

INSTRUCTIONS FOR INSERTING
2023 REPLACEMENT PAGES
FOR THE
CODIFIED ORDINANCES OF BREA

All new replacement pages bear the footnote "2023 Replacement". Please discard old pages and insert these new replacement pages immediately as directed in the following table.

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CODIFIED ORDINANCES OF THE CITY OF BEREA OHIO

Local legislation current through May 1, 2023

State legislation current through January 6, 2023

CERTIFICATION

We, Cyril M. Kleem, Mayor, and Alycia Esson, Council Clerk, of Berea, Ohio, pursuant to Ohio Revised Code 731.23 and 731.42, hereby certify that the general and permanent ordinances of the City of Berea, Ohio, as revised, rearranged, compiled, renumbered as to sections, codified and printed herewith in component codes are correctly set forth and constitute the Codified Ordinances of Berea, Ohio, 1992, as amended to May 1, 2023.

/s/ Cyril M. Kleem
Mayor

/s/ Alycia Esson
Council Clerk

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CITY OF BEREAL, OHIO

ROSTER OF OFFICIALS

(2023)

ADMINISTRATION

Mayor	Cyril M. Kleem
Director of Law and Public Safety	Barbara Jones
Director of Public Works (Building, Engineering, Planning and Service)	Antonio Armagno
Director of Finance	Andrea Morris
Director of Economic Development	Matthew Madzy
Director of Recreation	Marty Compton
Police Chief	Dan Clark
Fire Chief	Terrell Ledwell

COUNCIL

President	Jim Maxwell
At-Large	Gene Zacharyasz
At-Large	Mary K. Brown
Ward 1	Leon Dozier
Ward 2	Chris McManis
Ward 3	Lisa Weaver
Ward 4	Erika Coble
Ward 5	Rick Skoczen
Clerk	Alycia Esson

BEREA MUNICIPAL COURT

Judge	Mark A. Comstock
Clerk of Court	Raymond J. Wohl

The publisher expresses its appreciation
to

ALYCIA ESSON
Clerk of Council

and to all other City officials
who gave time and counsel in the
1992 recodification of the Berea City Ordinances
and the preparation of current
replacement pages.

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CHAPTER 105

Wards and Boundaries

105.01	Wards established.	105.04	Ward Three.
105.02	Ward One.	105.05	Ward Four.
105.03	Ward Two.	105.06	Ward Five.

CROSS REFERENCES

Boundaries and annexation of territory - see CHTR. Sec. I
 Division into wards by Council - see CHTR. Sec. IV, Item 9
 Voting precincts - see Ohio R.C. 3501.18

105.01 WARDS ESTABLISHED.

For the purpose of electing members of Council in the year 2023 and thereafter, and pursuant to the provisions of Section IV, Item 9, of the Charter of the City, the City shall be, and hereby is, divided into five wards, which wards are particularly defined and described as follows. (Ord. 2022-59. Passed 11-28-22.)

105.02 WARD ONE.

Beginning in the Northerly Corporation line of the City of Berea at its intersection with the centerline of the East Branch of Rocky River;

Thence Easterly along the Northern Corporation line of the City of Berea which is also along the centerline of Sheldon Road to its intersection with the southern line of consolidated P.P. # 362-07-008 (CSX Rail Line) which is also at (but not including) the southwest corner of P.P. #342-11-004;

Thence Southerly along the Southeasterly line of consolidated P.P. # 362-07-008 (CSX Rail Line) right of way which is also the Eastern Corporate line of the City of Berea and continuously and uninterrupted meandering in the same momentum along said Easterly Corporate Line of the City of Berea to a point of intersection at the centerline of East Bagley Road;

Thence Westerly along the centerline of Bagley Road to its intersection with the centerline of Mulberry Street;

Thence Southerly along the centerline of Mulberry Street to its intersection with the easterly projection of the Southern property line of P.P. #364-03-036;

Thence Westerly along the southerly property lines starting from P.P. #364-03-036 through P.P. 361-11-001 toward a point where the line intersects with the East Branch of The Rocky River;

Thence Northwesterly along the centerline of the East Branch of Rocky River to its intersection with the Northerly Corporation line of the City, being the place of beginning. (Ord. 2022-59. Passed 11-28-22.)

105.03 WARD TWO.

Beginning at the Northwesterly corner of Original Middleburg Township Section Number 24 and the Northerly Corporation line of the City of Berea;

Thence easterly along the Northerly Corporation line to its intersection with the centerline of the East Branch of the Rocky River at the point at which it bears southerly;

Thence Southerly along the centerline of the East Branch of the Rocky River to its intersection with Southerly line of P.P. # 362-26-005 (CSX Rail Line);

Thence South-Westerly along the Southerly line of P.P. # 362-26-005 (CSX Rail Line) to its intersection with the centerline of Lindberg Blvd.;

Thence South-Westerly along the centerline of Lindberg Blvd. to its intersection with a Western Corporation Line of the City of Berea;

Thence Northerly along said Western Corporation Line of the City of Berea which is also the Western line of P.P. # 363-01-001 to a point of intersection with a Southern Corporation Line of the City which is located at the south-eastern corner of P.P. # 361-35-002;

Thence Westerly along the Southerly Corporation Line of the City;

Thence Northerly along the Westerly Corporation Line of the City;

Thence Easterly along the Northerly Corporation Line of the City;

Thence Northerly along the Westerly Corporation Line of the City;

Thence continuing to follow the Corporation Line of the City in the preceding momentum until its intersection with the Northwesterly corner of Original Middleburg Township Section Number 24 and a Northerly Corporation line of the City of Berea, being the place of beginning. (Ord. 2022-59. Passed 11-28-22.)

105.04 WARD THREE.

Beginning at the intersection of the East Branch of the Rocky River and the Southern line of P.P. # 362-26-005 (CSX Rail Line) where the Southeasterly corner of Ward 2 and the Western boarder of Ward 1 meet and proceeding Southerly along the centerline of the East Branch of the Rocky River to a point that intersects with the Westerly boundary of Ward 4 which is at the South-Eastern corner of P.P. #364-03-036;

Thence South along the centerline of State Route 237 (aka Henry Street which then is aka Prospect Road) to its intersection with the centerline of West Street;

Thence Westerly along the centerline of West Street to its intersection with the centerline of Crocker Street;

Thence Southerly along the centerline of Crocker to its intersection with the centerline of Crosby Street;

Thence Westerly along the centerline of Crosby to its intersection with the centerline of Fair Street;

Thence Southerly along the centerline of Fair Street Road to its intersection with the centerline of Fairpark Drive;

Thence Westerly along the centerline of Fairpark Drive to its intersection with the centerline of Woodmere Road;

Thence Northerly along the centerline of Woodmere Road to its intersection with the centerline of Race Street;

Thence Westerly along the centerline of Race Street to its intersection with the centerline of Adrian Drive;

Thence Southerly along the centerline of Adrian Drive to its intersection with the centerline of Girard Drive;

Thence Westerly along the centerline of Girard Drive to its intersection with the centerline of Beeler Drive;

Thence Northerly along the centerline of Beeler Drive to its intersection with the centerline of West Street;

Thence Westerly along the centerline of West Street to a point which is the Westerly Corporation limit of the City of Berea and which is located at the southwest corner of PPN 363-03-002;

Thence Northerly along the Corporation Line of the City of Berea to a point where said line intersects with the centerline of Lindberg Blvd.

Thence North-Easterly along the centerline of Lindberg Blvd. to a point that intersects with the southerly border of P.P. # 362-26-005 (CSX Rail Line).

Thence North-Easterly along the southerly property line of P.P. #362-26-005 (CSX Rail Line) to a point of intersection of the East Branch of the Rocky River where the Southeasterly corner of Ward 2 and the Western boarder of Ward 1 meet, being the place of beginning. (Ord. 2022-59. Passed 11-28-22.)

105.05 WARD FOUR.

Beginning in the centerline of Bagley Road at its intersection with the centerline of Mulberry Street;

Thence Easterly along the centerline of Bagley Road to the Easterly Corporation line of the City of Berea which is also located at the northeastern corner of P.P. # 364-16-022;

Thence Southerly and continuously and uninterrupted meandering along the Easterly Corporation line of the City of Berea to its intersection with a Southerly Corporation line of the City of Berea which is at the South-Easterly point of P.P. # 363-39-054;

Thence North-Westerly along a Southerly Corporation line of the City of Berea to its intersection with the centerline of State Route 237 (aka Prospect Road);

Thence Northerly along State Route 237 (aka Prospect Road) to a point of intersection with the northern line of South Quarry Lane;

Thence Easterly along the northern line of South Quarry Lane to its intersection with the centerline of Valley Parkway;

Thence Northerly along the centerline of Valley Parkway to a point of intersection with West Bridge Street;

Thence Westerly along the centerline of West Bridge Street to the intersection point at the centerline of State Route 237 (aka Prospect Road which is then aka Henry Street);

Thence Northerly along the centerline of State Route 237 (aka Henry Street which is then aka Mulberry Street), honoring the points of meeting between Wards 1 and 3, to the intersection of the centerline of Bagley Road, being the place of beginning.

(Ord. 2022-59. Passed 11-28-22.)

105.06 WARD FIVE.

Beginning in the centerline of State Route 237 (aka Prospect Road) at its intersection with the centerline of West Bridge Street;

Thence Easterly along the centerline of West Bridge Street to its intersection with the centerline of Valley Parkway which meets the westerly border of Ward 4;

Thence Southerly along the centerline of Valley Parkway to its intersection with the northerly line of South Quarry Lane;

Thence Westerly along the northerly line of South Quarry Lane to its intersection with the centerline of State Route 237 (aka Prospect Road);

Thence Southerly along the centerline of State Route 237 (aka Prospect Road) to its intersection with the Southerly Corporate line of the City of Berea;

Thence Westerly and then continuously meandering and running in the same momentum along the Corporation line of the City of Berea to a point of intersection with the centerline of West Street, which is at a meeting point with the Western border of Ward 3 and adjacent to the northern property line of P.P. # 363-27-278;

Thence Easterly along the centerline of West Street to its intersection with the centerline of Beeler Drive;

Thence Southerly along the centerline of Beeler Drive to its intersection with the centerline of Girard Drive;

Thence Easterly along the centerline of Girard Drive to its intersection with the centerline of Adrian Drive;

Thence Northerly along the centerline of Adrian Drive to its intersection with the centerline of Race Street;

Thence Easterly along the centerline of Race Street to its intersection with the centerline of Woodmere Road;

Thence Southerly along the centerline of Woodmere Road to its intersection with the centerline of Fairpark Drive;

Thence Easterly along the centerline of Fairpark Drive to its intersection with the centerline of Fair Street;

Thence Northerly along the centerline of Fair Street to its intersection with the centerline of Crosby Street;

Thence Easterly along the centerline of Crosby Street to its intersection with the centerline of Crocker Street;

Thence Northerly along the centerline of Crocker Street to its intersection with the centerline of West Street;

Thence Easterly along the centerline of West Street to its intersection with the centerline of State Route 237 (aka Prospect Road)

Thence Northerly along the centerline of State Route 237 (aka Prospect Road) to its intersection with West Bridge Street

Thence Easterly along the centerline of West Bridge Street to its intersection with the centerline of Valley Parkway, being the place of beginning.

(Ord. 2022-59. Passed 11-28-22.)

(NOTE: The next printed page is page 17.)

CHAPTER 327

Trees and Weeds

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327.03	Shade Tree Commission.	327.17	Removal of stumps.
327.04	Operation of City Shade Tree Commission.	327.18	Tree pruning; private property.
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327.07	Tree spacing; utilities.	327.21	Interference with Director or Assistants.
327.08	Tree distance from curb and sidewalk.	327.22	Trees, grass, weeds and other conditions as a nuisance; abatement.
327.09	Tree distance from street corners and fire hydrants.	327.23	Removal of trees, weeds, grasses by City. (Repealed)
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327.13	Moving of trees; deposit or bond.	327.99	Penalty.
327.14	Tree topping.		

CROSS REFERENCES

Power to regulate trees or shrubs - see Ohio R.C. 715.20

Injury or destruction of trees - see GEN.OFF. 941.06

Assessments for tree planting or maintenance - see Ohio R.C. 727.011

Noxious weeds - see Ohio R.C. 731.51, 971.33; OAC Ch. 901:5-31

327.01 DEFINITIONS.

Certain words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them as follows:

- (a) "Street trees" means trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the City.
- (b) "Park trees" means trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

- (c) "Arboriculture" or "tree preservation" means and includes the treating, spraying, pruning, maintaining and any other care or work intended for the strengthening of trees and the removal and prevention of tree pests, blights and diseases of any and all kinds.
- (d) "Public place" means any public street, public highway, public park or any property owned or held by the City within the boundaries of the City.
(Ord. 1981-16. Passed 3-2-81.)

327.02 CONTROL OF TREES.

The Director of Public Service is given full jurisdiction, authority, control and supervision over all trees which now or which may hereafter exist upon any public place in the City, and over all trees which exist upon any private property in the City when, in his opinion, such trees constitute a menace to public property, public safety or public welfare of the City. He shall also have full jurisdiction, authority and control in connection with the issuing of permits hereinafter provided for. In the exercise of any or all of the powers herein granted, the Director shall have the authority to delegate all or such part of his powers and duties with respect to supervision and control of trees to his subordinates and assistants.

(Ord. 1981-16. Passed 3-2-81.)

327.03 SHADE TREE COMMISSION.

There is hereby created and established a Shade Tree Commission for the City. The members of the Commission shall serve without compensation and the Commission shall be comprised of the following individuals:

- (a) City Members. The Director of Public Service, the Chairman of the Public Service Committee of Council and one Council member elected by a majority of the members elected to Council; and
- (b) Public Members. As of May 2, 2022, three residents of the City, appointed by the Mayor with the approval of Council, are serving as members of the Shade Tree Commission for a term of three years, except that the term of two of the members appointed to the Commission is for one and two years respectively. Three additional public members whom are residents of the City shall be appointed by the Mayor with the approval of Council, to serve upon the Commission for a term of three years, except that the term of two of the additional members appointed to the Commission is for one and two years respectively.

Should a vacancy occur during the term of any public member, a successor shall be appointed for the unexpired portion of the term by the Mayor.

(Ord. 2022-29. Passed 5-16-22.)

327.04 OPERATION OF CITY SHADE TREE COMMISSION.

The Commission shall designate its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

(Ord. 1981-16. Passed 3-2-81.)

