and shall be prosecuted by the state under appropriate state law.

(3) Where the offender has violated division (A)(3) of this section, aggravated trafficking is a felony of the second degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of three years except that if the offender previously has been convicted of a felony drug abuse offense, aggravated trafficking is a felony of the first degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of five years.

(4) Where the offender has violated division (A)(4) of this section, aggravated trafficking is a felony of the third degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of 18 months, except that if the offender previously has been convicted of a felony drug abuse offense, aggravated trafficking is a felony of the second degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of three years.

(5) Where the offender has violated division (A)(5) of this section, aggravated trafficking is a felony of the second degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of three years, except that 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 or the offender previously has been convicted of a felony drug abuse offense, aggravated trafficking is a felony of the first degree, and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of five years.

(6) Where the offender has violated division (A)(6) of this section, aggravated trafficking is a felony of the second degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of three years, except that if the offender previously has been convicted of a felony drug abuse offense, aggravated trafficking is a felony of the first degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of five years.

(7) Where the offender has violated division (A)(7) of this section, aggravated trafficking is a felony of the first degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of five years, except that 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 or the offender previously has been convicted of a felony drug abuse offense, the court shall impose a sentence of actual incarceration of at least seven years.

(8) Where the offender has violated division (A)(8) of this section, aggravated trafficking is a felony of the first degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of seven years, except that if the offender previously has been convicted of a felony drug abuse offense, the court shall impose a sentence of actual incarceration of ten years.

(D) If the drug involved is any compound, mixture, preparation, or substance included in schedule III, IV, or V, whoever violates this section is guilty of trafficking in drugs.

(1) Where the offender has violated division (A)(1) of this section, trafficking in drugs is a felony of the fourth degree, and shall be prosecuted by the state under appropriate state law except that 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 or the offender previously has been convicted of a drug abuse offense, trafficking in drugs is a felony of the third degree and shall be prosecuted by the state under appropriate state law.

(2) Where the offender has violated division (A)(2) of this section, trafficking in drugs is a felony of the fourth degree, and shall be prosecuted by the state under appropriate state law, except that if the offender previously has been convicted of a drug abuse offense, trafficking in drugs is a felony of the third degree and shall be prosecuted by the state under appropriate state law.

(3) Where the offender has violated division (A)(3) of this section, trafficking in drugs is a felony of the third degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of one year, except that if the offender previously has been convicted of a felony drug abuse offense, trafficking in drugs is a felony of the second degree and shall be prosecuted by the state under appropriate state law, and the court shall impose a sentence of actual incarceration of two years.

(4) Where the offender has violated division (A)(4) of this section, trafficking in drugs is a felony of the fourth degree and shall be prosecuted by the state under appropriate state law, and the court shall impose a sentence of actual incarceration of six months, except that if the offender previously has been convicted of a felony drug abuse offense, trafficking in drugs is a felony of the third degree and shall be prosecuted by the state under appropriate state law, and the court shall impose a sentence of actual incarceration of 18 months.

(5) Where the offender has violated division (A)(5) of this section, trafficking in drugs is a felony of the third degree and shall be prosecuted by the state under appropriate state law, and the court

shall impose a sentence of actual incarceration of one year, except that 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 or the offender previously has been convicted of a felony drug abuse offense, trafficking in drugs is a felony of the second degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of two years.

(6) Where the offender has violated division (A)(6) of this section, trafficking in drugs is a felony of the third degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of 18 months, except that if the offender previously has been convicted of a felony drug abuse offense, trafficking in drugs is a felony of the second degree and shall be prosecuted under appropriate state law and the court shall impose a sentence of actual incarceration of three years.

(7) Where the offender has violated division (A)(7) of this section, trafficking in drugs is a felony of the second degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of two years, except that 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 or the offender previously has been convicted of a felony drug abuse offense, trafficking in drugs is a felony of the first degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of four years.

(8) Where the offender has violated division (A)(8) of this section, trafficking in drugs is a felony of the first degree and shall be prosecuted by the state under the appropriate state law and the court shall impose a sentence of actual incarceration of five years, except that if the offender previously has been convicted of a felony drug abuse offense, the court shall impose a sentence of actual incarceration of seven years.

(E) If the drug involved is marihuana, whoever violates this section is guilty of trafficking in marihuana.

(1) Where the offender has violated division (A)(1) of this section, trafficking in marihuana is a felony of the fourth degree and shall be prosecuted by the state under appropriate state law, except that 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 or the offender previously has been convicted of a felony drug abuse offense, trafficking in marihuana is a felony of the third degree and shall be prosecuted by the state under appropriate state law.

(2) Where the offender has violated division (A)(2), (3), or (4) of this section, trafficking in marihuana is a felony of the fourth degree and shall be prosecuted by the state under appropriate state law, except that if the offender previously has been convicted of a felony drug abuse offense, trafficking in marihuana is a felony of the third degree and shall be prosecuted by the state under appropriate state law.

(3) Where the offender has violated division (A)(5) of this section, trafficking in marihuana is a felony of the third degree and shall be prosecuted by the state under appropriate state law, except that if the offender commits the offense on school premises, in a school building, or within 1,000 feet of the boundaries of any school or the offender previously has been convicted of a felony drug abuse offense, trafficking in marihuana is a felony of the second degree and shall be prosecuted by the state under appropriate state law.

(4) Where the offender has violated division (A)(6) of this section, trafficking in marihuana is a felony of the third degree and shall be prosecuted by the state under appropriate state law, except that if the offender previously has been convicted of a felony drug abuse offense, trafficking in marihuana is a felony of the second degree and shall be prosecuted by the state under appropriate state law.

(5) Where the offender has violated division (A)(7) of this section, trafficking in marihuana is a felony of the second degree and shall be prosecuted by the state under the appropriate state law and the court shall impose a sentence of actual incarceration of six months, except that 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 or the offender previously has been convicted of a felony drug abuse offense, the court shall impose a sentence of actual incarceration of one year.

(6) Where the offender has violated division (A)(8) of this section, trafficking in marihuana is a felony of the second degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of one year, except that if the offender previously has been convicted of a felony drug abuse offense, the court shall impose a sentence of actual incarceration of two years.

(7) If the offense involves a gift of 20 grams or less of marihuana and the offense does not involve a violation of division (A)(1), (5), or (7) of this section that was committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, trafficking in marihuana is a minor misdemeanor for the first offense and a misdemeanor of the third degree for any subsequent offense. If the offense involves a gift of 20 grams or less of marihuana and the offense involves a violation of division (A)(1), (5), or (7) of this section that was committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, trafficking in marihuana is a misdemeanor of the third degree.

(F) It shall be an affirmative defense, as provided in R.C. § 2901.05, to a charge under this section for possessing a bulk amount of a controlled substance or for cultivating marihuana that the substance which gave rise to the charge is in such amount, in such form, or is prepared, compounded, or mixed with substances which are not controlled substances in such a manner, or is possessed or

cultivated in any other circumstances whatsoever as to indicate that the substance was solely for personal use.

(G) When a person is charged with possessing a bulk amount or a multiple thereof, the jury, or the court trying the accused shall determine the amount of the controlled substance involved at the time of the offense, and if a guilty verdict is returned shall return the findings as part of the verdict. In any such case, it is unnecessary to find and return the exact amount of the controlled substance and it is sufficient if the finding and return is to the effect that the amount of the controlled substance involved is a bulk amount or the requisite multiple thereof, or that the amount of the controlled substance involved is less than a bulk amount or the requisite multiple thereof.

(H) Notwithstanding the fines otherwise required to be imposed pursuant to R.C. §§ 2929.11 or 2929.31 for violations of this section and notwithstanding R.C. § 2929.14.

(1) If the offense is trafficking in marihuana and a violation of division (A)(1) of this section, the court shall impose a mandatory fine of $1,000 and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of $2,000.

(2) If the offense is trafficking in drugs and a violation of division (A)(1) of this section, the court shall impose a mandatory fine of $1,500 and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of $3,000.

(3) If the offense is trafficking in marihuana and a violation of division (A)(2), (3), or (4) of this section, or if the offense is trafficking in drugs and a violation of division (A)(2) of this section, the court shall impose a mandatory fine of $2,000 and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of $4,000.

(4) If the offense is aggravated trafficking and a violation of division (A)(1) of this section, or if the offense is trafficking in drugs and a violation of division (A)(3) of this section, the court shall impose a mandatory fine of $2,500 and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of $5,000.

(5) If the offense is trafficking in marihuana and a violation of division (A)(5) or (6) of this section, or if the offense is trafficking in drugs and a violation of division (A)(4), (5), or (6) of this section, the court shall impose a mandatory fine of $3,000 and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of $6,000.

(6) If the offense is trafficking in marihuana and a violation of division (A)(7) of this section, if the offense is trafficking in drugs and a violation of division (A)(7) of this section, or if the offense is aggravated trafficking and a violation of

division (A)(2), (4), (5), or (6) of this section, the court shall impose a mandatory fine of $5,000 and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of $10,000.