327.05 SHADE TREE COMMISSION DUTIES.

It is the responsibility of the Commission to develop, update and maintain a written plan for the care, preservation and planting of trees and shrubs in public places. Such plan is to be presented annually by October 30 to Council and shall constitute the Master Shade Tree Plan for the City. Identical copies of the Plan shall be kept on file with the Director of Public Service and the City Shade Tree Commission. The Commission shall investigate and report upon any special question arising within the scope of the Commission's duties.

(Ord. 1981-16. Passed 3-2-81.)

327.06 STREET TREE SPECIES TO BE PLANTED; CERTAIN TREES PROHIBITED.

(a) The Master Shade Tree Plan presently on file with the Director of Public Service constitutes the Official Shade Tree species for the City. No species other than those specified in the Master Shade Tree Plan may be planted as street trees without written permission from the City Shade Tree Commission and Director of Public Service.

(b) The following trees are prohibited on any street lawn in the City and the Director of Public Service is given the continuing authority to remove any such tree or part thereof which is in any unsafe condition, or which by reason of its location, or nature, is injurious or detrimental to other public improvements or infected with any fungus, insect or other pest or disease which otherwise cannot be controlled.

- (1) *Ailanthus altissima*, tree of heaven
- (2) *Albizia julibrissin*, mimosa
- (3) *Acer campestre*, hedge maple
- (4) *Acer ginnala*, Amur maple
- (S) *Acer negundo*, box elder
- (6) *Acer platanoides*, Norway maple
- (7) *Acer pseudoplatanus*, sycamore maple
- (8) *Acer saccharinum*, silver maple
- (9) *Alnus glutinosa*, European black alder
- (10) *Betula pendula*, European white birch
- (11) *Elaeagnus angustifolia*, Russian olive
- (12) *Elaeagnus umbellata*, autumn olive
- (13) *Frangula alnus*, glossy buckthorn
- (14) *Fraxinus* spp., ashes
- (15) *Juglans nigra*, black walnut
- (16) *Koelreuteria paniculata*, golden rain tree
- (17) *Morus alba*, white mulberry
- (18) *Pyrus calleryana*, Callery pear
- (19) *Paulownia tomentosa*, princess tree
- (20) *Phellodendron amurense*, Amur corktree
- (21) *Populus alba*, white poplar
- (22) *Populus deltoides*, cottonwood
- (23) *Populus nigra*, Lombardy poplar
- (24) *Pterocarya* spp., wingnuts
- (25) *Rhamnus cathartica*, common buckthorn
- (26) *Robinia pseudoacacia*, black locust
- (27) *Salix* spp., willows
- (28) *Sorbus aucuparia*, European mountain ash
- (29) *Styphnolobium japonicum*, pagoda tree
- (30) *Ulmus pumila*, Siberian elm
- (31) *Zelkova serrata*, zelkova tree

(c) If any tree listed in subsection 327.06(b) above is located on private property in such close proximity to any public place as will permit the roots of such trees to penetrate through or under the surface of any public place it will be declared a public nuisance and shall be abated by the Director of Public Service.

(Ord. 2023-7. Passed 2-21-23.)

327.07 TREE SPACING; UTILITIES.

(a) The spacing of street trees shall be in accordance with the species size classes listed in the Master Shade Tree Plan. No tree shall be planted without a minimum distance of thirty feet, small trees; forty feet, medium trees; and fifty feet, large trees existing between each planted tree.

(b) No street trees other than those species listed as small trees in the Master Shade Tree Plan may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility. (Ord. 1981-16. Passed 3-2-81.)

327.08 TREE DISTANCE FROM CURB AND SIDEWALK.

In accordance with the species size classifications provided in the Master Shade Tree Plan, no tree shall be planted without a distance of two feet, small trees; three feet, medium trees; and four feet, large trees, existing between the planted trees and the curb and/or sidewalk unless specifically permitted by the Director of Public Service.

(Ord. 1981-16. Passed 3-2-81.)

327.09 TREE DISTANCE FROM STREET CORNERS AND FIRE HYDRANTS.

No street tree shall be planted within thirty-five feet of any street corner, measured from the point nearest intersecting curbs or curblines. No street tree shall be planted within ten feet of any fire hydrant.

(Ord. 1981-16. Passed 3-2-81.)

327.10 PLACING DELETERIOUS SUBSTANCES NEAR TREES.

No person shall permit any natural or artificial gas, salt, brine water, oil, liquid dye or any other substances which are deleterious to trees to come in contact with the soil surrounding the roots of any tree upon any public place in the City in such manner as to kill, injure, deface, destroy or affect the growth of such tree. The operator of a service vehicle of the City, while performing his regular duties in connection with snow removal, street cleaning, garbage collection, leaf collection and the like shall not be subject to the provisions of this section. (Ord. 1981-16. Passed 3-2-81.)

327.11 STONE OR CONCRETE NEAR TREE TRUNK PROHIBITED.

No person shall place or maintain upon the ground in any public place any stone, concrete, brick or other impervious material or substance in such a manner as may obstruct the free access of air and water to the roots of any tree upon any public place in the City, without first having obtained written permission from the Director of Public Service to do so. Unless otherwise provided for, there shall be maintained about the base of the trunk at least nine square feet of open ground for a tree three inches in diameter, and for every two inches of increase of such diameter, there shall be an increase of at least one square foot of open ground.

(Ord. 1981-16. Passed 3-2-81.)

327.12 CARE OF TREES DURING BUILDING OPERATION.

No person in charge of or responsible for the erection, alteration or removal of any building or structure in the City shall permit any tree upon any public place

- (b) When any vehicle or "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63 is left on private property for more than forty-eight consecutive hours without the permission of the person having the right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway, for forty-eight consecutive hours or longer, without notification to the Director of Public Safety or Chief of Police of the reasons for leaving such vehicle in such place. Prior to removal of an "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63, it shall be photographed by a law enforcement officer.
- (c) When any vehicle has been stolen or operated without the consent of the owner.
- (d) When any vehicle displays illegal license plates or fails to display the lawfully required license plates.
- (e) When any vehicle has been used in or connected with the commission of a felony or a violation of Section 941.03 of the General Offenses Code.
- (f) When any vehicle has been damaged or wrecked so as to be inoperable or violates equipment provisions of this Traffic Code whereby its continued operation would constitute a condition hazardous to life, limb or property.
- (g) When any vehicle is left unattended due to the removal of an ill, injured or arrested operator.
- (h) When any vehicle is found for which two or more citation tags for violations of this Traffic Code have been issued and the owner or operator thereof has failed to respond to such citation tags as lawfully required.
- (i) When any vehicle is parked in such a way so as to block a private driveway.
(Ord. 88-57. Passed 4-18-88.)
- (j) When any vehicle is parked in violation of Section 751.02 of this Traffic Code.
(Ord. 93-123. Passed 12-6-93.)

The Police Division shall forthwith notify the registered vehicle owner of the fact of such removal and impounding and reasons therefor. Any person desiring to redeem an impounded vehicle shall appear at the Police Division to furnish satisfactory evidence of identity and ownership or right to possession. Prior to release of the vehicle the claimant, owner or operator shall either pay the amount due for any fines for violations on account of which such vehicle was impounded or, as the court may require, furnish written promise or post a bond in an amount set by the court, to appear to answer to such violations. Such person shall also pay the established towing charges and storage charges levied by the City or the towing and storage agency used by the City. Vehicles unclaimed shall be disposed of as provided by Ohio R.C. 4513.60 to 4513.62. (Ord. 88-57. Passed 4-18-88.)

703.081 IMPOUNDING VEHICLES ON PRIVATE RESIDENTIAL OR AGRICULTURAL PROPERTY.

- (a) (1) The chief of a law enforcement agency of the municipal corporation, upon complaint of any person adversely affected may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in Ohio R.C. 4513.63, that has been left on private residential or private agricultural property for at least four hours without the permission of the person having the right to the possession of the property. The chief, upon complaint of a repair garage or place of storage, may order into storage any motor vehicle, other than an abandoned junk motor vehicle, that has been left at the garage or place of storage for a longer period than that agreed upon. When ordering a motor vehicle into storage pursuant to this section, the chief may arrange for the removal of the motor vehicle by a towing service and shall designate a storage facility.

- (2) A towing service towing a motor vehicle under subsection (a)(1) of this section shall remove the motor vehicle in accordance with that subsection. The towing service shall deliver the motor vehicle to the location designated by the chief not more than two hours after the time it is removed from the private property, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.
- (3) Subject to subsection (b) of this section, the owner of a motor vehicle that has been removed pursuant to this subsection may recover the vehicle only in accordance with subsection (d) of this section.
- (4) As used in this section "private residential property" means private property on which is located one or more structures that are used as a home, residence or sleeping place by one or more persons, if no more than three separate households are maintained in the structure or structures. "Private residential property" does not include any private property on which is located one or more structures that are used as a home, residence or sleeping place by two or more persons, if more than three separate households are maintained in the structure or structures.

(b) If the owner or operator of a motor vehicle that has been ordered into storage pursuant to subsection (a)(1) of this section arrives after the motor vehicle has been prepared for removal, but prior to its actual removal from the property, the towing service shall give the owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the motor vehicle established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25, in order to obtain release of the motor vehicle. However, if the vehicle is within a municipal corporation and the municipal corporation has established a vehicle removal fee, the towing service shall give the owner or operator oral or written notification that the owner or operator may pay not more than one-half of that fee to obtain release of the motor vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the transaction.

Upon payment of the applicable fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the motor vehicle to the owner or operator. Upon its release, the owner or operator immediately shall move it so that it is not on the private residential or private agricultural property without the permission of the person having the right to possession of the property, or is not at the garage or place of storage without the permission of the owner, whichever is applicable.

- (c) (1) The chief of a law enforcement agency in the municipal corporation shall maintain a record of motor vehicles that the chief orders into storage pursuant to subsection (a)(1) of this section. The record shall include an entry for each such motor vehicle that identifies the motor vehicle's license number, make, model and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. The chief shall provide any information in the record that pertains to a particular motor vehicle to any person who, either in person or pursuant to a telephone call, identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.

(2) Any person who registers a complaint that is the basis of the Police Chief's order for the removal and storage of a motor vehicle under subsection (a)(1) of this section shall provide the identity of the law enforcement agency with which the complaint was registered to any person who identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.

(d) (1) The owner or lienholder of a motor vehicle that is ordered into storage pursuant to subsection (a)(1) of this section may reclaim it upon both of the following:

- A. Payment of all applicable fees established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25 or, if the vehicle was towed within a municipal corporation that has established fees for vehicle removal and storage, payment of all applicable fees established by the municipal corporation.
- B. Presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle, a certificate of registration for the motor vehicle, or a lease agreement.

(2) When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Ohio R.C. 4513.611.

(3) Upon presentation of proof of ownership as required under subsection (d)(1)B. of this section, the owner of a motor vehicle that is ordered into storage under subsection (a)(1) of this section may retrieve any personal items from the motor vehicle without retrieving the vehicle and without paying any fee. However, a towing service or storage facility may charge an after-hours retrieval fee established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25 if the owner retrieves the personal items after hours, unless the towing service or storage facility fails to provide the notice required under division (B)(3) of Ohio R.C. 4513.69, if applicable. The owner of a motor vehicle shall not do either of the following:

- A. Retrieve any personal item that has been determined by the chief to be necessary to a criminal investigation;
- B. Retrieve any personal item from a vehicle if it would endanger the safety of the owner unless the owner agrees to sign a waiver of liability.

For purposes of subsection (d)(2) of this section, "personal items" do not include any items that are attached to the motor vehicle.

(4) If a motor vehicle that is ordered into storage pursuant to subsection (a)(1) of this section remains unclaimed by the owner for thirty days, the procedures established by Ohio R.C. 4513.61 and 4513.62 apply.

(e) (1) No person shall remove, or cause the removal of, any motor vehicle from any private residential or private agricultural property other than in accordance with subsection (a)(1) of this section or Ohio R.C. 4513.61 to 4513.65.

(2) No towing service or storage facility shall fail to comply with the requirements of this section.

(f) This section does not apply to any private residential or private agricultural property that is established as a private tow-away zone in accordance with Section 703.082.

(g) Whoever violates subsection (e) of this section is guilty of a minor misdemeanor. (ORC 4513.60)

703.082 PRIVATE TOW-AWAY ZONES.

(a) The owner of a private property may establish a private tow-away zone, but may do so only if all of the following conditions are satisfied:

(1) The owner of the private property posts on the property a sign, that is at least eighteen inches by twenty-four inches in size, that is visible from all entrances to the property, and that includes all of the following information:

- A. A statement that the property is a tow-away zone;
- B. A description of persons authorized to park on the property. If the property is a residential property, the owner of the private property may include on the sign a statement that only tenants and guests may park in the private tow-away zone, subject to the terms of the property owner. If the property is a commercial property, the owner of the private property may include on the sign a statement that only customers may park in the private tow-away zone. In all cases, if it is not apparent which persons may park in the private tow-away zone, the owner of the private property shall include on the sign the address of the property on which the private tow-away zone is located, or the name of the business that is located on the property designated as a private tow-away zone.
- C. If the private tow-away zone is not enforceable at all times, the times during which the parking restrictions are enforced;
- D. The telephone number and the address of the place from which a towed vehicle may be recovered at any time during the day or night;
- E. A statement that the failure to recover a towed vehicle may result in the loss of title to the vehicle as provided in division (B) of Ohio R.C. 4505.101.

In order to comply with the requirements of subsection (a)(1) of this section, the owner of a private property may modify an existing sign by affixing to the existing sign stickers or an addendum in lieu of replacing the sign.

(2) A towing service ensures that a vehicle towed under this section is taken to a location from which it may be recovered that complies with all of the following:

- A. It is located within twenty-five linear miles of the location of the private tow-away zone, unless it is not practicable to take the vehicle to a place of storage within twenty-five linear miles.
- B. It is well-lighted.
- C. It is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the private tow-away zone is located.

(b) (1) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with subsection (a) of this section, without the consent of the owner of the private property or in violation of any posted parking condition or regulation, the owner of the private property may cause the removal of the vehicle by a towing service. The towing service shall remove the vehicle in accordance with this section. The vehicle owner and

the operator of the vehicle are considered to have consented to the removal and storage of the vehicle, to the payment of the applicable fees established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, and to the right of a towing service to obtain title to the vehicle if it remains unclaimed as provided in Ohio R.C. 4505.101. The owner or lienholder of a vehicle that has been removed under this section, subject to subsection (c) of this section, may recover the vehicle in accordance with subsection (g) of this section.

- (2) If a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of a private property located within the municipal corporation shall cause the removal and storage of any vehicle pursuant to subsection (b) of this section by an unlicensed tow truck or unlicensed tow truck operator.
- (3) No towing service shall remove a vehicle from a private tow-away zone except pursuant to a written contract for the removal of vehicles entered into with the owner of the private property on which the private tow-away zone is located.

(c) If the owner or operator of a vehicle that is being removed under authority of subsection (b) of this section, arrives after the vehicle has been prepared for removal, but prior to the actual removal from the property, the towing service shall give the vehicle owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the vehicle established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, in order to obtain release of the vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the transaction. Upon payment of that fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the vehicle to the owner or operator. Upon its release the owner or operator immediately shall move the vehicle so that the vehicle is not parked on the private property established as a private tow-away zone without the consent of the owner of the private property or in violation of any posted parking condition or regulation.

- (d)
 - (1) Prior to towing a vehicle under subsection (b) of this section, a towing service shall make all reasonable efforts to take as many photographs as necessary to evidence that the vehicle is clearly parked on private property in violation of a private tow-away zone established under subsection (a) of this section.
The towing service shall record the time and date of the photographs taken under this section. The towing service shall retain the photographs and the record of the time and date, in electronic or printed form, for at least thirty days after the date on which the vehicle is recovered by the owner or lienholder or at least two years after the date on which the vehicle was towed, whichever is earlier.
 - (2) A towing service shall deliver a vehicle towed under subsection (b) of this section to the location from which it may be recovered not more than two hours after the time it was removed from the private tow-away zone, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.

(e) (1) If an owner of a private property that is established as a private tow-away zone in accordance with subsection (a) of this section causes the removal of a vehicle from that property by a towing service under subsection (b) of this section, the towing service, within two hours of removing the vehicle, shall provide notice to the law enforcement agency of the municipal corporation concerning all of the following:

- A. The vehicle's license number, make, model and color;
- B. The location from which the vehicle was removed;
- C. The date and time the vehicle was removed;
- D. The telephone number of the person from whom the vehicle may be recovered;
- E. The address of the place from which the vehicle may be recovered.

(2) The chief of a law enforcement agency of the municipal corporation shall maintain a record of any vehicle removed from private property in the chief's jurisdiction that is established as a private tow-away zone of which the chief has received notice under this section. The record shall include all information submitted by the towing service. The chief shall provide any information in the record that pertains to a particular vehicle to a person who, either in person or pursuant to a telephone call, identifies self as the owner, operator or lienholder of the vehicle, and requests information pertaining to the vehicle.

(f) (1) When a vehicle is removed from private property in accordance with this section, within three business days of the removal, the towing service or storage facility from which the vehicle may be recovered shall cause a search to be made of either of the following to ascertain the identity of the owner and any lienholder of the vehicle:

- A. The records of the Bureau of Motor Vehicles;
- B. The records of any vendor or vendors, approved by the Registrar of Motor Vehicles, that are capable of providing real-time access to owner and lienholder information.

(2) The towing service or storage facility may search the National Motor Vehicle Title Information System in order to determine the state in which the vehicle is titled. The entity that provides the record of the owner and any lienholder under this division shall ensure that such information is provided in a timely manner.

(3) Subject to subsection (f)(6) of this section, the towing service or storage facility shall send notice to the vehicle owner and any known lienholder as follows:

- A. Within five business days after the applicable entity provides the identity of the owner and any lienholder of the motor vehicle, if the vehicle remains unclaimed, to the owner's and lienholder's last known address by certified or express mail with return receipt requested, by certified mail with electronic tracking, or by a commercial carrier service utilizing any form of delivery requiring a signed receipt.
- B. If the vehicle remains unclaimed thirty days after the first notice is sent, in the manner required under subsection (f)(3)A. of this section.

(4) Sixty days after any notice sent pursuant to subsection (f)(3) of this section is received, as evidenced by a receipt signed by any person, or the towing service or storage facility has been notified that delivery was not possible, the towing service or storage facility, if authorized under Ohio R.C. 4505.101(B), may initiate the process for obtaining a certificate of title to the motor vehicle as provided in that section.

- (5) A towing service or storage facility that does not receive a signed receipt of notice, or a notification that delivery was not possible, shall not obtain, and shall not attempt to obtain, a certificate of title to the motor vehicle under Ohio R.C. 4505.101(B).
- (6) With respect to a vehicle concerning which a towing service or storage facility is not eligible to obtain title under Ohio R.C. 4505.101, the towing service or storage facility need only comply with the initial notice required under subsection (f)(3)A. of this section.

(g) (1) The owner or lienholder of a vehicle that is removed under subsection (b) of this section may reclaim it upon both of the following:

- A. Presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement;
- B. Payment of the following fees:
 - 1. All applicable fees established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25, except that the lienholder of a vehicle may retrieve the vehicle without paying any storage fee for the period of time that the vehicle was in the possession of the towing service or storage facility prior to the date the lienholder received the notice sent under subsection (f)(1)A. of this section;
 - 2. If notice has been sent to the owner and lienholder as described in subsection (f) of this section, a processing fee of twenty-five dollars (\$25.00).

(2) A towing service or storage facility in possession of a vehicle that is removed under authority of subsection (b) of this section shall show the vehicle owner, operator or lienholder who contests the removal of the vehicle all photographs taken under subsection (d) of this section. Upon request, the towing service or storage facility shall provide a copy of all photographs in the medium in which the photographs are stored, whether paper, electronic, or otherwise.

(3) When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Ohio R.C. 4513.611.

(4) Upon presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement, the owner of a vehicle that is removed under authority of subsection (b) of this section may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. The owner of the vehicle shall not retrieve any personal items from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability. For purposes of subsection (g)(4) of this section, "personal items" do not include any items that are attached to the vehicle.

(h) No person shall remove, or cause the removal of any vehicle from private property that is established as a private tow-away zone under this section, or store such a vehicle other than in accordance with this section, or otherwise fail to comply with any applicable requirement of this section.

(i) This section does not affect or limit the operation of Ohio R.C. 4513.60 or Ohio R.C. 4513.61 to 4613.65 as they relate to property other than private property that is established as a private tow-away zone under subsection (a) of this section.

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

(k) As used in this section, "owner of a private property" or "owner of the private property" includes, with respect to a private property, any of the following:

- (1) Any person who holds title to the property;
- (2) Any person who is a lessee or sublessee with respect to a lease or sublease agreement for the property;
- (3) A person who is authorized to manage the property;
- (4) A duly authorized agent of any person listed in subsections (k)(1) to (3) of this section. (ORC 4513.601)

703.083 IMPOUNDING VEHICLES ON PUBLIC PROPERTY.

(a) The chief of a law enforcement agency of the municipal corporation, within the chief's respective territorial jurisdiction, or a state highway patrol trooper, upon notification to the chief of such action and of the location of the place of storage, may order into storage any motor vehicle, including an abandoned junk motor vehicle as defined in Ohio R.C. 4513.63, that:

- (1) Has come into the possession of the chief, or state highway patrol trooper as result of the performance of the chief's or trooper's duties; or
- (2) Has been left on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer without notification to the chief of the reasons for leaving the motor vehicle in such place. However, when such a motor vehicle constitutes an obstruction to traffic it may be ordered into storage immediately unless either of the following applies:
 - A. The vehicle was involved in an accident and is subject to Ohio R.C. 4513.66, or any substantially equivalent municipal ordinance;
 - B. The vehicle is a commercial motor vehicle. If the vehicle is a commercial motor vehicle, the chief, or state highway patrol trooper shall allow the owner or operator of the vehicle the opportunity to arrange for the removal of the motor vehicle within a period of time specified by the chief, or state highway patrol trooper. If the chief, or state highway patrol trooper determines that the vehicle cannot be removed within the specified period of time, the chief, or state highway patrol trooper shall order the removal of the vehicle.
- (3) Subject to subsection (c) of this section, the chief shall designate the place of storage of any motor vehicle so ordered removed.

(b) If the chief, or a state highway patrol trooper issues an order under subsection (a) of this section and arranges for the removal of a motor vehicle by a towing service, the towing service shall deliver the motor vehicle to the location designated by the chief not more than two hours after the time it is removed.

(c) (1) The chief shall cause a search to be made of the records of an applicable entity listed in Ohio R.C. 4513.601(F)(1) to ascertain the identity of the owner and any lienholder of a motor vehicle ordered into storage by the chief, or by a state highway patrol trooper within five business days of the removal of the vehicle. Upon obtaining such identity, the chief shall send or cause to be sent to the owner or lienholder at the owner's or lienholder's last known address by certified or express mail with return receipt requested, by certified mail with electronic tracking, or by a commercial carrier service utilizing any form of delivery requiring a signed receipt. The notice shall inform the owner or lienholder that the motor vehicle will be declared a nuisance and disposed of if not claimed within ten days of the date of the sending of the notice.

(2) A. The owner or lienholder of the motor vehicle may reclaim the motor vehicle upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title or memorandum certificate of title to the motor vehicle, a certificate of registration for the motor vehicle, or a lease agreement. Upon presentation of proof of ownership evidenced as provided above, the owner of the motor vehicle also may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. However, a towing service or storage facility may charge an after-hours retrieval fee established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25 if the owner retrieves the personal items after hours, unless the towing service or storage facility fails to provide the notice required under Ohio R.C. 4513.69(B)(3), if applicable. However, the owner shall not do either of the following:

1. Retrieve any personal item that has been determined by the chief, or a state highway patrol trooper, as applicable, to be necessary to a criminal investigation;
2. Retrieve any personal item from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability.

B. For purposes of subsection (c)(2) of this section, "personal items" do not include any items that are attached to the vehicle.

(3) If the owner or lienholder of the motor vehicle reclaims it after a search of the applicable records has been conducted and after notice has been sent to the owner or lienholder as described in this section, and the search was conducted by the place of storage, and the notice was sent to the motor vehicle owner by the place of storage, the owner or lienholder shall pay to the place of storage a processing fee of twenty-five dollars (\$25.00), in addition to any expenses or charges incurred in the removal and storage of the vehicle.

(d) If the owner or lienholder makes no claim to the motor vehicle within ten days of the date of sending the notice, and if the vehicle is to be disposed of at a public auction as provided in Ohio R.C. 4513.62 or any substantially equivalent municipal ordinance, the chief, without charge to any party, shall file with the Clerk of Courts of the county in which the place of storage is located an affidavit showing compliance with the requirements of this section. Upon presentation of the affidavit, the Clerk, without charge, shall issue a salvage certificate of title, free and clear of all liens and encumbrances, to the chief. If the vehicle is to be disposed of to a

motor vehicle salvage dealer or other facility as provided in Ohio R.C. 4513.62 or any substantially equivalent municipal ordinance, the chief shall execute in triplicate an affidavit, as prescribed by the Registrar of Motor Vehicles, describing the motor vehicle and the manner in which it was disposed of, and that all requirements of this section have been complied with. The chief shall retain the original of the affidavit for the chief's records, and shall furnish two copies to the motor vehicle salvage dealer or other facility. Upon presentation of a copy of the affidavit by the motor vehicle salvage dealer, the Clerk of Courts, within thirty days of the presentation, shall issue a salvage certificate of title, free and clear of all liens and encumbrances.

(e) Whenever a motor vehicle salvage dealer or other facility receives an affidavit for the disposal of a motor vehicle as provided in this section, the dealer or facility shall not be required to obtain an Ohio certificate of title to the motor vehicle in the dealer's or facility's own name if the vehicle is dismantled or destroyed and both copies of the affidavit are delivered to the Clerk of Courts.

(f) No towing service or storage facility shall fail to comply with this section.
(ORC 4513.61)

703.09 PROVIDING FALSE INFORMATION TO POLICE OFFICER.

(a) No person shall knowingly present, display or orally communicate a false name, social security number or date of birth to a law enforcement officer who is in the process of issuing to the person a traffic ticket or complaint.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.
(ORC 4513.361)

703.99 GENERAL TRAFFIC CODE PENALTIES.

(a) General Misdemeanor Classifications. Whoever violates any provision of this Traffic Code for which violation no penalty is otherwise provided, is guilty of a minor misdemeanor.
(ORC 4513.99)

(b) Penalties. Whoever is convicted of or pleads guilty to a violation of this Traffic Code 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.

<u>Classification of Misdemeanor</u>	<u>Maximum Term of Imprisonment</u>	<u>Maximum Fine</u>
First degree	180 days	\$1,000.00
Second degree	90 days	750.00
Third degree	60 days	500.00
Fourth degree	30 days	250.00
Minor	No imprisonment	150.00

(ORC 2929.24; 2929.28)

703.991 COMMITTING AN OFFENSE WHILE DISTRACTED PENALTY.

(a) As used in this section and each section of the Traffic Code where specified, all of the following apply:

- (1) "Distracted" means doing either of the following while operating a vehicle:
 - A. Using an electronic wireless communications device, as defined in Ohio R.C. 4511.204, in violation of that section.
 - B. Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the ability of the operator to drive the vehicle safely.
- (2) "Distracted" does not include operating a motor vehicle while wearing an earphone or earplug over or in both ears at the same time. A person who so wears earphones or earplugs may be charged with a violation of Section 731.43.
- (3) "Distracted" does not include conducting any activity while operating a utility service vehicle or a vehicle for or on behalf of a utility, provided that the driver of the vehicle is acting in response to an emergency, power outage or a circumstance affecting the health or safety of individuals.
As used in subsection (a)(3) of this section:
 - A. "Utility" means an entity specified in division (A), (C), (D), (E) or (G) of Ohio R.C. 4905.03.
 - B. "Utility service vehicle" means a vehicle owned or operated by a utility.

(b) If an offender violates any section of this Traffic Code which provides for an enhanced penalty for an offense committed while distracted and the distracting activity is a contributing factor to the commission of the violation, the offender is subject to the applicable penalty for the violation and, notwithstanding Ohio R.C. 2929.28, is subject to an additional fine of not more than one hundred dollars (\$100.00) as follows:

- (1) Subject to Traffic Rule 13, if a law enforcement officer issues an offender a ticket, citation or summons for a violation of any section of the Traffic Code that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the offender may enter a written plea of guilty and waive the offender's right to contest the ticket, citation or summons in a trial provided that the offender pays the total amount of the fine established for the violation and pays the additional fine of one hundred dollars (\$100.00).

In lieu of payment of the additional fine of one hundred dollars (\$100.00), the offender instead may elect to attend a distracted driving safety course, the duration and contents of which shall be established by the Ohio Director of Public Safety. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of one hundred dollars (\$100.00), so long as the offender submits to the court both the offender's payment in full and such written evidence.