(7) If the offense is aggravated trafficking and a violation of division (A)(3) or (7) of this section, the court shall impose a mandatory fine of $7,500 and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of $15,000.

(8) If the offense is trafficking in marihuana and a violation of division (A)(8) of this section or if the offense is trafficking in drugs and a violation of division (A)(8) of this section, the court shall impose a mandatory fine of $10,000 and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of $20,000.

(9) If the offense is aggravated trafficking and a violation of division (A)(8) of this section, the court shall impose a mandatory fine of $25,000 and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of $50,000.

(I) When the mandatory fine imposed pursuant to division (H) of this section does not exceed the maximum fine that could be imposed pursuant to R.C. §§2929.11 or 2929.31, the court may impose an additional fine if the total of the mandatory and additional fines together does not exceed the maximum fine that could be imposed pursuant to R.C. §§2929.11 or 2929.31. When the mandatory fine exceeds the maximum fine that could be imposed pursuant to R.C. §§ 2929.11 or 2929.31, the court shall not impose an additional fine.

(J) (1) Any mandatory fine imposed pursuant to this section shall be paid to the law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender. However, no such fine shall be paid to a law enforcement agency unless the agency has adopted a written internal control policy under division (J)(2) of this section that addresses the use of the fine moneys that it receives. The mandatory fines shall be used to subsidize each agency's law enforcement efforts that pertain to drug offenses, in accordance with the written internal control policy adopted by the recipient agency under division (J)(2) of this section that addresses the use of the fine moneys that it receives. Any additional fine imposed pursuant to division (I) of this section shall be disbursed as otherwise provided by law.

(2) (a) Prior to receiving any fine money under division (J)(1) of this section, a law enforcement agency shall adopt a written internal control policy that addresses the agency's use and disposition of all those fine moneys received and that provides for the keeping of detailed financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys received, and the specific amount of each general type of expenditure. The policy shall not provide for or permit the identification of any specific

expenditure that is made in an ongoing investigation. A written internal control policy adopted under this division is a public record open for inspection under R.C. § 149.43. Each agency that adopts a written internal control policy under this division shall comply with the policy as it relates to all fine moneys so received. All financial records of the receipts of those fine moneys, the general type of expenditures out of those fine moneys received, and the specific amount expended on each general type of expenditure by an agency are public records open for inspection under R.C. § 149.43.

(b) Each law enforcement agency that receives in any calendar year any fine money under division (J)(1) of this section shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept by the agency pursuant to division (J)(2)(a) of this section for that calendar year, and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the Attorney General. Each such report so received by the Attorney General is a public record open for inspection under R.C. § 149.43. The Attorney General shall make copies of each such report so received and, no later than the fifteenth day of April in the calendar year in which the reports were received shall send a copy of each such report to the office of the President of the Senate and the office of the Speaker of the House of Representatives.

(K) If a person is charged with any violation of this section and posts bail pursuant to R.C. §§ 2937.22 to 2937.46 or Criminal Rule 46, and if the person forfeits the bail, the forfeited bail shall be paid pursuant to division (J) of this section.

(L) No court shall impose a mandatory fine pursuant to division (H) of this section upon an offender who alleges in an affidavit filed with the court prior to sentencing that he is indigent and is unable to pay any mandatory fine imposed pursuant to that division, if the court determines that the offender is an indigent person and is unable to pay the fine.
(R.C. § 2925.03) Penalty, see § 130.99

§ 138.03 DRUG ABUSE.

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

(B) This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with R.C. Chapters 3719, 4715, 4729, 4731, and 4741. This section does not apply to any person who obtained the controlled substance pursuant to a prescription issued by a practitioner, where the drug is in the original container in which it was dispensed to such person.

(C) Whoever violates this section is guilty of drug abuse:

(1) If the drug involved is a compound, mixture, preparation, or substance included in schedule I or II of

R.C. §3719.41, with the exception of marihuana, drug abuse is a felony of the fourth degree, and if the offender has previously been convicted of a drug abuse offense, drug abuse is a felony of the third degree, and shall be prosecuted under appropriate state law.

(2) If the drug involved is a compound, mixture, preparation, or substance included in schedule III, IV, or V of R.C. §3719.41, drug abuse is a misdemeanor of the third degree, and if the offender has previously been convicted of a drug abuse offense, drug abuse is a misdemeanor of the second degree.

(3) If the drug involved is marihuana, drug abuse is a misdemeanor of the fourth degree, unless the amount of marihuana involved is less than 100 grams, the amount of marihuana resin, or extraction or preparation of such resin, is less than 5 grams, and the amount of such resin in a liquid concentrate, liquid extract, or liquid distillate form, is less than one gram, in which case drug abuse is a minor misdemeanor.

(D) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness. (R.C. §2925.11) Penalty, see §130.99

§ 138.04 POSSESSING DRUG ABUSE INSTRUMENTS.

(A) No person shall knowingly make, obtain, possess, or use any instrument, article, or thing whose customary and primary purpose is for the administration or use of a dangerous drug, other than marihuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article, or thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marihuana, or to prepare a dangerous drug, other than marihuana, for unlawful administration or use.

(B) This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies, and other persons whose conduct was in accordance with R.C. Chapters 3719, 4715, 4729, 4731, and 4741.

(C) Whoever violates this section is guilty of possessing drug abuse instruments, a misdemeanor of the second degree. If the offender has previously been convicted of a drug abuse offense, violation of this section is a misdemeanor of the first degree. (R.C. §2925.12) Penalty, see §130.99

§ 138.05 PERMITTING DRUG ABUSE.

(A) No person, who is the owner, operator, or person in charge of a locomotive, watercraft, aircraft, or other vehicles as defined

in paragraph (A) of R.C. §4501.01, shall knowingly permit such vehicle to be used for commission of a felony drug abuse offense.

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

Schedule IV

(A) Narcotic drugs

(B) Depressants

(C) Fenfluramine

(D) Stimulants

(E) Other substances

Schedule V

(A) Narcotic drugs

(B) Narcotics - narcotic preparations

(C) Stimulants

§ 138.02 TRAFFICKING IN CONTROLLED SUBSTANCES.

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

(1) Sell or offer to sell a controlled substance in an amount less than the minimum bulk amount;

(2) Prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance, when the offender knows or has reasonable cause to believe the controlled substance is intended for sale or resale by the offender or another;

(3) Cultivate, manufacture, or otherwise engage in any part of the production of a controlled substance;

(4) Possess a controlled substance in an amount equal to or exceeding the bulk amount but in an amount less than three times that amount;

(5) Sell or offer to sell a controlled substance in an amount equal to or exceeding the bulk amount but in an amount less than three times that amount;

(6) Possess a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than 100 times that amount;

(7) Sell or offer to sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than 100 times that amount;

(8) Provide money or other items of value to another person with the purpose that the recipient of the money or items of value would use them to obtain controlled substances for the purpose of

selling or offering to sell the controlled substances in amounts exceeding a bulk amount or for the purpose of violating division (A)(3) of this section;

(9) Possess a controlled substance in an amount equal to or exceeding 100 times the bulk amount;

(10) Sell or offer to sell a controlled substance in an amount equal to or exceeding 100 times the bulk amount.

(11) Administer to a human being, or prescribe or dispense for administration to a human being, any anabolic steroid not approved by the United States Food and Drug Administration for administration to human beings.

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

(1) Manufacturers, practitioners, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with R.C. Chapters 3719, 4715, 4729, 4731, and 4741.

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

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

(C) If the drug involved is any compound, mixture, preparation, or balance included in schedule I with the exception of marihuana or in schedule II, whoever violates this section is guilty of aggravated trafficking.

(1) Where the offender has violated division (A)(1) of this section, aggravated trafficking is a felony of the third degree and shall be prosecuted by the state under appropriate state law, except that aggravated trafficking is a felony of the second degree punishable under appropriate state law, if any of the following apply:

(a) The offender commits the offense on school premises, in a school building or within 1000 feet of the boundaries of any school premises;

(b) The offender commits the offense within 100 feet of any juvenile or within the view of any juvenile, whether or not the offender knows the age of the juvenile, the offender knows the juvenile is within 100 feet or within view of the commission of the offense, or the juvenile views the commission of the offense.

(c) The offender previously has been convicted of a felony drug abuse offense.

(2) Where the offender has violated division (A)(2) of this section, aggravated trafficking is a felony of the third degree, and shall be prosecuted by the state under appropriate state law except that if the offender previously has been convicted of a felony drug abuse offense, aggravated trafficking is a felony of the second degree and shall be prosecuted by the state under appropriate state law.

(3) Where the offender has violated division (A)(3) of this section, aggravated trafficking is a felony of the second degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of three years except that if the offender previously has been convicted of a felony drug abuse offense, aggravated trafficking is a felony of the first degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of five years.