(2) If the offender appears in person to contest the ticket, citation or summons in a trial and the offender pleads guilty to or is convicted of the violation, the court, in addition to all other penalties provided by law, may impose the applicable penalty for the violation and may impose the additional fine of not more than one hundred dollars (\$100.00). If the court imposes upon the offender the applicable penalty for the violation and an additional fine of not more than one hundred dollars (\$100.00), the court shall inform the offender that, in lieu of payment of the additional fine of not more than one hundred dollars (\$100.00), the offender instead may elect to attend the distracted driving safety course described in subsection (b)(1) of this section. If the offender elects the course option and attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of not more than one hundred dollars (\$100.00), so long as the offender submits to the court the offender's payment and such written evidence.

(ORC 4511.991)

TITLE FIVE - Vehicles

- Chap. 731. Operation Generally.
- Chap. 733. OVI; Willful Misconduct; Speed.
- Chap. 735. Licensing; Accidents.
- Chap. 737. Safety and Equipment.
- Chap. 739. Commercial and Heavy Vehicles.
- Chap. 741. Commercial Drivers.
- Chap. 745. Transportation of Radioactive Materials.

CHAPTER 731 Operation Generally

<p>731.01 Driving upon right side of roadway; exceptions.</p> <p>731.02 Passing to right when proceeding in opposite directions.</p> <p>731.03 Overtaking, passing to left; driver's duties.</p> <p>731.04 Overtaking and passing upon right.</p> <p>731.05 Overtaking, passing to left of center.</p> <p>731.06 Additional restrictions on driving upon left side of roadway.</p> <p>731.07 Hazardous or no passing zones.</p> <p>731.08 Driving in marked lanes or continuous lines of traffic.</p> <p>731.09 Following too closely.</p> <p>731.10 Turning at intersections.</p> <p>731.11 Turning into private driveway, alley or building.</p> <p>731.12 "U" turns restricted.</p> <p>731.13 Starting and backing vehicles.</p> <p>731.14 Signals before changing course, turning or stopping.</p> <p>731.15 Hand and arm signals.</p> <p>731.16 Right of way at intersections.</p> <p>731.17 Right of way when turning left.</p> <p>731.18 Operation of vehicle at yield signs.</p> <p>731.19 Operation of vehicle at stop signs.</p> <p>731.20 Emergency or public safety vehicles at stop signals or signs</p> <p>731.21 Right of way of public safety or coroner's vehicle.</p> <p>731.211 Report of vehicle failing to yield right of way to public safety vehicle.</p>	<p>731.22 Driving onto roadway from place other than roadway: duty to yield.</p> <p>731.23 Emerging from private driveway, alley or building.</p> <p>731.24 Right of way of funeral procession.</p> <p>731.25 Driver's view and control to be unobstructed by load or persons.</p> <p>731.26 Driving upon street posted as closed for repair.</p> <p>731.27 Following and parking near emergency or safety vehicles.</p> <p>731.28 Driving over fire hose.</p> <p>731.29 Driving through safety zone.</p> <p>731.30 One-way streets and rotary traffic islands.</p> <p>731.31 Driving upon divided roadways.</p> <p>731.32 Entering and exiting controlled-access highway.</p> <p>731.33 Obstructing intersection, crosswalk or grade crossing.</p> <p>731.34 Failure to control; weaving; full time and attention.</p> <p>731.35 Occupying travel trailer, fifth wheel vehicle or manufactured or mobile home while in motion.</p> <p>731.36 Squealing tires, "peeling", cracking exhaust noises.</p> <p>731.37 Driving upon sidewalks, street lawns or curbs.</p>
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731.38	Stopping for school bus; discharging children.	731.42	Littering from motor vehicle.
731.39	Driving across grade crossing.	731.43	Wearing earplugs or earphones prohibited.
731.40	Stopping at grade crossing.	731.44	Text messaging prohibited while driving.
731.41	Shortcutting; avoiding traffic control devices.	731.45	Vehicular operation on street closed due to rise in water level.

CROSS REFERENCES

See sectional histories for similar State law
 Obedience to traffic control devices - see TRAF. 713.01
 Operation of bicycles and motorcycles - see TRAF. 773.01
 et seq.
 School bus operation - see OAC Ch. 4501-3

731.01 DRIVING UPON RIGHT SIDE OF ROADWAY; EXCEPTIONS.

(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 three 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) (1) Upon all roadways any vehicle proceeding at less than the prevailing and lawful 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, and far enough to the right to allow passing by faster vehicles if such passing is safe and reasonable, except under any of the following circumstances:

- A. When overtaking and passing another vehicle proceeding in the same direction;
- B. When preparing for a left turn;
- C. When the driver must necessarily drive in a lane other than the right-hand lane to continue on the driver's intended route.

(2) Nothing in subsection (b)(1) of this section requires a driver of a slower vehicle to compromise the driver's safety to allow overtaking by a faster vehicle.

731.31 DRIVING UPON DIVIDED ROADWAYS.

(a) Whenever any street has been divided into two roadways by an intervening space, or by a physical barrier, or 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 such dividing space, barrier or median section, except through an opening, crossover or intersection established by public authority. This section does not prohibit the occupancy of such dividing space, barrier or median section for the purpose of an emergency stop or in compliance with an order of a police officer.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.35)

731.32 ENTERING AND EXITING CONTROLLED-ACCESS HIGHWAY.

(a) No person shall drive a vehicle onto or from any controlled-access highway except at such entrances and exits as are established by public authority.

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

731.33 OBSTRUCTING INTERSECTION, CROSSWALK OR GRADE CROSSING.

(a) 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 the driver is operating without obstructing the passage of other vehicles, pedestrians or railroad trains, notwithstanding any traffic control signal indication to proceed.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.712)

731.34 FAILURE TO CONTROL; WEAVING; FULL TIME AND ATTENTION.

(a) No person shall operate a vehicle without exercising reasonable and ordinary control over such vehicle.

(b) No person shall operate a vehicle in a weaving or zigzag course unless such irregular course is necessary for safe operation or in compliance with law.

(c) No person shall operate a vehicle without giving his full time and attention to the operation of such vehicle.

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

731.35 OCCUPYING TRAVEL TRAILER, FIFTH WHEEL VEHICLE, OR MANUFACTURED OR MOBILE HOME WHILE IN MOTION.

(a) Except as provided in subsection (b) of this section, no person shall occupy any travel trailer, fifth wheel trailer, or manufactured or mobile home while it is being used as a conveyance upon a street or highway.

(b) (1) Subsection (a) of this section does not apply to a fifth wheel trailer when both of the following apply:

- A. Any child riding in the fifth wheel trailer is properly secured in the manner provided in Ohio R.C. 4511.81.
- B. The operator of the vehicle towing the fifth wheel trailer has some means of viable communication with the passengers riding in the trailer.

(2) As used in this section, "viable communication" includes a cellular or satellite telephone, a radio or any other similar electronic wireless communications device.

(c) (1) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(2) The offense established under this section is a strict liability offense and Ohio R.C. 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense. (ORC 4511.701)

731.36 SQUEALING TIRES, "PEELING," CRACKING EXHAUST NOISES.

(a) No person shall unnecessarily race the motor of any vehicle and no person shall operate any motor vehicle, except in an emergency, in such a manner that the vehicle is so rapidly accelerated or started from a stopped position that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation, or whereby the tires of such vehicle squeal or leave tire marks on the roadway, commonly called "peeling".

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

731.37 DRIVING UPON SIDEWALKS, STREET LAWNS OR CURBS.

(a) (1) No person shall drive any vehicle, other than a bicycle or an electric bicycle if the motor is not engaged, upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.

(2) This prohibition does not apply to a law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, using an electric bicycle with the motor engaged while in the performance of the officer's duties.

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

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

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code.

(ORC 4511.711)

731.38 STOPPING FOR SCHOOL BUS; DISCHARGING CHILDREN.

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

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

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

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

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

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

(f) As used in this section:

- (1) "Head start agency" has the same meaning as in Ohio R.C. 3301.32.
- (2) "School bus", as used in relation to children who attend a program offered by a head start agency, means a bus that is owned and operated by a head start agency, is equipped with an automatically extended stop warning sign of a type approved by the State Board of Education, is painted the color and displays the markings described in Ohio R.C. 4511.77, and is equipped with amber and red visual signals meeting the requirements of Ohio R.C. 4511.771, irrespective of whether or not the bus has fifteen or more children aboard at any time. "School bus" does not include a van owned and operated by a head start agency, irrespective of its color, lights, or markings.

(g) (1) Whoever violates subsection (a) of this section may be fined an amount not to exceed five hundred dollars (\$500.00). A person who is issued a citation for a violation of subsection (a) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.

(2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (a)(7) of Ohio R.C. 4510.02. When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to the court, and the court or clerk of the court immediately shall forward the license to the Registrar of Motor Vehicles, together with notice of the court's action. (ORC 4511.75)

731.39 DRIVING ACROSS GRADE CROSSING.

(a) (1) Whenever any person driving a vehicle approaches a railroad grade crossing, the person shall stop within fifty feet, but not less than fifteen feet from the nearest rail of the railroad, if any of the following circumstances exist at the crossing:

- A. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train.
- B. A crossing gate is lowered.
- C. A flagperson gives or continues to give a signal of the approach or passage of a train.
- D. There is insufficient space on the other side of the railroad grade crossing to accommodate the vehicle the person is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains, notwithstanding any traffic control signal indication to proceed.
- E. An approaching train is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.
- F. There is insufficient undercarriage clearance to safely negotiate the crossing.

(2) A person who is driving a vehicle and who approaches a railroad grade crossing shall not proceed as long as any of the circumstances described in divisions (a)(1)A. to F. of this section exist at 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 unless the person is signaled by a law enforcement officer or flagperson that it is permissible to do so.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
(ORC 4511.62)

731.40 STOPPING AT GRADE CROSSING.

(a) (1) Except as provided in subsection (a)(2) hereof, the operator of any bus, any school vehicle, or any vehicle transporting material required to be placarded under 49 CFR Parts 100-185, before crossing at grade any track of a railroad, shall stop the vehicle, and, while so stopped, 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. Upon proceeding, the operator of such a vehicle shall cross only in a gear that will ensure there will be no necessity for changing gears while traversing the crossing and shall not shift gears while crossing the tracks.

(2) This section does not apply at grade crossings when the Ohio Public Utilities Commission has authorized and approved an exempt crossing as provided in this subsection.

A. Any local authority may file an application with the Commission requesting the approval of an exempt crossing. Upon receipt of such a request, the Commission shall authorize a limited period for the filing of comments by any party regarding the application and then shall conduct a public hearing in the community seeking the exempt crossing designation. The Commission shall provide appropriate prior public notice of the comment period and the public hearing. By registered mail, the Commission shall notify each railroad operating over the crossing of the comment period.

- B. After considering any comments or other information received, the Commission may approve or reject the application. By order, the Commission may establish conditions for the exempt crossing designation, including compliance with division (b) of 49 C.F.R. Part 392.10, when applicable. An exempt crossing designation becomes effective only when appropriate signs giving notice of the exempt designation are erected at the crossing as ordered by the Commission and any other conditions ordered by the Commission are satisfied.
- C. By order, the Commission may rescind any exempt crossing designation made under this section if the Commission finds that a condition at the exempt crossing has changed to such an extent that the continuation of the exempt crossing designation compromises public safety. The Commission may conduct a public hearing to investigate and determine whether to rescind the exempt crossing designation. If the Commission rescinds the designation, it shall order the removal of any exempt crossing signs and may make any other necessary order.

(3) As used in this section:

- A. "School vehicle" means any vehicle used for the transportation of pupils to and from a school or school-related function if the vehicle is owned or operated by, or operated under contract with, a public or nonpublic school.
- B. "Bus" means any vehicle originally designed by its manufacturer to transport sixteen or more passengers, including the driver, or carries sixteen or more passengers, including the driver.
- C. "Exempt crossing" means a highway rail grade crossing authorized and approved by the Public Utilities Commission under subsection (a)(2) hereof at which vehicles may cross without making the stop otherwise required by this section.

(4) Except as otherwise provided in this subsection (a)(4), whoever violates subsection (a) hereof is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) hereof or Ohio R.C. 4511.76, 4511.761, 4511.762, 4511.764, 4511.77 or 4511.79, or a municipal ordinance that is substantially similar to any of those sections, whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 4511.63)

(b) (1) When authorized stop signs are erected at railroad grade crossings, the operator of any vehicle shall stop within fifty but not less than fifteen feet from the nearest rail of the railroad tracks and shall exercise due care before proceeding across such grade crossing.

(2) Except as otherwise provided in this subsection, whoever violates this subsection (b)(1) hereof is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code.
(ORC 4511.61)

731.41 SHORTCUTTING; AVOIDING TRAFFIC CONTROL DEVICES.

(a) No person shall operate a vehicle across public or private property marked with signs "No Through Traffic" or words of similar import for the purpose of passing from one roadway to another.

(b) No person shall operate a vehicle across public or private property for the purpose of avoiding compliance with a traffic control device.

(c) It shall be *prima-facie* evidence of a violation of this section for the operator of a vehicle to cross public or private property as provided herein without using the service of such property, stopping the engine or both.

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

731.42 LITTERING 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.

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4511.82)

731.43 WEARING EARPLUGS OR EARPHONES PROHIBITED.

(a) As used in this section:

(1) "Earphones" means any device that covers all or a portion of both ears and that does either of the following:

A. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;

B. Provides hearing protection.

"Earphones" does not include speakers or other listening devices that are built into protective headgear.

(2) "Earplugs" means any device that can be inserted into one or both ears and that does either of the following:

A. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;

B. Provides hearing protection.

(b) No person shall operate a motor vehicle while wearing earphones over, or earplugs in, both ears.

(c) 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;
- (6) Any person wearing earphones or earplugs for hearing protection while operating a motorcycle.

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

(ORC 4511.84)

731.44 TEXT MESSAGING PROHIBITED WHILE DRIVING.

(a) "Text message" means a message composed, sent or received via a process using wireless handset that requires the use of one or both hands to compose, send, activate receipt of, or read a message. For the purposes of this section, an e-mail shall be considered a "text message" if sent or received by a wireless handset.

(b) "Wireless handset" means a portable electronic device capable of transmitting or receiving data in the form of a text message.

(c) No person shall use a wireless handset to compose, send, activate receipt of, or read any text message while driving a motor vehicle in the City of Berea.

(d) Notwithstanding the provisions of subdivision (c), this section shall not be construed to prohibit the use of a wireless handset inside a motor vehicle to compose, send or read a text message by:

- (1) Any law enforcement, public safety or police officers, emergency services, first aid, or emergency medical technicians or personnel, or fire safety officials, while performing official duties;
- (2) A driver using a wireless handset to contact an individual listed in paragraph one of this subdivision to report an emergency situation; or
- (3) A driver using a wireless handset inside a motor vehicle while such vehicle is parked, standing or stopped and is removed from the flow of traffic, in accordance with applicable laws or rules, or is stopped due to the inoperability of such vehicle.

(e) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of a motor vehicle being operated on any street or highway in the City to stop the vehicle for the sole purpose of determining whether a violation of subsection (c) hereinabove has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that nature or causing the arrest of or commencing a prosecution of

a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any motor vehicle being operated on any street or highway in the City for the sole purpose of determining whether a violation of that nature has been or is being committed.

(f) Whoever violates this section shall be fined not more than one hundred dollars for the first offense, two hundred fifty dollars for a second offense, and no more than five hundred dollars for each subsequent offense. (Ord. 2011-8. Passed 1-18-11.)

731.45 VEHICULAR OPERATION ON STREET CLOSED DUE TO RISE IN WATER LEVEL.

(a) No person shall operate a vehicle on or onto a public street or highway that is temporarily covered by a rise in water level, including groundwater or an overflow of water, and that is clearly marked by a sign that specifies that the road is closed due to the rise in water level and that any person who uses the closed portion of the road may be fined up to two thousand dollars (\$2,000).

(b) A person who is issued a citation for a violation of subsection (a) hereof is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in court, but instead must appear in person in the proper court to answer the charge.

(c) (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.
(2) In addition to the financial sanctions authorized or required under Section 901.99 and to any costs otherwise authorized or required under any provision of law, the court imposing the sentence upon an offender who is convicted of or pleads guilty to a violation of subsection (a) hereof shall order the offender to reimburse one or more rescuers for the cost any such rescuer incurred in rescuing the person, excluding any cost of transporting the rescued person to a hospital or other facility for treatment of injuries, up to a cumulative maximum of two thousand dollars (\$2,000). If more than one rescuer was involved in the emergency response, the court shall allocate the reimbursement proportionately, according to the cost each rescuer incurred. A financial sanction imposed under this section is a judgment in favor of the rescuer and, subject to a determination of indigency under division (B) of Ohio R.C. 2929.28, a rescuer may collect the financial sanction in the same manner as provided in Ohio R.C. 2929.28.

(d) As used in this section:
(1) "Emergency medical service organization", "firefighting agency" and "private fire company" have the same meanings as in Ohio R.C. 9.60.
(2) "Rescuer" means a state agency, political subdivision, firefighting service, private fire company, or emergency medical service organization.
(ORC 4511.714.)

CHAPTER 733
OVI; Willful Misconduct; Speed

733.01	Driving or physical control while under the influence.	733.05	Speed limitations over bridges.
733.02	Reckless operation.	733.06	Speed exceptions for emergency or safety vehicles.
733.03	Maximum speed limits; assured clear distance ahead.	733.07	Street racing prohibited.
733.031	Approaching a stationary public safety, emergency or road service vehicle.	733.08	Operation without reasonable control.
733.04	Stopping vehicle; slow speed; posted minimum speeds.	733.09	Electronic wireless communication device use prohibited while driving.

CROSS REFERENCES

See sectional histories for similar State law
 Drug of abuse defined - see Ohio R.C. 3719.011(A)

Alcohol defined - see Ohio R.C. 4301.01(B)(1)

Alteration of prima-facie speed limits - see Ohio R.C.
 4511.21, 4511.22(B), 4511.23

Failure to control vehicle - see TRAF. 731.34

Walking on highway while under the influence - see TRAF. 771.09

733.01 DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE.

(a) (1) Operation Generally. No person shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:

- A. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
- B. The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.
- C. The person has a concentration of ninety-six-thousandths of one per cent or more but less than two hundred four-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.
- D. The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
- E. The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

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

6. The person has a concentration of L.S.D. in the person's urine of at least twenty-five nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.
7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.
8. Either of the following applies:
 - a. The person is under the influence of alcohol, a drug of abuse or a combination of them, and the person has a concentration of marihuana metabolite in the person's urine of at least fifteen nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
 - b. The person has a concentration of marihuana metabolite in the person's urine of at least thirty-five nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
9. The person has a concentration of methamphetamine in the person's urine of at least five hundred nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.
10. The person has a concentration of phencyclidine in the person's urine of at least twenty-five nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.
11. The State Board of Pharmacy has adopted a rule pursuant to Ohio R.C. 4729.041 that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is impaired for purposes of operating any vehicle within this

Municipality, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by rule in the person's urine, in the person's whole blood, or in the person's blood serum or plasma.

(2) No person who, within twenty years of the conduct described in subsection (a)(2)A. of this section, previously has been convicted of or pleaded guilty to a violation of this subsection or a substantially equivalent state law or municipal ordinance, a violation of subsection (a)(1) of this section or a substantially equivalent state law or municipal ordinance, or any other equivalent offense shall do both of the following:

- A. Operate any vehicle within this Municipality while under the influence of alcohol, a drug of abuse or a combination of them;
- B. Subsequent to being arrested for operating the vehicle as described in subsection (a)(2)A. of this section, being asked by a law enforcement officer to submit to a chemical test or tests under Ohio R.C. 4511.191, and being advised by the officer in accordance with Ohio R.C. 4511.192 of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.

(b) Operation After Under-Age Consumption. No person under twenty-one years of age shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:

- (1) The person has a concentration of at least two-hundredths of one per cent but less than eight-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.
- (2) The person has a concentration of at least three-hundredths of one per cent but less than ninety-six-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.
- (3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
- (4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(c) One Conviction Limitation. In any proceeding arising out of one incident, a person may be charged with a violation of subsection (a)(1)A. or (a)(2) and a violation of subsection (b)(1), (2) or (3) of this section, but the person may not be convicted of more than one violation of these subsections. (ORC 4511.19)

(d) Physical Control.

- (1) As used in this subsection, "physical control" means being in the driver's position of the front seat of a vehicle and having possession of the vehicle's ignition key or other ignition device.
- (2) A. No person shall be in physical control of a vehicle if, at the time of the physical control, any of the following apply:
 - 1. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 - 2. The person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (a)(1)B., C., D. or E. hereof.

5. In all cases, if the vehicle is registered in the offender's name, immobilization of the vehicle involved in the offense for ninety days in accordance with Ohio R.C. 4503.233 and impoundment of the license plates of that vehicle for ninety days. (ORC 4511.193)
- C. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to two violations of subsection (a) or (b) of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the following:
 1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of thirty consecutive days. The court shall impose the thirty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the thirty-day mandatory jail term. Notwithstanding the jail terms set forth in Section 703.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
 2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, a mandatory jail term of sixty consecutive days. The court shall impose the sixty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of electronically monitored house arrest with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the sixty-day mandatory jail term. Notwithstanding the terms of imprisonment set forth in Section 703.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
 3. In all cases, notwithstanding the fines set forth in Section 703.99, a fine of not less than eight hundred fifty dollars (\$850.00) and not more than two thousand seven hundred fifty dollars (\$2,750).
 4. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of two to twelve years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)

5. In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with Ohio R.C. 4503.234. Subsection (h)(5) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this subsection. (ORC 4511.193)
6. In all cases, the court shall order the offender to participate with a community addiction services provider authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The operator of the services provider shall determine and assess the degree of the offender's alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

D. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or four violations of subsection (a) of this section or other equivalent offenses or an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature, or an offender who previously has been convicted of or pleaded guilty to a specification of the type described in Ohio R.C. 2941.1413, is guilty of a felony to be prosecuted under appropriate state law.

E. An offender who previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony of the third degree and shall be prosecuted under appropriate state law.

(2) An offender who is convicted of or pleads guilty to a violation of subsection (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in division (F)(2) of Ohio R.C. 4511.191.

(3) If an offender is sentenced to a jail term under subsection (h)(1)B.1. or 2. or (h)(1)C.1. or 2. of this section and if, within sixty days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing, the court may impose an alternative sentence under this subsection that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring.

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

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

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

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

(4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under subsection (h) of this section and if Ohio R.C. 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under Ohio R.C. 4503.231, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of Ohio R.C. 4503.231.

- (5) If title to a motor vehicle that is subject to an order of criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.
- (6) In all cases in which an offender is sentenced under subsection (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under subsection (h) of this section.
- (7) A court may order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to a chemical test or tests administered to the offender if all of the following apply:
 - A. The offender is convicted of or pleads guilty to a violation of subsection (a) of this section.
 - B. The test or tests were of the offender's whole blood, blood serum or plasma, or urine.
 - C. The test or tests indicated that the offender had a prohibited concentration of a controlled substance or a metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine at the time of the offense.
- (8) As used in subsection (h) of this section, "electronic monitoring", "mandatory prison term" and "mandatory term of local incarceration" have the same meanings as in Ohio R.C. 2929.01.

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

- (1) Except as otherwise provided in subsection (i)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022. If the court grants unlimited driving privileges under Ohio R.C. 4510.022, the court shall suspend any jail term imposed under subsection (i)(1) of this section as required under that section.
- (2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) of this section or other equivalent offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four suspension of

the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13.

(3) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28, in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the violation of subsection (b) of this section.
(ORC 4511.19)

(j) Physical Control Penalty. Whoever violates subsection (d) hereof is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4511.194)

(k) Compliance With Ohio R.C. Chapter 5119 Standards.

(1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services.

(2) An offender who stays in a driver's intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.

(l) Appeal Does Not Stay Operation of License Suspension. If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.

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

(1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

(2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(n) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in subsection (a)(1)J. of this section also apply in a prosecution of a violation of Ohio R.C. 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.

(o) Conflict of Terms. All terms defined in Ohio R.C. 4510.01 apply to this section. If the meaning of a term defined in Ohio R.C. 4510.01 conflicts with the meaning of the same term as defined in Ohio R.C. 4501.01 or this Traffic Code, the term as defined in Ohio R.C. 4510.01 applies to this section. (ORC 4511.19)

(p) Indigent Drivers Alcohol Treatment Fund. Twenty-five dollars (\$25.00) of any fine imposed for a violation of subsection (a) hereof shall be deposited into the municipal or county indigent drivers alcohol treatment fund pursuant to Ohio R.C. 4511.193. (ORC 4511.193)

(q) Definitions. As used in this section:

- (1) "Equivalent offense" means any of the following:
 - A. A violation of division (A) of Ohio R.C. 4511.19;
 - B. A violation of a municipal OVI ordinance;
 - C. A violation of Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;
 - D. A violation of division (A)(1) of Ohio R.C. 2903.06 or 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;
 - E. A violation of division (A)(2), (3) or (4) of Ohio R.C. 2903.06, division (A)(2) of Ohio R.C. 2903.08, or former Ohio R.C. 2903.07, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;
 - F. A violation of division (A) of Ohio R.C. 1547.11;
 - G. A violation of a municipal ordinance prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine;
 - H. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) of Ohio R.C. 4511.19 or division (A) or Ohio R.C. 1547.11;
 - I. A violation of a former law of this State that was substantially equivalent to division (A) of Ohio R.C. 4511.19 or division (A) of Ohio R.C. 1547.11;
- (2) "Mandatory jail term" means the mandatory term in jail of three, six, ten, twenty, thirty, or sixty days that must be imposed under subsection (h)(1)A., B. or C. upon an offender convicted of a violation of subsection (a) hereof and in relation to which all of the following apply:

(g) Points shall be assessed for violation of a limitation under subsection (d) hereof in accordance with Ohio R.C. 4510.036.

(h) Whenever, in accordance with Ohio R.C. 4511.21 or this section, the speed limitations as established herein have been altered, either higher or lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is *prima-facie* unlawful for any person to exceed the speed limits posted upon such signs.

(i) As used in this section:

- (1) "Interstate system" has the same meaning as in 23 U.S.C.A. 101.
- (2) "Commercial bus" means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.
- (3) "Noncommercial bus" includes but is not limited to a school bus, or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.
- (4) "Outerbelt" means a portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the Director.
- (5) "Rural" means an area outside urbanized areas and outside of a business or urban district, and areas that extend within urbanized areas where the roadway characteristics remain mostly unchanged from those outside the urbanized areas.
- (6) "Urbanized area" has the same meaning as in 23 U.S.C. 101.
- (7) "Divided" means a roadway having two or more travel lanes for vehicles moving in opposite directions and that is separated by a median of more than four feet, excluding turn lanes.

(j) (1) A violation of any provision of this section is one of the following:

- A. Except as otherwise provided in subsections (j)(1)B., (1)C., (2) and (3) of this section, a minor misdemeanor;
- B. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the fourth degree;
- C. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the third degree.

(2) If the offender operated a motor vehicle faster than thirty-five miles an hour in a business district of a municipal corporation, faster than fifty miles an hour in other portions of a municipal corporation, or faster than thirty-five miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree. This subsection does not apply if penalties may be imposed under subsections (j)(1)B. or (j)(1)C. of this section.

- (3) Notwithstanding subsection (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this subsection and if the court determines that the offender is an indigent person and unable to pay the fine.
- (4) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 703.991 of the Traffic Code. (ORC 4511.21)

733.031 APPROACHING A STATIONARY PUBLIC SAFETY, EMERGENCY OR ROAD SERVICE VEHICLE.

(a) The driver of a motor vehicle, upon approaching a stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle that is displaying the appropriate visual signals by means of flashing, oscillating or rotating lights, as prescribed in Section 737.16, shall do either of the following:

- (1) If the driver of the motor vehicle is traveling on a street or highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle.
- (2) If the driver is not traveling on a street or highway of a type described in subsection (a)(1) of this section, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather and traffic conditions.

(b) This section does not relieve the driver of a public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06, or a highway maintenance vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(c) No person shall fail to drive a motor vehicle in compliance with subsection (a)(1) or (2) of this section when so required by subsection (a) of this section.

733.08 OPERATION WITHOUT REASONABLE CONTROL.

(a) No person shall operate a motor vehicle, agricultural tractor, or agricultural tractor that is towing, pulling, or otherwise drawing a unit of farm machinery on any street, highway, or property open to the public for vehicular traffic without being in reasonable control of the vehicle, agricultural tractor or unit of farm machinery.

(b) Whoever violates this section is guilty of operating a motor vehicle or agricultural tractor without being in control of it, a minor misdemeanor.