(4) Where the offender has violated division (A)(4) of this section, aggravated trafficking is a felony of the third degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of 18 months, except that if the offender previously has been convicted of a felony drug abuse offense, aggravated trafficking is a felony of the second degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of three years.

(5) Where the offender has violated division (A)(5) of this section, aggravated trafficking is a felony of the second degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of three years, except that aggravated trafficking is a felony of the first degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of five years, if any of the following apply:

(a) The offender commits the offense on school premises, in a school building or within 1000 feet of the boundaries of any school premises;

(b) The offender commits the offense within 100 feet of any juvenile or within the view of any juvenile, whether or not the offender knows the age of the juvenile, the offender knows the juvenile is within 100 feet or within view of the commission of the offense, or the juvenile views the commission of the offense.

(c) The offender previously has been convicted of a felony drug abuse offense.

(6) Where the offender has violated division (A)(6) of this section, aggravated trafficking is a felony of the second degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of three years, except that if the offender previously has been convicted of a felony drug abuse offense, aggravated trafficking is a felony of the first degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of five years.

(7) Where the offender has violated division (A)(7) of this section, aggravated trafficking is a felony of the first degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of five years, except that the court shall impose a sentence of actual incarceration of at least seven years, if any of the following apply:

(a) The offender commits the offense on school premises, in a school building, or within 1000 feet of the boundaries of any school premises;

(b) The offender commits the offense within 100 feet of any juvenile or within the view of any juvenile, whether or not the offender knows the age of the juvenile, the offender knows the juvenile is within 100 feet or within view of the commission of the offense, or the juvenile views the commission of the offense.

(c) The offender previously has been convicted of a felony drug abuse offense.

(8) Where the offender has violated division (A)(8) of this section, aggravated trafficking is a felony of the first degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of seven years, except that if the offender previously has been convicted of a felony drug abuse offense, the court shall impose a sentence of actual incarceration of ten years.

(9) Where the offender has violated division (A)(9) of this section, aggravated trafficking is a felony of the first degree, and the court shall impose an indefinite term of imprisonment of 15 years to life for the offense, with the minimum term of 15 years being a sentence of actual incarceration.

(10) Where the offender has violated division (A)(10) of this section, aggravated trafficking is a felony of the first degree, and the court shall impose an indefinite term of imprisonment of 15 years to life for the offense, with the minimum term of 15 years being a sentence of actual incarceration, except that the court shall impose an indefinite term of imprisonment of 20 years to life for the offense, with the minimum term of 20 years being a sentence of actual incarceration, if any of the following apply:

(a) The offender commits the offense on school premises, in a school building or within 1000 feet of the boundaries of any school premises;

(b) The offender commits the offense within 100 feet of any juvenile or within the view of any juvenile, whether or not the offender knows the age of the juvenile, the offender knows the juvenile is within 100 feet or within view of the commission of the offense, or the juvenile views the commission of the offense;

(c) The offender previously has been convicted of a felony drug abuse offense.

(D) If the drug involved is any compound, mixture, preparation, or substance included in schedule III, IV, or V, whoever violates this section is guilty of trafficking in drugs.

(1) Where the offender has violated division (A)(1) of this section, trafficking in drugs is a felony of the fourth degree, and shall be prosecuted by the state under appropriate state law except that trafficking in drugs is a felony of the third degree and shall be prosecuted by the state under appropriate state law, if any of the following apply:

(a) The offender commits the offense on school premises, in a school building or within 1000 feet of the boundaries of any school premises;

(b) The offender commits the offense within 100 feet of any juvenile or within the view of any juvenile, whether or not the offender knows the age of the juvenile, the offender knows the juvenile is within 100 feet or within view of the commission of the offense, or the juvenile views the commission of the offense;

(c) The offender previously has been convicted of a felony drug abuse offense.

(2) Where the offender has violated division (A)(2) or (11) of this section, trafficking in drugs is a felony of the fourth degree, and shall be prosecuted by the state under appropriate state law, except that if the offender previously has been convicted of a drug abuse offense, trafficking in drugs is a felony of the third degree and shall be prosecuted by the state under appropriate state law.

(3) Where the offender has violated division (A)(3) of this section, trafficking in drugs is a felony of the third degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of one year, except that if the offender previously has been convicted of a felony drug abuse offense, trafficking in drugs is a felony of the second degree and shall be prosecuted by the state under appropriate state law, and the court shall impose a sentence of actual incarceration of two years.

(4) Where the offender has violated division (A)(4) of this section, trafficking in drugs is a felony of the fourth degree and shall be prosecuted by the state under appropriate state law, and the court shall impose a sentence of actual incarceration of six months, except that if the offender previously has been convicted of a felony drug abuse offense, trafficking in drugs is a felony of the third degree and shall be prosecuted by the state under appropriate state law, and the court shall impose a sentence of actual incarceration of 18 months.

(5) Where the offender has violated division (A)(5) of this section, trafficking in drugs is a felony of the third degree and shall be prosecuted by the state under appropriate state law, and the court shall impose a sentence of actual incarceration of one year, except that trafficking in drugs is a felony of the second degree and shall be prosecuted by the state under appropriate state law, and the court shall impose a sentence of actual incarceration of two years, if any of the following apply:

(a) The offender commits the offense on school premises, in a school building or within 1000 feet of the boundaries of any school premises;

(b) The offender commits the offense within 100 feet of any juvenile or within the view of any juvenile, whether or not the offender knows the age of the juvenile, the offender knows the juvenile is within 100 feet or within view of the commission of the offense, or the juvenile views the commission of the offense;

(c) The offender previously has been convicted of a felony drug abuse offense.

(6) Where the offender has violated division (A)(6) or (9) of this section, trafficking in drugs is a felony of the third degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of 18 months, except that if the offender previously has been convicted of a felony drug abuse offense, trafficking in drugs is a felony of the second degree and shall be prosecuted under appropriate state law and the court shall impose a sentence of actual incarceration of three years.

(7) Where the offender has violated division (A)(7) or (10) of this section, trafficking in drugs is a felony of the second degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of two years, except that trafficking in drugs is a felony of the first degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of four years, if any of the following apply:

(a) The offender commits the offense on school premises, in a school building or within 1000 feet of the boundaries of any school premises;

(b) The offender commits the offense within 100 feet of any juvenile or within the view of any juvenile, whether or not the offender knows the age of the juvenile, the offender knows the juvenile is within 100 feet or within view of the commission of the offense, or the juvenile views the commission of the offense;

(c) The offender previously has been convicted of a felony drug abuse offense.

(8) Where the offender has violated division (A)(8) of this section, trafficking in drugs is a felony of the first degree and shall be prosecuted by the state under the appropriate state law and the court shall impose a sentence of actual incarceration of five years, except that if the offender previously has been convicted of a felony drug abuse offense, the court shall impose a sentence of actual incarceration of seven years.

(E) If the drug involved is marihuana, whoever violates this section is guilty of trafficking in marihuana.

(1) Where the offender has violated division (A)(1) of this section, trafficking in marihuana is a felony of the fourth degree and shall be prosecuted by the state under appropriate state law, except that trafficking in marihuana is a felony of the third degree and shall be prosecuted by the state under appropriate state law, if any of the following apply:

(a) The offender commits the offense on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises;

(b) The offender commits the offense within 100 feet of any juvenile or within the view of any juvenile, whether or not the offender knows the age of the juvenile, the offender knows the juvenile is within 100 feet or within view of the commission of the offense, or the juvenile views the commission of the offense;

(c) The offender previously has been convicted of a felony drug abuse offense.

(2) Where the offender has violated division (A)(2), (3), or (4) of this section, trafficking in marihuana is a felony of the fourth degree and shall be prosecuted by the state under appropriate state law, except that if the offender previously has been convicted of a felony drug abuse offense, trafficking in marihuana is a felony of the third degree and shall be prosecuted by the state under appropriate state law.

(3) Where the offender has violated division (A)(5) of this section, trafficking in marihuana is a felony of the third degree and shall be prosecuted by the state under appropriate state law, except that trafficking in marihuana is a felony of the second degree and shall be prosecuted by the state under appropriate state law, if any of the following apply:

(a) The offender commits the offense on school premises, in a school building or within 1000 feet of the boundaries of any school premises;

(b) The offender commits the offense within 100 feet of any juvenile or within the view of any juvenile, whether or not the offender knows the age of the juvenile, the offender knows the juvenile is within 100 feet or within view of the commission of the offense, or the juvenile views the commission of the offense;

(c) The offender previously has been convicted of a felony drug abuse offense.

(4) Where the offender has violated division (A)(6) or (9) of this section, trafficking in marihuana is a felony of the third degree and shall be prosecuted by the state under appropriate state law, except that if the offender previously has been convicted of a felony drug abuse offense, trafficking in marihuana is a felony of the second degree and shall be prosecuted by the state under appropriate state law.

(5) Where the offender has violated division (A)(7) or (10) of this section, trafficking in marihuana is a felony of the second degree and shall be prosecuted by the state under the appropriate state law and the court shall impose a sentence of actual incarceration of six months, except the court shall impose a sentence of actual incarceration of one year, if any of the following apply:

(a) The offender commits the offense on school premises, in a school building or within 1000 feet of the boundaries of any school premises;

(b) The offender commits the offense within 100 feet of any juvenile or within the view of any juvenile, whether or not the offender knows the age of the juvenile, the offender knows the juvenile is within 100 feet or within view of the commission of the offense, or the juvenile views the commission of the offense;

(c) The offender previously has been convicted of a felony drug abuse offense.

(6) Where the offender has violated division (A)(8) of this section, trafficking in marihuana is a felony of the second degree and shall be prosecuted by the state under appropriate state law and the court shall impose a sentence of actual incarceration of one year, except that if the offender previously has been convicted of a felony drug abuse offense, the court shall impose a sentence of actual incarceration of two years.

(7) If the offense involves a gift of 20 grams or less of marihuana and the offense does not involve a violation of division (A)(1), (5), (7), or (10) of this section that was committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises or that was committed within 100 feet of any juvenile or within the view of any juvenile, whether or not the offender knows the age of the juvenile, the offender knows the juvenile is within 100 feet or within view of the commission of the offense, or the juvenile views the commission of the offense, trafficking in marihuana is a minor misdemeanor for the first offense, and, for any subsequent offense, it is a misdemeanor of the third degree. If the offense involves a gift of 20 grams or less of marihuana and the offense involves a violation of division (A)(1), (5), (7), or (10) of this section that was committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises or that was committed within 100 feet of any juvenile or within the view of any juvenile, whether or not the offender knows the age of the juvenile, the offender knows the juvenile is within 100 feet or within view of the commission of the offense, or the juvenile views the commission of the offense, trafficking in marihuana is a misdemeanor of the third degree.

(F) It shall be an affirmative defense, as provided in R.C. § 2901.05, to a charge under this section for possessing a bulk amount of a controlled substance or for cultivating marihuana that the substance that gave rise to the charge is in such amount, in such form, or is prepared, compounded, or mixed with substances that are not controlled substances in such a manner, or is possessed or cultivated in any other circumstances whatsoever as to indicate that the substance was solely for personal use.

(G) When a person is charged with possessing a bulk amount or a multiple of a bulk amount, the jury, or the court trying the accused shall determine the amount of the controlled substance involved at the time of the offense, and if a guilty verdict is returned shall return the findings as part of the verdict. In any such case, it is unnecessary to find and return the exact amount of the controlled substance and it is sufficient if the finding and return is to the effect that the amount of the controlled substance involved is a bulk amount or the requisite multiple of a bulk amount, or that the amount of the controlled substance involved is less than a bulk amount or the requisite multiple of a bulk amount.

(H) Notwithstanding the fines otherwise required to be imposed pursuant to R.C. §§ 2929.11 or 2929.31 for violations of this section and notwithstanding R.C. § 2929.14, the court shall impose the following mandatory fines upon a person convicted of aggravated trafficking, trafficking in drugs, or trafficking in marihuana:

(1) If the offense is trafficking in marihuana and a violation of division (A)(1) of this section, the court shall impose a mandatory fine of $1,000 and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of $2,000.

(2) If the offense is trafficking in drugs and a violation of division (A)(1) of this section, the court shall impose a mandatory fine of $1,500 and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of $3,000.

(3) If the offense is trafficking in marihuana and a violation of division (A)(2), (3), or (4) of this section, or if the offense is trafficking in drugs and a violation of division (A)(2) of this section, the court shall impose a mandatory fine of $2,000 and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of $4,000.

(4) If the offense is aggravated trafficking and a violation of division (A)(1) of this section, or if the offense is trafficking in drugs and a violation of division (A)(3) of this section, the court shall impose a mandatory fine of $2,500 and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of $5,000.

(5) If the offense is trafficking in marihuana and a violation of division (A)(5), (6) or (9) of this section, or if the offense is trafficking in drugs and a violation of division (A)(4), (5), (6) or (9) of this section, the court shall impose a mandatory fine of $3,000 and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of $6,000.

(6) If the offense is trafficking in marihuana and a violation of division (A)(7) or (10) of this section, if the offense is trafficking in drugs and a violation of division (A)(7), (10), or (11) of this section, or if the offense is aggravated trafficking and a violation of division (A)(2), (4), (5), (6) or (9) of this section, the court shall impose a mandatory fine of $5,000 and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of $10,000.

(7) If the offense is aggravated trafficking and a violation of division (A)(3), (7), or (10) of this section, the court shall impose a mandatory fine of $7,500 and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of $15,000.

(8) If the offense is trafficking in marihuana and a violation of division (A)(8) of this section or if the offense is trafficking in drugs and a violation of division (A)(8) of this section, the court shall impose a mandatory fine of $10,000 and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of $20,000.

(9) If the offense is aggravated trafficking and a violation of division (A)(8) of this section, the court shall impose a mandatory fine of $25,000 and, if the offender has previously been convicted of a felony drug abuse offense, the court shall impose a mandatory fine of $50,000.

(I) When the mandatory fine imposed pursuant to division (H) of this section does not exceed the maximum fine that could be imposed pursuant to R.C. §§2929.11 or 2929.31, the court may impose an additional fine if the total of the mandatory and additional fines together does not exceed the maximum fine that could be imposed pursuant to R.C. §§2929.11 or 2929.31. When the mandatory fine exceeds the maximum fine that could be imposed pursuant to R.C. §§ 2929.11 or 2929.31, the court shall not impose an additional fine.

(J) (1) Notwithstanding any contrary provision of R.C. § 3719.21, any mandatory fine imposed pursuant to this section shall be paid by the clerk of the court to the county township, municipal corporation, park district, as created pursuant to R.C. §§ 511.18 or 1545.01, or state law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender. However, no mandatory fine so imposed shall be paid to a law enforcement agency unless the agency has adopted a written internal control policy under division (J)(2) of this section that addresses the use of the fine moneys that it receives. The mandatory fines so paid shall be used to subsidize each agency's law enforcement efforts that pertain to drug offenses, in accordance with the written internal control policy adopted by the recipient agency under division (J)(2) of this section. Any additional fine imposed pursuant to division (I) of this section shall be disbursed by the clerk of the court as otherwise provided by law.

(2) (a) Prior to receiving any fine moneys under division (J)(1) of this section or R.C. § 2925.42(B)(5), a law enforcement agency shall adopt a written internal control policy that addresses the agency's use and disposition of all fine moneys so received and that provides for the keeping of detailed financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure. The policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation. All financial records of the receipts of those fine moneys, the general type of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure by an agency are public records open for inspection under R.C. § 149.43. Additionally, a written internal control policy adopted under this division is such a public record, and the agency that adopted it shall comply with it.

(b) Each law enforcement agency that receives in any calendar year any fine moneys under division (J)(1) of this section or R.C. § 2925.42(B)(5) shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept by the agency pursuant to division (J)(2)(a) of this section for that calendar year, and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the Attorney General. Each report received by the Attorney General is a public record open for inspection under R.C. § 149.43. The Attorney General

shall make copies of each report received and, no later than the fifteenth day of April in the calendar year in which the report is received shall send a copy of it to the President of the Senate and the Speaker of the House of Representatives.

(3) As used in divisions (J) and (N) of this section:

(a) "LAW ENFORCEMENT AGENCIES" includes, but is not limited to, the state board of pharmacy and the office of a prosecutor.

(b) "PROSECUTOR" has the same meaning as in R.C. § 2935.01.

(K) If a person is charged with any violation of this section and posts bail pursuant to R.C. §§ 2937.22 to 2937.46 or Criminal Rule 46, and if the person forfeits the bail, the forfeited bail shall be paid pursuant to division (J) of this section.

(L) No court shall impose a mandatory fine pursuant to division (H) of this section upon an offender who alleges in an affidavit filed with the court prior to sentencing that he is indigent and is unable to pay any mandatory fine imposed pursuant to that division, if the court determines that the offender is an indigent person and is unable to pay the fine.

(M) In addition to any other penalty imposed for a violation of this section, the court may revoke the driver's or commercial driver's license of any person who is convicted of or pleads guilty to a violation of this section that is a felony of the first degree, or may suspend for up to five years the driver's or commercial driver's license of any person who is convicted of or pleads guilty to any other violation of this section. If an offender's driver's or commercial driver's license is revoked pursuant to this division, the offender, at any time after the expiration of two years from the day on which his sentence was imposed or from the day on which he finally was released from imprisonment under the sentence, whichever is later, may file a motion with the sentencing court requesting termination of the revocation; upon the filing of such a motion and the court's finding of good cause for the termination, the court may terminate the revocation. If the offender is a professionally licensed person or a person who has been admitted to the Bar by order of the Supreme Court in compliance with its prescribed and published rules, in addition to any other penalty imposed for a violation of this section, the court forthwith shall comply with R.C. § 2925.38.