(ORC 4511.202)

733.09 ELECTRONIC WIRELESS COMMUNICATION DEVICE USE PROHIBITED WHILE DRIVING.

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

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

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

- (10) A person operating a utility service vehicle or a vehicle for or on behalf of a utility, if the person is acting in response to an emergency, power outage, or circumstance that affects the health or safety of individuals;
- (11) A person using an electronic wireless communications device in conjunction with a voice-operated or hands-free feature or function of the vehicle or of the device without the use of either hand except to activate, deactivate, or initiate the feature or function with a single touch or swipe, provided the person does not hold or support the device with any part of the person's body;
- (12) A person using technology that physically or electronically integrates the device into the motor vehicle, provided that the person does not do either of the following during the use:
 - A. Manually enter letters, numbers, or symbols into the device;
 - B. Hold or support the device with any part of the person's body;
- (13) A person storing an electronic wireless communications device in a holster, harness, or article of clothing on the person's body.

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

- (1) Report the issuance of the ticket, citation, or summons to the officer's law enforcement agency;
- (2) Ensure that such report indicates the offender's race.

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

- A. Except as provided in subsections (d)(1)B., (d)(1)C., (d)(1)D. and (d)(2) of this section, the court shall impose upon the offender a fine of not more than one hundred fifty dollars (\$150.00).
- B. If, within two years of the violation, the offender has been convicted of or pleaded guilty to one prior violation of this section, Ohio R.C. 4511.204, or a substantially equivalent municipal ordinance, the court shall impose upon the offender a fine of not more than two hundred fifty dollars (\$250.00).
- C. If, within two years of the violation, the offender has been convicted of or pleaded guilty to two or more prior violations of this section, Ohio R.C. 4511.204, or a substantially equivalent or municipal ordinance, the court shall impose upon the offender a fine of not more than five hundred dollars (\$500.00). The court also may impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for ninety days.
- D. Notwithstanding subsections (d)(1)A. to (d)(1)C. of this section, if the offender was operating the motor vehicle at the time of the violation in a construction zone where a sign was posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the amount imposed for the violation under subsections (d)(1)A., (d)(1)B., or (d)(1)C. of this section, as applicable.

- (2) In lieu of payment of the fine of one hundred fifty dollars (\$150.00) under subsection (d)(1)A. of this section and the assessment of points under subsection (d)(4) of this section, the offender instead may elect to attend the distracted driving safety course, as described in Section 703.991. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall not be required to pay the fine and shall not have the points assessed against that offender's driver's license if the offender submits the written evidence to the court.
- (3) The court may impose any other penalty authorized under Ohio R.C. 2929.21 to 2929.28. However, the court shall not impose a fine or a suspension not otherwise specified in subsection (d)(1) of this section. The court also shall not impose a jail term or community residential sanction.
- (4) Except as provided in subsection (d)(2) of this section, points shall be assessed for a violation of subsection (a) of this section in accordance with Ohio R.C. 4510.036.
- (5) The offense established under this section is a strict liability offense and Ohio R.C. 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(e) A prosecution for an offense in violation of this section does not preclude a prosecution for an offense in violation of Ohio R.C. 4511.204 based on the same conduct. However, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.

- (f) (1) A law enforcement officer does not have probable cause and shall not stop the operator of a motor vehicle for the purposes of enforcing this section unless the officer visually observes the operator using, holding, or physically supporting with any part of the person's body the electronic wireless communications device.
- (2) A law enforcement officer who stops the operator of a motor vehicle for a violation of subsection (a) of this section shall inform the operator that the operator may decline a search of the operator's electronic wireless communications device. The officer shall not do any of the following:
 - A. Access the device without a warrant unless the operator voluntarily and unequivocally gives consent for the officer to access the device;
 - B. Confiscate the device while awaiting the issuance of a warrant to access the device;
 - C. Obtain consent from the operator to access the device through coercion or any other improper means. Any consent by the operator to access the device shall be voluntary and unequivocal before the officer may access the device without a warrant.

(g) As used in this section:

- (1) "Electronic wireless communications device", includes any of the following:
 - A. A wireless telephone;
 - B. A text-messaging device;
 - C. A personal digital assistant;

- D. A computer, including a laptop computer and a computer tablet;
- E. Any device capable of displaying a video, movie, broadcast television image, or visual image;
- F. Any other substantially similar wireless device that is designed or used to communicate text, initiate or receive communication, or exchange information or data.

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

- (2) “Utility” means an entity specified in Ohio R.C. 4905.03(A), (C), (D), (E) or (G).
- (3) “Utility service vehicle” means a vehicle owned or operated by a utility.
- (4) “Voice-operated or hands-free feature or function” means a feature or function that allows a person to use an electronic wireless communications device without the use of either hand, except to activate, deactivate, or initiate the feature or function with a single touch or single swipe.
(ORC 4511.204)

(2) A. Except as provided in subsection (d)(2)B. or C. of this section, the court, in addition to any other penalty that it imposes on the offender and if the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to one violation of Ohio R.C. 4510.11 or Ohio R.C. 4510.111 or 4510.16, or a substantially equivalent municipal ordinance, the court, in addition to or independent of any other sentence that it imposes upon the offender, may order the immobilization of the vehicle involved in the offense for thirty days and the impoundment of that vehicle's license plates for thirty days in accordance with Ohio R.C. 4503.233.

B. If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two violations of Ohio R.C. 4510.11 or any combination of two violations of Ohio R.C. 4510.11 or Ohio R.C. 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender may order the immobilization of the vehicle involved in the offense for sixty days and the impoundment of that vehicle's license plates for sixty days in accordance with Ohio R.C. 4503.233.

C. If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 4510.11, or any combination of three or more violations of Ohio R.C. 4510.11 or Ohio R.C. 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender may order the criminal forfeiture of the vehicle involved in the offense to the State.

(e) Any order for immobilization and impoundment under this section shall be issued and enforced under Ohio R.C. 4503.233 and 4507.02, as applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.

(f) Any order of criminal forfeiture under this section shall be issued and enforced under Ohio R.C. 4503.234. Upon receipt of the copy of the order from the court, neither the Ohio Registrar of Motor Vehicles nor a deputy registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order, unless, during that period, the court having jurisdiction of the offense that lead to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar shall then take necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle.

(g) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under this section. (ORC 4510.11)

(h) Any person whose driver's or commercial driver's license or permit or nonresident operating privileges are suspended as a repeat traffic offender under this section and who, during the suspension, operates any motor vehicle upon any public roads and highways is guilty of driving under a twelve-point suspension, a misdemeanor of the first degree. The court shall sentence the offender to a minimum term of three days in jail. No court shall suspend the first three days of jail time imposed pursuant to this subsection. (ORC 4510.037)

(i) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency. (ORC 4510.04)

735.071 DRIVING UNDER OVI SUSPENSION.

(a) No person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under Ohio R.C. 4511.19, 4511.191, or 4511.196 or under Ohio R.C. 4510.07 for a conviction of a violation of a municipal OVI ordinance shall operate any motor vehicle upon the public roads or highways within this Municipality during the period of the suspension.

(b) Whoever violates this section is guilty of driving under OVI suspension. The court shall sentence the offender under Ohio R.C. Chapter 2929, subject to the differences authorized or required by this section.

(1) Except as otherwise provided in subsection (b)(2) or (3) of this section, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

A. A mandatory jail term of three consecutive days. The three-day term shall be imposed, unless, subject to subsection (c) of this section, the court instead imposes a sentence of not less than thirty consecutive days of house arrest with electronic monitoring. A period of house arrest with electronic monitoring imposed under this subsection shall not exceed six months. If the court imposes a mandatory three-day jail term under this subsection, the court may impose a jail term in addition to that term, provided that in no case shall the cumulative jail term imposed for the offense exceed six months.

B. A fine of not less than two hundred fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000).

C. A license suspension under subsection (e) of this section.

(2) If, within six years of the offense, the offender previously has been convicted of or pleaded guilty to one violation of this section or one equivalent offense, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

A. A mandatory jail term of ten consecutive days. Notwithstanding the jail terms provided in Ohio R.C. Chapter 2929, the court may sentence the offender to a longer jail term of not more than one year. The ten-day mandatory jail term shall be imposed unless, subject to subsection (c) of this section, the court instead imposes a sentence of not less than ninety consecutive days of house arrest with electronic monitoring. The period of house arrest with electronic monitoring shall not exceed one year.

B. Notwithstanding the fines provided for in Ohio R.C. Chapter 2929, a fine of not less than five hundred dollars (\$500.00) and not more than two thousand five hundred dollars (\$2,500).

C. A license suspension under subsection (e) of this section.

(3) If, within six years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of this section or two or more equivalent offenses, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

A. A mandatory jail term of thirty consecutive days. Notwithstanding the jail terms provided in Ohio R.C. Chapter 2929, the court may sentence the offender to a longer jail term of not more than one year. The court shall not sentence the offender to a term of house arrest with electronic monitoring in lieu of the mandatory portion of the jail term.

B. Notwithstanding the fines set forth in Ohio R.C. Chapter 2929, a fine of not less than five hundred dollars (\$500.00) and not more than two thousand five hundred dollars (\$2,500).

C. A license suspension under subsection (e) of this section.

(c) No court shall impose an alternative sentence of house arrest with electronic monitoring under subsection (b)(1) or (2) of this section unless, within sixty days of the date of sentencing, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the jail term imposed, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing.

An offender sentenced under this section to a period of house arrest with electronic monitoring shall be permitted work release during that period.

(d) Fifty per cent of any fine imposed by a court under subsection (b)(1), (2) or (3) of this section shall be deposited into the county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund under the control of that court, as created by the county or municipal corporation pursuant to division (H) of Ohio R.C. 4511.191.

(e) 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 impose on an offender who is convicted of or pleads guilty to a violation of this section a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02.

When permitted as specified in Ohio R.C. 4510.021, if the court grants limited driving privileges during a suspension imposed under this section, the privileges shall be granted on the additional condition that the offender must display restricted license plates, issued under Ohio R.C. 4503.231, on the vehicle driven subject to the privileges, except as provided in division (B) of that section.

A suspension of a commercial driver's license under this section shall be concurrent with any period of suspension or disqualification under Ohio R.C. 3123.58 or 4506.16. No person who is disqualified for life from holding a commercial driver's license under Ohio R.C. 4506.16 shall be issued a driver's license under Ohio 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 Ohio R.C. Chapter 4507 during the period of the suspension.

(f) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense that is a misdemeanor of the first degree under this section for which the offender is sentenced. (ORC 4510.14)

(g) (1) If a person is convicted of or pleads guilty to a violation of a municipal ordinance that is substantially equivalent to Ohio R.C. 4510.14, the court, in addition to and independent of any sentence that it imposes upon the offender for the offense, if the vehicle the offender was operating at the time of the offense is registered in the offender's name, shall do whichever of the following is applicable:

- A. If, within six years of the current offense, the offender has not been convicted of or pleaded guilty to a violation of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02, or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the immobilization for thirty days of the vehicle involved in the offense and the impoundment for thirty days of the license plates of that vehicle in accordance with Ohio R.C. 4503.233.
- B. If, within six years of the current offense, the offender has been convicted of or pleaded guilty to one violation of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02, or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the immobilization for sixty days of the vehicle involved in the offense and the impoundment for sixty days of the license plates of that vehicle in accordance with Ohio R.C. 4503.233.
- C. If, within six years of the current offense, the offender has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02 or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the criminal forfeiture to the State of the vehicle the offender was operating at the time of the offense.

(2) An order for immobilization and impoundment of a vehicle under this section shall be issued and enforced in accordance with Ohio R.C. 4503.233 and 4507.02, as applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.

(3) An order for criminal forfeiture of a vehicle under this section shall be issued and enforced under Ohio R.C. 4503.234. Upon receipt of a copy of the order from the court, neither the Registrar of Motor Vehicles nor a Deputy Registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order unless, during that period, the court having jurisdiction of the offense that led to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar then shall take the necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle. (ORC 4510.161)

(h) As used in this section:

- (1) "Electronic monitoring" has the same meaning as in Ohio R.C. 2929.01.
- (2) "Equivalent offense" means any of the following:
 - A. A violation of a municipal ordinance, law of another state, or law of the United States that is substantially equivalent to subsection (a) of this section;
 - B. A violation of a former law of this State that was substantially equivalent to subsection (a) of this section.
- (3) "Jail" has the same meaning as in Ohio R.C. 2929.01.
- (4) "Mandatory jail term" means the mandatory term in jail of three, ten, or thirty consecutive days that must be imposed under subsection (b)(1), (2) or (3) of this section upon an offender convicted of a violation of subsection (a) of this section and in relation to which all of the following apply:
 - A. Except as specifically authorized under this section, the term must be served in a jail.
 - B. Except as specifically authorized under this section, the term cannot be suspended, reduced, or otherwise modified pursuant to any provision of the Ohio Revised Code.

(ORC 4510.14)

(i) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency.

(ORC 4510.04)

735.072 DRIVING UNDER FINANCIAL RESPONSIBILITY LAW SUSPENSION OR CANCELLATION; DRIVING UNDER A NONPAYMENT OF JUDGMENT SUSPENSION.

(a) No person, whose driver's or commercial driver's license or temporary instruction permit or nonresident's operating privilege has been suspended or canceled pursuant to Ohio R.C. Chapter 4509, shall operate any motor vehicle within this Municipality, or knowingly permit any motor vehicle owned by the person to be operated by another person in the Municipality, during the period of the suspension or cancellation, except as specifically authorized by Ohio R.C. Chapter 4509. No person shall operate a motor vehicle within this Municipality, or knowingly permit any motor vehicle owned by the person to be operated by another person in the Municipality, during the period in which the person is required by Ohio R.C. 4509.45 to file and maintain proof of financial responsibility for a violation of Ohio R.C. 4509.101, unless proof of financial responsibility is maintained with respect to that vehicle.

(b) 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 if the person's driver's or commercial driver's license or temporary instruction permit or nonresident operating privilege has been suspended pursuant to Ohio R.C. 4509.37 or 4509.40 for nonpayment of a judgment.

(c) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth and social security number of a person charged with a violation of subsection (a) or (b) of this section may be admitted into evidence as prima-facie evidence that the license of the person was under either a financial responsibility law suspension at the time of the alleged violation of subsection (a) of this section or a nonpayment

of judgment suspension at the time of the alleged violation of subsection (b) of this section. The person charged with a violation of subsection (a) or (b) of this section may offer evidence to rebut this *prima-facie* evidence.

(d) Whoever violates subsection (a) of this section is guilty of driving under financial responsibility law suspension or cancellation and shall be punished as provided in subsection (d) hereof. Whoever violates subsection (b) of this section is guilty of driving under a nonpayment of judgment suspension and shall be punished as provided in subsection (d) hereof.