(N) If a person commits any act that violates division (A)(11) of this section and also violates any other provision of the Revised Code, the prosecutor, using customary prosecutorial discretion, may prosecute the person for a violation of the appropriate provision of the Revised Code.

(R.C. § 2925.03) Penalty, see § 130.99

§ 138.03 DRUG ABUSE.

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

(B) This section does not apply to following:

(1) Manufacturers, practitioners, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with R.C. Chapters 3719, 4715, 4729, 4731, and 4741.

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

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

(4) Any person who obtained the controlled substance pursuant to a prescription issued by a practitioner, where the drug is in the original container in which it was dispensed to such person.

(C) Whoever violates this section is guilty of drug abuse and shall be sentenced as follows:

(1) If the drug involved is a compound, mixture, preparation, or substance included in schedule I or II of R.C. § 3719.41, with the exception of marihuana, drug abuse is a felony of the fourth degree, and if the offender previously has been convicted of a drug abuse offense, drug abuse is a felony of the third degree, and shall be prosecuted under appropriate state law.

(2) If the drug involved is a compound, mixture, preparation, or substance included in schedule III, IV, or V of R.C. §3719.41, with the exception of an anabolic steroid, drug abuse is a misdemeanor of the third degree, and if the offender previously has been convicted of a drug abuse offense, drug abuse is a misdemeanor of the second degree.

(3) If the drug involved is marihuana, drug abuse is a misdemeanor of the fourth degree, unless the amount of marihuana involved is less than 100 grams, the amount of marihuana resin, or extraction or preparation of such resin, is less than 5 grams, and the amount of such resin in a liquid concentrate, liquid extract, or liquid distillate form, is less than one gram, in which case drug abuse is a minor misdemeanor.

(4) If the drug involved is an anabolic steroid included in schedule III, drug abuse is a misdemeanor of the third degree and, in lieu of sentencing an offender to a definite or indefinite term of imprisonment in a detention facility, the court may place the offender on conditional probation pursuant R.C. § 2925.11 (G) or division (H) of R.C. § 2951.02, unless the offender previously has been convicted of a drug abuse offense, in which case drug abuse is a misdemeanor of the second degree.

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

(E) (1) Notwithstanding the fines otherwise required to be imposed pursuant to R.C. §§ 2929.11, 2929.21, or 2929.31 for violations of this section and notwithstanding R.C. §§ 2929.14 or 2929.22, the court shall impose a mandatory fine of $2,500 if the violation of this section was a felony of the third degree, a mandatory fine of $1,500 if the violation of this section was a felony of the fourth degree, a mandatory fine of $750 if the violation of this section was a misdemeanor of the second degree, a mandatory fine of $500 if the violation of this section was a misdemeanor of the third degree, a mandatory fine of $250 if the violation of this section was a misdemeanor of the fourth degree, and a mandatory fine of $100 if the violation of this section was a minor misdemeanor.

(2) The court may impose a fine in addition to a mandatory fine imposed pursuant to division (E)(1) of this section if the total of the additional and mandatory fines does not exceed the maximum fine that could be imposed pursuant to R.C. §§ 2929.11, 2929.21, or 2929.31.

(3) No court shall impose a mandatory fine pursuant to division (E)(1) of this section upon an offender who alleges, in an affidavit filed with the court prior to his sentencing, that he is indigent and is unable to pay any mandatory fine imposed pursuant to that division, if the court determines the offender is an indigent person and is unable to pay the fine.

(F) In addition to any other penalty imposed for a violation of this section, the court may suspend for up to five years the driver's or commercial driver's license of any person who is convicted of or has pleaded guilty to a violation of this section as set forth more particularly in R.C. § 2925.11(F).
(R.C. §2925.11) Penalty, see §130.99

Statutory reference:
Authority to place offender on probation or within a detention facility or in an alternative residential diversion program in lieu of fine or imprisonment, see R.C. § 2925.11 (F)(2), (G)
Exemptions for pregnant women, see R.C. § 2925.11(H)

§ 138.04 POSSESSING DRUG ABUSE INSTRUMENTS.

(A) No person shall knowingly make, obtain, possess, or use any instrument, article, or thing whose customary and primary purpose is for the administration or use of a dangerous drug, other than marihuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article, or thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marihuana, or to prepare a dangerous drug, other than marihuana, for unlawful administration or use.

(B) This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies, and other persons whose conduct was in accordance with R.C. Chapters 3719, 4715, 4729, 4731, and 4741.

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

(D) (1) Notwithstanding the fines otherwise required to be imposed pursuant to R.C. §§ 2929.21 or 2929.31 for violations of this section and notwithstanding R.C. § 2929.22, the court shall impose a mandatory fine of $1,000 if the violation of this section was a misdemeanor of the first degree and a mandatory fine of $750 if the violation of this section was a misdemeanor of the second degree.

(2) The court may impose a fine in addition to a mandatory fine imposed pursuant to division (D)(1) of this section if the total of the additional and mandatory fines does not exceed the maximum fine that could be imposed pursuant to R.C. §§ 2929.21 or 2929.31.

(3) No court shall impose a mandatory fine pursuant to division (D)(1) of this section upon an offender who alleges, in an affidavit filed with the court prior to his sentencing, that he is indigent and is unable to pay any mandatory fine imposed pursuant to that division, if the court determines the offender is an indigent person and is unable to pay the fine.

(E) In addition to any other penalty imposed for a violation of this section, the court may suspend for up to five years the driver's or commercial driver's license of any person who is convicted of or has pleaded guilty to a violation of this section. If the offender is a professionally licensed person or a person who has been admitted to the Bar by order of the Supreme Court in compliance with its prescribed and published rules, in addition to any other penalty imposed for a violation of this section, the court forthwith shall comply with R.C. § 2925.38.
(R.C. §2925.12) Penalty, see §130.99

§ 138.05 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

paragraph (A) of R.C. §4501.01, shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.

(B) No person, who is the owner, lessee, or occupant, or who has custody, control, or supervision of premises, or real estate, including vacant land, shall knowingly permit 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, except that permitting drug abuse is a felony of the fourth degree and punishable under appropriate state law, if any of the following apply:

(1) The offender previously has been convicted of a drug abuse offense;

(2) The felony drug abuse offense in question is a violation of R.C. §§ 2925.02 or 2925.03(A)(1),(5),(7) or (10) that was committed in either of the following ways:

(a) On school premises, in a school building, or within 1000 feet of the boundaries of any school premises;

(b) Within 100 feet of any juvenile or within the view of any juvenile, whether or not the offender knows the age of the juvenile, the offender knows the juvenile is within 100 feet or within view of the commission of the offense, or the juvenile views the commission of the offense.

(D) (1) Notwithstanding the fines otherwise required to be imposed pursuant to R.C. §§ 2929.11 or 2929.31 for violations of this section and notwithstanding R.C. § 2929.14, the court shall impose a mandatory fine of $1,500 if the violation of this section was a felony of the fourth degree and a mandatory fine of $1,000 if the violation of this section was a misdemeanor of the first degree.

(2) The court may impose a fine in addition to a mandatory fine imposed pursuant to division (D)(1) of this section if the total of the additional and mandatory fines does not exceed the maximum fine that could be imposed pursuant to R.C. §§ 2929.11 or 2929.31.

(3) No court shall impose a mandatory fine pursuant to division (D)(1) of this section upon an offender who alleges, in an affidavit filed with the court prior to his sentencing, that he is indigent and is unable to pay any mandatory fine imposed pursuant to that division, if the court determines the offender is an indigent person and is unable to pay the fine.

(E) In addition to any other penalty imposed for a violation of this section, the court may suspend for up to five years the driver's or commercial driver's license of any person who is convicted of or has pleaded guilty to a violation of this section. If the offender is a professionally licensed person or a person who has been admitted to the

Bar by order of the Supreme Court in compliance with its prescribed and published rules, in addition to any other penalty imposed for a violation of this section, the court forthwith shall comply with R.C. § 2925.38.
(R.C. §2925.13) Penalty, see §130.99

Statutory reference:
Disbursement of fine monies and bail forfeitures, see R.C. § 2925.13 (D)(3) and (4)

§ 138.06 DECEPTION TO OBTAIN A DANGEROUS DRUG.

(A) No person, by deception as defined in R.C. §2913.01, shall procure the administration of, a prescription for, or the dispensing of, a dangerous drug, or possess an uncompleted preprinted prescription blank used for writing a prescription for a dangerous drug.

(B) Whoever violates this section is guilty of deception to obtain a dangerous drug. If the offender previously has been convicted of a drug abuse offense, or if the drug involved is a compound, mixture, preparation, or substance included in schedule I or II of R.C. §3719.41, with the exception of marihuana, deception to obtain drugs is a felony and shall be prosecuted under appropriate state law.

(C) (1) Notwithstanding the fines otherwise required to be imposed pursuant to R.C. §§ 2929.11 or 2929.31 for violations of this section and notwithstanding R.C. § 2929.14, the court shall impose mandatory fines for felony offenses as are set forth in R.C. § 2925.22(C)(1).

(2) The court may impose a fine in addition to a mandatory fine imposed pursuant to division (C)(1) of this section if the total of the additional and mandatory fines does not exceed the maximum fine that could be imposed pursuant to R.C. §§ 2929.11 or 2929.31.

(3) No court shall impose a mandatory fine pursuant to division (C)(1) of this section upon an offender who alleges, in an affidavit filed with the court prior to his sentencing, that he is indigent and is unable to pay any mandatory fine imposed pursuant to that division, if the court determines the offender is an indigent person and is unable to pay the fine.

(D) In addition to any other penalty imposed for a violation of this section, the court may suspend for up to five years the driver's or commercial driver's license of any person who is convicted of or has pleaded guilty to a violation of this section. If the offender is a professionally licensed person or a person who has been admitted to the Bar by order of the Supreme Court in compliance with its prescribed and published rules, in addition to any other penalty imposed for a violation of this section, the court forthwith shall comply with R.C. § 2925.38.
(R.C. §2925.22) Penalty, see §130.99

§ 138.07 ABUSING HARMFUL INTOXICANTS.

(A) Except for lawful research, clinical, medical, dental, or veterinary purposes, no person, with purpose to induce intoxication or similar physiological effects, shall obtain, possess, or use a harmful intoxicant.

(B) Whoever violates this section is guilty of abusing harmful intoxicants, a misdemeanor of the fourth degree. If the offender previously has been convicted of a drug abuse offense, abusing harmful intoxicants is a misdemeanor of the first degree.

(C) (1) Notwithstanding the fines otherwise required to be imposed pursuant to R.C. §§ 2929.21 or 2929.31 for violations of this section and notwithstanding R.C. § 2929.22, the court shall impose a mandatory fine of $1,000 if the violation of this section was a misdemeanor of the first degree and a mandatory fine of $250 if the violation of this section was a misdemeanor of the fourth degree.

(2) The court may impose a fine in addition to a mandatory fine imposed pursuant to division (C)(1) of this section if the total of the additional and mandatory fines does not exceed the maximum fine that could be imposed pursuant to R.C. §§ 2929.21 or 2929.31.

(3) No court shall impose a mandatory fine pursuant to division (C)(1) of this section upon an offender who alleges, in an affidavit filed with the court prior to his sentencing, that he is indigent and is unable to pay any mandatory fine imposed pursuant to that division, if the court determines the offender is an indigent person and is unable to pay the fine.

(D) In addition to any other penalty imposed for a violation of this section, the court may suspend for up to five years the driver's or commercial driver's license of any person who is convicted of or has pleaded guilty to a violation of this section. If the offender is a professionally licensed person or a person who has been admitted to the Bar by order of the Supreme Court in compliance with its prescribed and published rules, in addition to any other penalty imposed for a violation of this section, the court forthwith shall comply with R.C. § 2925.38.
(R.C. §2925.31) Penalty, see §130.99

§ 138.08 ILLEGAL DISPENSING OF DRUG SAMPLES.

(A) No person shall knowingly furnish another a sample drug.

(B) Division (A) of this section does not apply to manufacturers, wholesalers, practitioners, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with R.C. Chapters 3719, 4715, 4725, 4729, 4731, and 4741.

(C) Whoever violates this section is guilty of illegal dispensing of drug samples, a misdemeanor of the second degree. Illegal dispensing of drug samples is a misdemeanor of the first degree, if any of the following apply:

(1) The offender commits the offense on school premises, in a school building or within 1,000 feet of the boundaries of any school premises;

(2) The offender commits the offense within 100 feet of any juvenile or within the view of any juvenile, whether or not the offender knows the age of the juvenile, the offender knows the juvenile is within 100 feet or within view of the commission of the offense, or the juvenile views the commission of the offense.

(3) The offender previously has been convicted of a drug abuse offense. If the drug involved is a compound, mixture, preparation, or substance included in Schedule I or II of R.C. § 3719.41 with the exception of marihuana, illegal dispensing of drug samples is a felony and shall be prosecuted under appropriate state law.

(D) (1) Notwithstanding the fines otherwise required to be imposed pursuant to R.C. §§ 2929.11, 2929.21, or 2929.31 for violations of this section and notwithstanding R.C. §§ 2929.14 or 2929.22, the court shall impose a mandatory fine of $1,000 if the violation of this section was a misdemeanor of the first degree, and a mandatory fine of $750 if the violation of this section was a misdemeanor of the second degree.

(2) The court may impose a fine in addition to a mandatory fine imposed pursuant to division (D)(1) of this section if the total of the additional and mandatory fines does not exceed the maximum fine that could be imposed pursuant to R.C. §§ 2929.11, 2929.21 or 2929.31.

(3) No court shall impose a mandatory fine pursuant to division (D)(1) of this section upon an offender who alleges, in an affidavit filed with the court prior to his sentencing, that he is indigent and is unable to pay any mandatory fine imposed pursuant to that division, if the court determines the offender is an indigent person and is unable to pay the fine.

(E) In addition to any other penalty imposed for a violation of this section, the court may suspend for up to five years the driver's or commercial driver's license of any person who is convicted of or has pleaded guilty to a violation of this section. If the offender is a professionally licensed person or a person who has been admitted to the Bar by order of the Supreme Court in compliance with its prescribed and published rules, in addition to any other penalty imposed for a violation of this section, the court forthwith shall comply with R.C. § 2925.38.
(R.C. §2925.36) Penalty, see §130.99

Statutory reference:
Disbursement of fine monies and bail forfeitures, see R.C. § 2925.36(D)(3) and (4)
Felony offenses, see R.C. § 2925.36(C)(3)

§ 138.09 FEDERAL PROSECUTION BAR TO MUNICIPAL PROSECUTION.

If a violation of this chapter is a violation of federal narcotic laws, as defined in §138.01, a conviction or acquittal under federal narcotic laws for the same act is a bar to prosecution in this state. (R.C. §2925.50)

§ 138.10 DISPENSING HARMFUL INTOXICANTS.

(A) No person shall knowingly dispense or distribute any harmful intoxicant except gasoline to any juvenile if the person who dispenses or distributes it knows or has reason to believe that the harmful intoxicant will be used in violation of §138.07 of this chapter, unless a written order from the parent or guardian is provided to the dispenser or distributor. Six months after the board of pharmacy has designated the noxious additive, as defined in §138.01 (T) of this chapter, that is to be included in any product containing toluene, the gas, fumes, or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation, or other harmful physiological effects, no person shall dispense or distribute a product that is required to include a noxious additive unless such product includes the noxious additive in the amounts and proportions prescribed by the board.

(B) Any product that is required by division (A) of this section to include a noxious additive shall have such contents clearly stated on the label.

(C) The prohibitions of this section shall not apply after a prescribed noxious additive has been added to the harmful intoxicant or upon determination by the board of pharmacy that addition of a noxious additive is not required.

(D) Whoever violates this section is guilty of trafficking in harmful intoxicants, a misdemeanor of the fourth degree. If the offender previously has been convicted of a drug abuse offense, trafficking in harmful intoxicants is a misdemeanor of the third degree.

(E) This section does not apply to products used in making, fabricating, assembling, transporting, or constructing a product or structure by manual labor or machinery, for sale or lease to another person, or to the mining, refining, or processing of natural deposits.

(F) (1) Notwithstanding the fines otherwise required to be imposed pursuant to R.C. §§ 2929.21 or 2929.31 for violations of this section and notwithstanding R.C. § 2929.22, the court shall impose a mandatory fine of $500 if the violation of this section was a misdemeanor of the third degree, and a mandatory fine of $250 if the violation of this section was a misdemeanor of the fourth degree.

(2) The court may impose a fine in addition to a mandatory fine imposed pursuant to division (F)(1) of this section if the total of the additional and mandatory fines does not exceed the maximum fine that could be imposed pursuant to R.C. §§ 2929.21 or 2929.31.

(3) No court shall impose a mandatory fine pursuant to division (F)(1) of this section upon an offender who alleges, in an affidavit filed with the court prior to his sentencing, that he is indigent and is unable to pay any mandatory fine imposed pursuant to that division, if the court determines the offender is an indigent person and is unable to pay the fine.

(G) In addition to any other penalty imposed for a violation of this section, the court may suspend for up to five years the driver's or commercial driver's license of any person who is convicted of or has pleaded guilty to a violation of this section. If the offender is a professionally licensed person or a person who has been admitted to the Bar by order of the Supreme Court in compliance with its prescribed and published rules, in addition to any other penalty imposed for a violation of this section, the court forthwith shall comply with R.C. § 2925.38.
(R.C. §2925.32) Penalty, see §130.99

§ 138.11 LABORATORY REPORT REQUIRED.