- (1) Except as otherwise provided in subsection (d)(2) of this section, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case. If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.16, or any combination of two violations of Ohio R.C. 4510.16 or Ohio R.C. 4510.11 or 4510.111, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree.
- (2) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under this section. (ORC 4510.16)

(e) No person who has knowingly failed to maintain proof of financial responsibility in accordance with Ohio R.C. 4509.101 shall produce any document or present to a peace officer an electronic wireless communications device that is displaying any text or images with the purpose to mislead a peace officer upon the request of a peace officer for proof of financial responsibility made in accordance with Ohio R.C. 4509.101. Whoever violates this subsection (e) hereof is guilty of falsification, a misdemeanor of the first degree. (ORC 4509.102)

(f) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency. (ORC 4510.04)

**735.073 DRIVING WITHOUT COMPLYING WITH LICENSE
REINSTATEMENT REQUIREMENTS.**

(a) No person whose driver's license, commercial driver's license, temporary instruction permit, or nonresident's operating privilege has been suspended shall operate any motor vehicle upon a public road or highway or any public or private property after the suspension has expired unless the person has complied with all license reinstatement requirements imposed by the court, the Bureau of Motor Vehicles, or another provision of the Ohio Revised Code.

(b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) of this section may be admitted into evidence as prima-facie evidence that the license of the person had not been reinstated by the person at the time of the alleged violation of subsection (a) hereof. The person charged with a violation of subsection (a) hereof may offer evidence to rebut this prima-facie evidence.

(c) Whoever violates this section is guilty of failure to reinstate a license and shall be punished as follows:

- (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a) hereof is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of a violation of subsection (a) of this section, the offender previously has pleaded guilty to or been convicted of two or more violations of Ohio R.C. 4510.21(A) or a substantially equivalent municipal ordinance, the offender is guilty of a misdemeanor of the first degree.
- (3) In all cases, the court may impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary driver's license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4510.21)

(d) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency.
(ORC 4510.04)

**735.074 DRIVING UNDER LICENSE FORFEITURE OR CHILD SUPPORT
SUSPENSION.**

(a) 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 whose driver's or commercial driver's license has been suspended pursuant to Ohio R.C. 2151.354, 2151.87, 2935.27, 3123.58, 4301.99, 4510.032, 4510.22 or 4510.33.

(b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) of this section may be admitted into evidence as prima-facie evidence that the license of the person was under suspension at the time of the alleged violation of subsection (a) of this section. The person charged with a violation of subsection (a) of this section may offer evidence to rebut this prima-facie evidence.

(c) Whoever violates subsection (a) of this section is guilty of driving under suspension and shall be punished as provided in subsection (c) of this section.

(1) Except as otherwise provided in subsection (c)(2) of this section, the offense is an unclassified misdemeanor. The offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.

(2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of subsection (A) of Ohio R.C. 4510.111, or any combination of two or more violations of subsection (A) of Ohio R.C. 4510.111, or Ohio R.C. 4510.11 or 4510.16, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree and the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under this section. (ORC 4510.111)

(d) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency.

(ORC 4510.04)

735.08 OPERATION OR SALE WITHOUT CERTIFICATE OF TITLE.

(a) No person shall do any of the following:

(1) Operate in this Municipality a motor vehicle for which a certificate of title is required without having that certificate in accordance with Ohio R.C. Chapter 4505 or, if a physical certificate of title has not been issued for a motor vehicle, operate the motor vehicle in this Municipality knowing that the ownership information relating to the vehicle has not been entered into the automated title processing system by a clerk of a court of common pleas;

- (2) Display or display for sale or sell as a dealer or acting on behalf of a dealer, a motor vehicle without having obtained a manufacturer's or importer's certificate, a certificate of title, or an assignment of a certificate of title for it as provided in Ohio R.C. Chapter 4505;
- (3) Fail to surrender any certificate of title or any certificate of registration or license plates upon cancellation of the same by the Registrar of Motor Vehicles and notice of the cancellation as prescribed in Ohio R.C. Chapter 4505;
- (4) Fail to surrender the certificate of title to a clerk of a court of common pleas as provided in Ohio R.C. Chapter 4505 in case of the destruction or dismantling or change of a motor vehicle in such respect that it is not the motor vehicle described in the certificate of title;
- (5) Violate any rules adopted pursuant to Ohio R.C. Chapter 4505;
- (6) Except as otherwise provided in Ohio R.C. Chapter 4505 and Chapter 4517, sell at wholesale a motor vehicle the ownership of which is not evidenced by an Ohio certificate of title, or the current certificate of title issued for the motor vehicle, or the manufacturer's certificate of origin, and all title assignments that evidence the seller's ownership of the motor vehicle, and an odometer disclosure statement that complies with Ohio R.C. 4505.06 and subchapter IV of the "Motor Vehicle Information and Cost Savings Act", 86 Stat. 961 (1972), 15 U.S.C. 1981;
- (7) Operate in this Municipality a motor vehicle knowing that the certificate of title to the vehicle or ownership of the vehicle as otherwise reflected in the automated title processing system has been canceled.

(b) This section does not apply to persons engaged in the business of warehousing or transporting motor vehicles for the purpose of salvage disposition.

(c) Whoever violates this section shall be fined not more than two hundred dollars (\$200.00) or imprisoned not more than ninety days, or both.
(ORC 4505.18)

735.09 DISPLAY OF LICENSE PLATES OR VALIDATION STICKERS; REGISTRATION.

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

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

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

(ORC 4503.21(B), (C))

735.091 OPERATING WITHOUT DEALER OR MANUFACTURER 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 the vehicle carries and displays a placard, except as provided in Ohio R.C. 4503.21, issued by the Director of Public Safety that displays the registration number of its manufacturer or dealer.

(b) Whoever violates subsection (a) of this section is guilty of illegal operation of a manufacturer's or dealer's motor vehicle, a minor misdemeanor.

(ORC 4549.10)

735.10 EXPIRED OR UNLAWFUL LICENSE PLATES.

(a) No person who is the owner of a motor vehicle which is parked or operated upon the public streets or highways shall fail to annually file the application for registration or to pay the tax therefor, as required by Ohio R.C. Chapter 4503. (ORC 4503.11)

(b) No person shall operate, drive or park upon the public streets or highways a motor vehicle acquired from a former owner who has registered the motor vehicle, while the motor vehicle displays the distinctive number or identification mark assigned to it upon its original registration. (ORC 4549.11)

(c) No person who is the owner of a motor vehicle and a resident of Ohio shall operate, drive or park the motor vehicle upon the public streets or highways, while it displays a distinctive number or identification mark issued by or under the authority of another state, without complying with the laws of Ohio relating to the registration and identification of motor vehicles.

(ORC 4549.12)

(d) No person shall park or operate any vehicle upon any public street or highway upon which is displayed an expired license plate or an expired validation sticker.

(e) No person shall park or operate any vehicle upon any public street or highway upon which are displayed any license plates not legally registered and issued for such vehicle, or upon which are displayed any license plates that were issued on an application for registration that contains any false statement by the applicant.

(f) (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.

(2) Whoever violates subsection (b) hereof is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense.

(3) Whoever violates any provision of this section for which no other penalty is provided is guilty of a minor misdemeanor. (ORC 4549.11; 4549.12)

735.11 USE OF ILLEGAL LICENSE PLATES; TRANSFER OF REGISTRATION.

(a) No person shall operate or drive a motor vehicle upon the streets in this Municipality if it displays a license plate or a distinctive number or identification mark that meets any of the following criteria:

- (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 motor vehicle that is operated on the streets in this Municipality when the motor vehicle displays license plates that originally were issued for a motor vehicle that previously was owned by the same person who owns the motor vehicle that is operated on the streets in this Municipality, during the thirty-day period described in subsection (c) hereof.

(b) Whoever violates subsection (a)(1), (2) or (3) of this section is guilty of operating a motor vehicle bearing an invalid license plate or identification mark, a misdemeanor of the fourth degree on a first offense and a misdemeanor of the third degree on each subsequent offense. (ORC 4549.08)

(c) Upon the transfer of ownership of a motor vehicle, the registration of the motor vehicle expires, and the original owner shall immediately remove the license plates from the motor vehicle. The transfer of the registration and, where applicable, the license plates from the motor vehicle for which they originally were issued to a succeeding motor vehicle purchased by the same person in whose name the original registration and license plates were issued shall be done within a period not to exceed thirty days. During that thirty-day period, the license plates from the motor vehicle for which they originally were issued may be displayed on the succeeding motor vehicle, and the succeeding motor vehicle may be operated on the streets of the Municipality.

(d) Whoever violates subsection (c) of this section is guilty of a misdemeanor of the fourth degree. (ORC 4503.12)

735.111 REGISTRATION WITHIN THIRTY DAYS OF RESIDENCY.

(a) Within thirty days of becoming a resident of this State, any person who owns a motor vehicle operated or driven upon the public roads or highways shall register the vehicle in this State. If such a person fails to register a vehicle owned by the person, the person shall not operate any motor vehicle in this Municipality under a license issued by another state.

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

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

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

(1) The person maintains their principal residence in this State and does not reside in this State as a result of the person's active service in the United States Armed Forces.

(2) The person is determined by the Registrar of Motor Vehicles to be a resident in accordance with standards adopted by the Registrar under Ohio R.C. 4507.01. (ORC 4503.111)

735.12 STOPPING AFTER ACCIDENT UPON STREETS; COLLISION WITH UNATTENDED VEHICLE.

(a) (1) In the case of a motor vehicle accident or collision with persons or property on a public road or highway, the operator of the motor vehicle, having knowledge of the accident or collision, immediately shall stop the operator's motor vehicle at the scene of the accident or collision. The operator shall remain at the scene of the accident or collision until the operator has given the operator's name and address and, if the operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, to all of the following:

- A. Any person injured in the accident or collision;
- B. The operator, occupant, owner or attendant of any motor vehicle damaged in the accident or collision;
- C. The police officer at the scene of the accident or collision.

(2) In the event an injured person is unable to comprehend and record the information required to be given under subsection (a)(1) of this section, the other operator involved in the accident or collision shall notify the nearest police authority concerning the location of the accident or collision, and the operator's name, address and the registered number of the motor vehicle the operator was operating. The operator shall 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.

(3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the 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.

(b) (1) Whoever violates subsection (a) of this section is guilty of failure to stop after an accident. Except as otherwise provided in subsection (b)(2) or (3) of this section, failure to stop after an accident is a misdemeanor of the first degree.

(2) If the accident or collision results in serious physical harm to a person, failure to stop after an accident is a felony and shall be prosecuted under appropriate State law.

(3) If the accident or collision results in the death of a person, failure to stop after an accident is a felony and shall be prosecuted under appropriate State law.

(4) In all cases, the court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. No judge shall suspend the first six months of suspension of an offender's license, permit, or privilege required by this subsection.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.02)

735.13 STOPPING AFTER ACCIDENT UPON PROPERTY OTHER THAN STREET.

- (a) (1) In the case of a motor vehicle accident or collision resulting in injury or damage to persons or property on any public or private property other than a public road or highway, the operator of the motor vehicle, having knowledge of the accident or collision, shall stop at the scene of the accident or collision. Upon request of any person who is injured or damaged, or any other person, the operator shall give that person the operator's name and address, and, if the operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, and, if available, exhibit the operator's driver's or commercial driver's license.
 - (2) If the operator of the motor vehicle involved in the accident or collision does not provide the information specified in subsection (a)(1) of this section, the operator shall give that information, within twenty-four hours after the accident or collision, to the Police Department.
 - (3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required under subsection (a)(1) of this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.
- (b) (1) Whoever violates subsection (a) of this section is guilty of failure to stop after a nonpublic road accident. Except as otherwise provided in subsection (b)(2) or (3) of this section, failure to stop after a nonpublic road accident is a misdemeanor of the first degree.
 - (2) If the accident or collision results in serious physical harm to a person, failure to stop after a nonpublic road accident is a felony and shall be prosecuted under appropriate State law.
 - (3) If the accident or collision results in the death of a person, failure to stop after a nonpublic road accident is a felony and shall be prosecuted under appropriate State law.
 - (4) In all cases, the court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. No judge shall suspend the first six months of suspension of an offender's license, permit, or privilege required by this subsection.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.021)

735.14 VEHICLE ACCIDENT RESULTING IN DAMAGE TO REALTY.

(a) The driver of any vehicle involved in an accident resulting in damage to real property, or personal property attached to real property, legally upon or adjacent to a public road or highway immediately shall stop and take reasonable steps to locate and notify the owner or person in charge of the property of that fact, of the driver's name and address, and of the registration number of the vehicle the driver is driving and, upon request and if available, shall exhibit the driver's or commercial driver's license.

If the owner or person in charge of the property cannot be located after reasonable search, the driver of the vehicle involved in the accident resulting in damage to the property, within twenty-four hours after the accident, shall forward to the police authority in the municipality in which the accident or collision occurred, the same information required to be given to the owner or person in control of the property and give the location of the accident and a description of the damage insofar as it is known.

(b) Whoever violates subsection (a) of this section is guilty of failure to stop after an accident involving the property of others, a misdemeanor of the first degree.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.03)

CHAPTER 737
Safety and Equipment

737.01	Driving unsafe vehicles.	737.16	Number of lights; limitations on flashing, oscillating or rotating lights.
737.02	Lighted lights; measurement of distances and heights.	737.17	Focus and aim of headlights.
737.03	Headlights on motor vehicles and motorcycles.	737.18	Motor vehicle and motorcycle brakes.
737.04	Tail light; illumination of rear license plate.	737.19	Horn, siren and theft alarm signal.
737.05	Rear red reflectors.	737.20	Muffler; muffler cutout; excessive smoke, gas or noise.
737.06	Safety lighting on commercial vehicles.	737.21	Rear-view mirror; clear view to front, both sides and rear.
737.07	Obscured lights on vehicles in combination.	737.22	Windshield and windshield wiper; sign or poster thereon.
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737.09	Lights on parked or stopped vehicles.	737.24	Motor vehicle stop lights.
737.10	Lights, emblems, and reflectors on slow-moving vehicles, farm machinery, agricultural tractors, and animal-drawn vehicles.	737.25	Air cleaner required.
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737.12	Cowl, fender and back-up lights.	737.27	Drivers and passengers required to wear seat belts.
737.13	Display of lighted lights.	737.28	Use of sun screening, nontransparent and reflectorized materials.
737.14	Use of headlight beams.	737.29	Bumper heights.
737.15	Lights of less intensity on slow-moving vehicles.	737.30	Directional signals required.