(A) (1) In any criminal prosecution for a violation of this chapter or R.C. Chapter 3719, a laboratory report from the bureau of criminal identification and investigation or a laboratory operated by another law enforcement agency and signed by the person performing the analysis, stating that the substance which is the basis of the alleged offense has been weighed and analyzed and stating the findings as to the content, weight, and identity of the substance and that it contains any amount of a controlled substance and the number and description of unit dosages, is prima facie evidence of the content, identity, and weight or the existence and number of unit dosages of the substance.

(2) Attached to that report shall be a copy of a notarized statement by the signer of the report giving the name of the signer and stating that he is an employee of the laboratory issuing the report and that performing the analysis is a part of his regular duties, and giving an outline of his education, training, and experience for performing an analysis of materials included under this section. The signer shall attest that scientifically accepted tests were performed with due caution, and that the evidence was handled in accordance with established and accepted procedures while in the custody of the laboratory.

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

(C) The report shall not be prima facie evidence of the contents, identity, and weight or the existence and number of unit dosages of the substance if the accused or his attorney demands the testimony of the person signing the report, by serving the demand upon the prosecuting attorney, within 7 days from the accused or his attorney's receipt of the report. The time may be extended by a trial judge in the interests of justice.

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

(E) Any person who is accused of a violation of this chapter is entitled, upon written request made to the prosecuting attorney, to have a portion of the substance that is the basis of the alleged violation preserved for the benefit of independent analysis performed by a laboratory analyst employed by the accused person, or, if he is indigent, by a qualified laboratory analyst appointed by the court. Such portion shall be a representative sample of the entire substance that is the basis of the alleged violation and shall be of sufficient size, in the opinion of the court, to permit the accused's analyst to make a thorough scientific analysis concerning the identity of the substance. The prosecuting attorney shall provide the accused's analyst with the sample portion at least 14 days prior to trial, unless the trial is to be held in a court not of record or unless the accused person is charged with a minor misdemeanor. In which case the prosecuting attorney shall provide the accused's analyst with the sample portion at least 3 days prior to trial. If the prosecuting attorney determines that such a sample portion cannot be preserved and given to the accused's analyst, the prosecuting attorney shall so inform the accused person, or his attorney. In such a circumstance, the accused person is entitled, upon written request made to the prosecuting attorney, to have his privately employed or court appointed analyst present at an analysis of the substance that is the basis of the alleged violation, and, upon further written request, to receive copies of all recorded scientific data that result from the analysis and that can be used by an analyst in arriving at conclusions, findings, or opinions concerning the identity of the substance subject to the analysis.

(F) In addition to the rights provided under division (E) of this section, any person who is accused of a violation of this chapter that involves a bulk amount of a controlled substance, or any multiple thereof, or who is accused of a violation of §138.03 other than a minor misdemeanor violation, that involves marihuana, is entitled, upon written request made to the prosecuting attorney, to have a laboratory analyst of his choice, or, if the accused is indigent, a qualified laboratory analyst appointed by the court, present at a measurement or weighing of the substance that is the basis of the alleged violation. Also, the accused person is entitled, upon further written request, to receive copies of all recorded scientific data that result from the measurement or weighing and that can be used by an analyst in arriving

at conclusions, findings, or opinions concerning the weight, volume, or number of unit doses of the substance subject to the measurement or weighing. (R.C. §2925.51)

§ 138.12 COUNTERFEIT CONTROLLED SUBSTANCES.

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

(B) Whoever violates this section shall be guilty of possession of counterfeit controlled substances, a misdemeanor of the first degree. If the offender has previously been convicted of a violation under R.C. Chapter 2925, possession of counterfeit controlled substances is a felony of the fourth degree and shall be prosecuted under appropriate state law.

(C) (1) Notwithstanding the fines otherwise required to be imposed pursuant to R.C. §§ 2929.11, 2929.21, or 2929.31 for violations of this section and notwithstanding R.C. §§ 2929.14 or 2929.22, the court shall impose a mandatory fine of $1,000 if the violation of this section was a misdemeanor of the first degree. (Mandatory fines for felony offenses are set forth in R.C. § 2925.37 (L)(1).)

(2) The court may impose a fine in addition to a mandatory fine imposed pursuant to division (C)(1) of this section if the total of the additional and mandatory fines does not exceed the maximum fine that could be imposed pursuant to R.C. §§ 2929.11, 2929.21, or 2929.31.

(3) No court shall impose a mandatory fine pursuant to division (C)(1) of this section upon an offender who alleges, in an affidavit filed with the court prior to his sentencing, that he is indigent and is unable to pay any mandatory fine imposed pursuant to that division, if the court determines the offender is an indigent person and is unable to pay the fine.

(D) In addition to any other penalty imposed for a violation of this section, the court may suspend for up to five years the driver's or commercial driver's license of any person who is convicted of or has pleaded guilty to any other violation of this section. If the offender is a professionally licensed person or a person who has been admitted to the Bar by order of the Supreme Court in compliance with its prescribed and published rules, in addition to any other penalty imposed for a violation of this section, the court forthwith shall comply with R.C. § 2925.38.
(R.C. § 2925.37) Penalty, § 130.99

§ 138.13 USE, POSSESSION, OR SALE OF DRUG PARAPHERNALIA.

(A) As used in this section, "DRUG PARAPHERNALIA" means any equipment, product, or material of any kind that is used by the offender, intended by the offender for use, or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing,

injecting, ingesting, inhaling, or otherwise introduced into the human body, a controlled substance in violation of this chapter. "DRUG PARAPHERNALIA" includes, but is not limited to, any of the following equipment, products, or materials that are used by the offender, intended by the offender for use, or designed by the offender for use, in any of the following manners:

(1) A kit for propagating, cultivating, growing, or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived;

(2) A kit for manufacturing, compounding, converting, producing, processing, or preparing a controlled substance;

(3) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;

(4) Testing equipment for identifying, or analyzing the strength, effectiveness, or purity of, a controlled substance;

(5) A scale or balance for weighing or measuring a controlled substance;

(6) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, for cutting a controlled substance;

(7) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana;

(8) A blender, bowl, container, spoon, or mixing device for compounding a controlled substance;

(9) A capsule, balloon, envelope, or container for packaging small quantities of a controlled substance;

(10) A container or device for storing or concealing a controlled substance;

(11) A hypodermic syringe, needle, or instrument for parenterally injecting a controlled substance into the human body;

(12) An object, instrument, or device for ingesting, inhaling, or otherwise introducing into the human body, marihuana, cocaine, hashish, or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe, with or without a screen, permanent screen, hashish head, or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.

(B) In determining if an object is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:

(1) Any statement by the owner, or by anyone in control, of the object, concerning its use;

(2) The proximity in time or space of the object, or of the act relating to the object, to a violation of any provision of this chapter or R.C. Chapter 2925;

(3) The proximity of the object to any controlled substance;

(4) The existence of any residue of a controlled substance on the object;

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

(6) Any oral or written instruction provided with the object concerning its use;

(7) Any descriptive material accompanying the object and explaining or depicting its use;

(8) National or local advertising concerning the use of the object;

(9) The manner and circumstances in which the object is displayed for sale;

(10) Direct or circumstantial evidence of the ratio of the sales of the object to the total sales of the business enterprise;

(11) The existence and scope of legitimate uses of the object in the community;

(12) Expert testimony concerning the use of the object.

(C) (1) No person shall knowingly use, or possess with purpose to use, drug paraphernalia.

(2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if he knows or reasonably should know that the equipment, product, or material will be used as drug paraphernalia.

(3) No person shall place an advertisement in any newspaper, magazine, handbill, or other publication that is published and printed and circulates primarily within this state, if he knows that the purpose of the advertisement is to promote the illegal sale in this state of the equipment, product, or material that the offender intended or designed for use as drug paraphernalia.

(D) This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with R.C. Chapters 3719, 4715, 4729, 4731, or 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Ohio R.C. § 3719.172.

(E) Notwithstanding R.C. §§ 2933.42 and 2933.43, any drug paraphernalia that was used, possessed, sold, or manufactured in violation of this section shall be seized, after a conviction for that violation shall be forfeited, and upon forfeiture shall be disposed of pursuant to R.C. § 2933.41 (D)(8).

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

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

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

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

(G) (1) Notwithstanding the fines otherwise required to be imposed pursuant to R.C. §§ 2929.21 or 2929.31 for violations of this section and notwithstanding R.C. § 2929.22, the court shall impose a mandatory fine of $1,000 if the violation of this section was a misdemeanor of the first degree, a mandatory fine of $750 if the violation of this section was a misdemeanor of the second degree, and a mandatory fine of $250 if the violation of this section was a misdemeanor of the fourth degree.

(2) The court may impose a fine in addition to a mandatory fine imposed pursuant to division (G)(1) of this section if the total of the additional and mandatory fines does not exceed the maximum fine that could be imposed pursuant to R.C. §§ 2929.21 or 2929.31.

(3) No court shall impose a mandatory fine pursuant to division (G)(1) of this section upon an offender who alleges, in an affidavit filed with the court prior to his sentencing, that he is indigent and is unable to pay any mandatory fine imposed pursuant to that division, if the court determines the offender is an indigent person and is unable to pay the fine.

(H) In addition to any other penalty imposed for a violation of this section, the court may suspend for up to five years the driver's or commercial driver's license of any person who is convicted of or has pleaded guilty to a violation of this section. If the offender is a professionally licensed person or a person who has been admitted to the Bar by order of the Supreme Court in compliance with its prescribed and published rules, in addition to any other penalty imposed for a violation of this section, the court forthwith shall comply with R.C. § 2925.38.
(R.C. § 2925.14)

CHAPTER 139: MISCELLANEOUS

Section

139.01 Abuse of corpse
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139.06 Interference with right of person to engage in housing transactions because of race, religion, or the like
139.07 Ethnic intimidation

§ 139.01 ABUSE OF CORPSE.

(A) No person, except as authorized by law, shall treat a human corpse in a way that he knows would outrage reasonable family sensibilities.

(B) Whoever violates this section is guilty of abuse of a corpse, a misdemeanor of the second degree. (R.C. §2927.01) Penalty, see §130.99

§ 139.02 DESECRATION.

(A) No person, without privilege to do so, shall purposely deface, damage, pollute, or otherwise physically mistreat any of the following:

(1) The flag of the United States or of this state;

(2) Any public monument;

(3) Any historical or commemorative marker, or any structure, Indian mound or earthwork, thing, or site of great historical or archaeological interest;

(4) A place of worship, its furnishings, or religious artifacts or sacred texts within the place of worship;

(5) A work of art or museum piece;

(6) Any other object of reverence or sacred devotion.

(B) Whoever violates this section is guilty of desecration. Violation of division (A)(1), (2), (3), (5), or (6) of this section is a misdemeanor of the second degree. Violation of division (A)(4) of this section is a misdemeanor of the first degree that is punishable by a fine of up to $4,000 in addition to the penalties specified for a misdemeanor of the first degree in R.C. § 2929.21. (R.C. §2927.11) Penalty, see §130.99

§ 139.03 UNVENTED HEATERS.

(A) A brazier, salamander, space heater, room heater, furnace,

water heater, or other burner or heater using wood, coal, coke, fuel oil, kerosene, gasoline, natural gas, liquid petroleum gas or similar fuel, and tending to give off carbon monoxide or other harmful gases;

(1) When used in living quarters, or in any enclosed building or space in which persons are usually present, shall be used with a flue or vent so designed, installed, and maintained as to vent the products of combustion outdoors; except in storage, factory, or industrial buildings which are provided with sufficient ventilation to avoid the danger of carbon monoxide poisoning;

(2) When used as a portable or temporary burner or heater at a construction site, or in a warehouse, shed, or structure in which persons are temporarily present, shall be vented as provided in division (A) (1) or used with sufficient ventilation to avoid the danger of carbon monoxide poisoning.

(B) This section does not apply to domestic ranges, laundry stoves, gas logs installed in a fireplace with an adequate flue, or hot plates, unless the same are used as space or room heaters.

(C) No person shall negligently use, or, being the owner, person in charge, or occupant of premises, negligently permit the use of a burner or heater in violation of the standards for venting and ventilation provided in this section.

(D) Division (A) above does not apply to any kerosene-fired space or room heater that is equipped with an automatic extinguishing tip-over device, or to any natural gas-fired or liquid petroleum gas-fired space or room heater that is equipped with an oxygen depletion safety shut-off system, and that has its fuel piped from a source outside the building in which it is located, that are approved by an authoritative source recognized by the state fire marshal in the state fire code adopted by him under R.C. §3737.82.

(E) The state fire marshal may make rules to ensure the safe use of unvented kerosene, natural gas, or liquid petroleum gas heaters exempted from division (A) above when used in assembly buildings, business buildings, high hazard buildings, institutional buildings, mercantile buildings, and type R-1 and R-2 Residential buildings, as these groups of buildings are defined in rules adopted by the board of building standards under R.C. §3781.10. No person shall negligently use, or, being the owner, person in charge or occupant of premises, negligently permit the use of a heater in violation of any rules adopted under this division.

(F) The state fire marshal may make rules prescribing standards for written instructions containing ventilation requirements and warning of any potential fire hazards that may occur in using a kerosene, natural gas, or liquid petroleum gas heater. No person shall sell or offer for sale any kerosene, natural gas, or liquid petroleum gas heater unless the manufacturer provides with the

heater written instructions that comply with any rules adopted under this division.

(G) No product labeled as a fuel additive for kerosene heaters and having a flash point below 100°F. or 37.8°C. shall be sold, offered for sale, or used in any kerosene space heater.

(H) No device that prohibits any safety feature on a kerosene, natural gas, or liquid petroleum gas space heater from operating shall be sold, offered for sale, or used in connection with any kerosene, natural gas, or liquid petroleum gas space heater.

(I) No person shall sell or offer for sale any kerosene-fired, natural gas, or liquid petroleum gas-fired heater that is not exempt from division (A) above, unless it is marked conspicuously by the manufacturer on the container with the phrase "Not Approved For Home Use."

(J) No person shall use a cabinet-type, liquid petroleum gas-fired heater having a fuel source within the heater, inside any building, except as permitted by the state fire marshal in the state fire code adopted by him under R.C. § 3737.82.

(K) Whoever violates this section is guilty of a misdemeanor of the first degree. (R.C. §§3701.82, 3701.99 (C)) Penalty, see §130.99

§ 139.04 ABANDONED REFRIGERATORS.

(A) No person shall abandon, discard, or knowingly permit to remain on premises under his control, in a place accessible to children, any abandoned or discarded icebox, refrigerator, or other airtight or semi-airtight container which has a capacity of 1-1/2 cubic feet or more and an opening of 50 square inches or more and which has a door or lid equipped with hinge, latch, or other fastening device capable of securing such door or lid, without rendering the equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein. This section shall not apply to an icebox, refrigerator or other airtight or semi-airtight container located in that part of a building occupied by a dealer, warehouseman or repairman. (R.C. § 3767.29)

(B) Whoever violates this section shall be guilty of a misdemeanor of the fourth degree. (R.C. §3767.99 (B)) Penalty, see §130.99

§ 139.05 MAINTAINING A NUISANCE.

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

(B) No person shall cause or allow offal, filth, or noisome substances to be collected or remain in any place to the damage or prejudice of others, or of the public.

(C) No person shall unlawfully obstruct or impede the passage of a navigable river, harbor, or collection of water, or corrupt or render unwholesome or impure, a watercourse, stream of water, or unlawfully divert such watercourse from its natural course or state to the injury or prejudice of others.

(D) Persons who are engaged in agriculture-related activities, as agriculture is defined in R.C. §519.01, and who are conducting those activities outside a municipal corporation, in accordance with generally accepted agricultural practices, and in such a manner so as not to have a substantial, adverse effect on the public health, safety, or welfare, are exempt from divisions (A) and (B) above; from any similar ordinances, resolutions, rules, or other enactments of a state agency or political subdivision; and from any ordinances, resolutions, rules, or other enactments of a state agency or political subdivision that prohibit excessive noise.

(E) Whoever violates this section shall be guilty of a misdemeanor of the third degree. (R.C. §§3767.13, 3767.99)
Penalty, see §130.99

Cross-reference:
Nuisances, Ch. 93

§ 139.06 INTERFERENCE WITH RIGHT OF PERSON TO ENGAGE IN HOUSING TRANSACTIONS BECAUSE OF RACE, RELIGION, OR THE LIKE.

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

(1) Any person because of race, color, religion, sex, familial status, as defined in R.C. § 4112.01, national origin, handicap 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, or in order to intimidate that person or any other person or any class of persons from doing either of the following:

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

(b) Affording another person or class of persons opportunity or protection so to participate.

(3) Any person because that person is or has been, or in order to discourage that person or any other person from, lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, familial status as defined in R.C. § 4112.01, national origin, handicap 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, except that whoever violates division (A) of this section and causes bodily injury is guilty of a felony of the third degree and shall be prosecuted under appropriate state law, and whoever violates division (A) of this section and causes death is guilty of a felony of the first degree and shall be prosecuted under appropriate state law.
(R.C. § 2927.03) Penalty, see § 130.99

§ 139.07 ETHNIC INTIMIDATION.

(A) No person shall violate R.C. §§ 2903.21, 2903.22, 2909.06, or 2909.07, or 2917.21 (A)(3), (4), or (5) by reason of the race, color, religion, or national origin of another person or group of persons.

(B) Whoever violates this section is guilty of ethnic intimidation. Ethnic intimidation is an offense of the next higher degree than the offense the commission of which is a necessary element of ethnic intimidation.
(R.C. § 2927.12)

TITLE XV: LAND USAGE

(This title is reserved for local ordinances dealing with zoning, subdivisions, etc.)

PARALLEL REFERENCES

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