CROSS REFERENCES

See sectional histories for similar State law
 Warning devices for commercial vehicles disabled upon freeways -
 see Ohio R.C. 4513.28
 Slow moving vehicle emblem - see OAC Ch. 4501.13
 Motorized bicycle lights and equipment - see Ohio R.C. 4511.521
 Vehicle lighting - see OAC 4501-15
 Use of stop and turn signals - see TRAF. 731.14
 Wheel protectors for commercial vehicles - see TRAF. 739.05
 Vehicles transporting explosives - see TRAF. 739.06
 Towing requirements - see TRAF. 739.07
 Use of studded tires and chains - see TRAF. 739.11
 Bicycle equipment - see TRAF. 773.05 et seq.

737.01 DRIVING UNSAFE VEHICLES.

(a) No person shall drive or move, or cause or knowingly permit to be driven or moved, on any street any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person or property.

(b) Nothing contained in this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.

(c) The provisions of this chapter with respect to equipment on vehicles do not apply to implements of husbandry, road machinery, road rollers or agricultural tractors except as made applicable to such articles of machinery. (ORC 4513.02)

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

737.02 LIGHTED LIGHTS; MEASUREMENT OF DISTANCES AND HEIGHTS.

(a) Every vehicle, other than a motorized bicycle, operated upon a street or highway shall display lighted lights and illuminating devices as required by this chapter during all of the following times:

- (1) The time from sunset to sunrise;
- (2) At any other time when, due to insufficient natural light or unfavorable atmospheric conditions, persons, vehicles, and substantial objects on the street or highway are not discernible at a distance of one thousand feet ahead;
- (3) At any time when the windshield wipers of the vehicle are in use because of precipitation on the windshield.

Every motorized bicycle shall display at such times lighted lights meeting the rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4511.521. No motor vehicle, during any time specified in this section, shall be operated upon a street or highway using only parking lights as illumination.

(b) Whenever in this chapter a requirement is declared as to the distance from which certain lights and devices shall render objects visible, or within which such lights or devices shall be visible, such distance shall be measured upon a straight level unlighted street 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.

(d) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause the operator of a vehicle being operated upon a street or highway to stop the vehicle solely because the officer observes that a violation of subsection (a)(3) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that subsection, or causing the arrest of or commencing a prosecution of a person for a violation of that subsection.

737.09 LIGHTS ON PARKED OR STOPPED VEHICLES.

(a) Except in case of an emergency, whenever a vehicle is parked or stopped upon a roadway open to traffic or shoulder adjacent thereto, whether attended or unattended during the times mentioned in Section 737.02, 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 where there is sufficient light to reveal any person or substantial object within a distance of 500 feet upon such street. Any lighted headlights upon a parked vehicle shall be depressed or dimmed.

(ORC 4513.10)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

737.10 LIGHTS, EMBLEMS AND REFLECTORS ON SLOW-MOVING VEHICLES, FARM MACHINERY, AGRICULTURAL TRACTORS, AND ANIMAL-DRAWN VEHICLES.

(a) Definitions. As used in this section:

- (1) **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 twenty-five miles per hour or less.
- (2) **SLOW-MOVING VEHICLE and SMV.** Mean a boat trailer, unit of farm machinery, road construction machinery, or other machinery designed by the manufacturer to operate at a speed of twenty-five miles per hour or less. The term does not include a bicycle, motorized bicycle, electric bicycle, or animal-drawn vehicle. (ORC 4513.11)

(b) Generally.

- (1) At the times specified in Ohio R.C. 4513.03, no person shall operate either of the following vehicles unless it is equipped with and displays the lamps described in subsection (b)(2) of this section.
 - A. A vehicle not specifically required to be equipped with lamps or other lighting devices by Ohio R.C. 4513.03 to 4513.10;
 - B. A vehicle referred to in Ohio R.C. 4513.02(G).
- (2) Vehicles described in subsection (b)(1) of this section shall be equipped with both of the following:
 - A. 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;
 - B. 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.

(3) A. At the times specified in Ohio R.C. 4513.03, no person shall operate a multi-wheel agricultural tractor model year 2001 or earlier on a street or highway unless it is equipped with and displays reflectors and illuminated amber lamps so that the extreme left and right projections of the tractor are indicated by all of the following:

1. Flashing lamps displaying amber light, visible to the front and the rear. The lamps need not flash simultaneously and need not flash in conjunction with any directional signals of the tractor;
2. Amber reflectors, all visible to the front;
3. Red reflectors, all visible to the rear.

B. Rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4513.111 governing the lamps and reflectors described in subsection (b)(3)A. of this section and their placement correlate with and, as far as possible, conform with paragraphs 4.1.4.1, 4.1.7.1 and 4.1.7.2 respectively of the American Society of Agricultural Engineers Standard ANSI/ASAE S279.10 OCT98, Lighting and Marking of Agricultural Equipment on Highways.

(4) At the times specified in Ohio R.C. 4513.03, no person shall operate a unit of farm machinery model year 2002 or later on a street or highway unless it is equipped with and displays markings and illuminated lamps that meet or exceed the lighting, illumination and marking standards and specifications that are applicable to that type of farm machinery for the unit's model year specified in the American Society of Agricultural Engineers Standard ANSI/ASAE S279.10 OCT 98, lighting and marking of agricultural equipment on highways.

(5) Any unit of farm machinery designed by its manufacturer to operate at a speed of twenty-five miles per hour or greater or any SMV may be equipped with and display a red flashing light that is visible from a distance of not less than 1,000 feet to the rear at all times specified in Ohio R.C. 4513.03. When a double-faced light is used, it shall display amber light to the front and red light to the rear.

(6) Lights and reflectors required under subsections (b)(3) and (b)(4) of this section and authorized under subsection (b)(5) of this section are in addition to other lights required or permitted by this subsection (b) or Ohio R.C. 4513.17.

(7) The Ohio Director of Public Safety shall adopt rules in accordance with Ohio R.C. Chapter 119 Code that establish standards and specifications for lamps and reflectors required or authorized by this section. Lamps and reflectors required or authorized by this section shall meet those standards and specifications.

(8) This subsection (b) does not apply to a bicycle, motorized bicycle, electric bicycle, or animal-drawn vehicle.

(9) Whoever violates this subsection (b) is guilty of a minor misdemeanor. (ORC 4513.111)

(c) Slow-Moving Vehicles.

- (1) Except as otherwise provided in this section, no person shall operate an SMV on a street or highway as follows:
 - A. At a speed exceeding twenty-five miles per hour;
 - B. Without displaying the triangular SMV emblem mounted in accordance with subsection (c)(2) of this section.
- (2) The SMV emblem shall be mounted so as to be visible from a distance of not less than 500 feet to the rear. In accordance with Ohio R.C. Chapter 119, the Ohio Director of Public Safety shall adopt standards and specifications for the design and position of mounting the SMV emblem. The standards and specifications for the SMV emblem correlate with and, so far as possible, conform with those approved by the American Society of Agricultural Engineers.
- (3) A person may operate an SMV on a street or highway without displaying the triangular SMV emblem when any of the following apply:
 - A. The SMV is being used in actual construction and maintenance work in an area guarded by a flagperson, or where flares are used;
 - B. The SMV is operating or traveling within the limits of a construction area designated by the Ohio Director of Transportation, a city engineer, or the county engineer of the several counties, when such construction area is marked in accordance with requirements of the Ohio Director of Transportation and the Manual of Uniform Traffic Control Devices, as set forth in Ohio R.C. 4511.09.
- (4) No person shall display an SMV emblem on any of the following:
 - A. Any vehicle not required to use the SMV emblem by this subsection (c) or Ohio R.C. 4513.113 or 4513.114;
 - B. An SMV being transported upon any other vehicle;
 - C. Any stationary object on the highway.
- (5) No person shall sell, lease, rent or operate an SMV, except a unit designed to be completely mounted on a primary power unit that is manufactured or assembled on or after April 1, 1966, unless it is equipped with an SMV emblem mounting device.
- (6) Whoever violates subsection (c) is guilty of a minor misdemeanor.
(ORC 4513.112)

(d) Farm Machinery and Agricultural Tractors.

- (1) No person shall sell, lease, rent or operate on a street or highway any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour unless the unit displays both of the following:
 - A. The SMV emblem mounted in accordance with Ohio R.C. 4513.112(B);
 - B. A speed identification symbol that does both of the following:
 1. Meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/ASAE S584 JAN2005, Agricultural Equipment: Speed Identification Symbol (SIS);

2. Indicates the maximum speed in miles per hour at which the unit of farm machinery is designed by its manufacturer to operate;
- (2) No person operating a tractor on a street or highway that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour and that is towing, pulling or otherwise drawing a unit of farm machinery while operating at a speed greater than twenty-five miles per hour shall fail to display both of the following on the unit of farm machinery;
 - A. The SMV emblem;
 - B. The speed identification symbol that matches the speed identification symbol required to be displayed on the agricultural tractor;
- (3) No person shall operate an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour unless the person possesses documentation published or provided by the manufacturer indicating the maximum speed in miles per hour at which the manufacturer designed the agricultural tractor to operate;
- (4) Whoever violates this subsection (d) is guilty of a minor misdemeanor.
(ORC 4513.113)

(e) Animal-Drawn Vehicles.

- (1) Except as otherwise provided in subsection (e)(4) of this section, no person shall operate an animal-drawn vehicle on a street or highway unless it is equipped with and displays, at the times specified in Ohio R.C. 4513.03, both of the following:
 - A. At least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of the animal-drawn vehicle;
 - B. Two lamps displaying red light visible from a distance of not less than 1,000 feet to the rear of the animal-drawn 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 one hundred feet to the rear when illuminated by the lawful lower beams of headlamps.
- (2) Except as otherwise provided in subsection (e)(4) of this section, no person shall operate an animal-drawn vehicle on a street or highway unless it is equipped with and displays, at all times, all of the following:
 - A. One yellow flashing lamp displaying yellow light that is visible from a distance of not less than 1,000 feet and that is mounted in either of the following positions:
 1. On the top most portion of the rear of the animal-drawn vehicle;
 2. On the top of the animal-drawn vehicle;
 - B. At least one of the following:
 1. An SMV emblem mounted in accordance with Ohio R.C. 4513.112(B);
 2. Micro-prism reflective tape that is visible from a distance of not less than 500 feet to the rear when illuminated by the lawful lower beams of headlamps;
 3. Both an SMV emblem and micro-prism reflective tape, as specified in this division.

- C. Lamps and micro-prism reflective tape required by this section shall meet standards and specifications adopted by the Ohio Director of Public Safety under Ohio R.C. 4513.114.
- (3) The Ohio Director of Public Safety, in accordance with Ohio R.C. Chapter 119, shall adopt rules establishing standards and specifications for the position and mounting of the lamps and micro-prism reflective tape required by Ohio R.C. 4513.114. The rules permit the micro-prism reflective tape to be red, amber, white, or silver in color.
- (4)
 - A. Subsections (e)(1) and (e)(2) of this section do not apply to the operator of animal-drawn agricultural equipment who is not transporting any livestock or a person other than the operator.
 - B. No operator described in subsection (e)(4)A. of this section shall operate animal-drawn agricultural equipment unless it is equipped with and displays, at all times, the SMV emblem mounted in accordance with Ohio R.C. 4513.112(B).
 - C. As used in subsection (e)(4) of this section, "animal-drawn agricultural equipment" means equipment drawn by the muscular power of an animal that is used solely for agricultural purposes. "Animal-drawn agricultural equipment" includes any of the following:
 - 1. A plow;
 - 2. A manure spreader;
 - 3. A thresher.
- (5) Whoever violates this subsection (e) is guilty of a minor misdemeanor.
(ORC 4513.114)

(f) Strict Liability Offenses. The offenses established under this section are strict liability offenses, and Ohio R.C. 2901.20 does not apply. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.
(ORC 4513.115)

737.11 SPOTLIGHT AND AUXILIARY 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 State approved auxiliary driving lights mounted on the front of the vehicle, which when used shall conform to State regulations.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.12)

737.12 COWL, FENDER AND BACK-UP LIGHTS.

(a) Any motor vehicle may be equipped with side cowl or fender lights or lights on each side thereof which shall emit a white or amber light without glare.

(b) 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.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.13)

737.13 DISPLAY OF LIGHTED LIGHTS.

(a) At all times mentioned in Section 737.02 at least two State approved lighted lights shall be displayed conforming to State regulations, 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. (ORC 4513.14)

(b) However, on a motorcycle, there shall be displayed at least one and not more than two lighted lights as required herein.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.14)

737.14 USE OF HEADLIGHT BEAMS.

(a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in Section 737.02, 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, except that upon approaching an oncoming vehicle, the lights or beams shall be so aimed that the glaring rays are not projected into the eyes of the oncoming driver.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.15)

737.15 LIGHTS OF LESS INTENSITY ON SLOW-MOVING VEHICLES.

(a) Any motor vehicle may be operated under the conditions specified in Section 737.02 when it is equipped with two lighted lights upon the front thereof capable of revealing persons and substantial objects seventy-five feet ahead in lieu of lights required in Section 737.13, provided that such vehicle shall not be operated at a speed in excess of twenty miles per hour.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.16)

**737.16 NUMBER OF LIGHTS; LIMITATIONS ON FLASHING,
OSCILLATING OR ROTATING LIGHTS.**

(a) Whenever a motor vehicle equipped with headlights also is equipped with any auxiliary lights or spotlight or any other light on the front thereof projecting a beam of an intensity greater than 300 candle power, not more than a total of five of any such lights on the front of a vehicle shall be lighted at any one time when the vehicle is upon a highway.

(b) Any lighted light or illuminating device upon a motor vehicle, other than headlights, spotlights, signal lights or auxiliary driving lights, that projects a beam of light of an intensity greater than 300 candle power, 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 seventy-five feet from the vehicle.

(c) (1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing.

(2) The prohibition in subsection (c)(1) of this section does not apply to any of the following:

- A. Emergency vehicles, road service vehicles servicing or towing a disabled vehicle, stationary waste collection vehicles actively collecting garbage, refuse, trash or recyclable materials on the roadside, rural mail delivery vehicles, vehicles as provided in Ohio R.C. 4513.182, highway maintenance vehicles, and similar equipment operated by state or local authorities, provided such vehicles are equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating or rotating amber light;
- B. Vehicles or machinery permitted by Ohio R.C. 4513.111 to have a flashing red light;
- C. Farm machinery and vehicles escorting farm machinery, provided such machinery and vehicles are equipped with and display, when used on a street or highway, a flashing, oscillating or rotating amber light. Farm machinery also may display the lights described in Ohio R.C. 4513.111.
- D. A funeral hearse or funeral escort vehicle, provided that the funeral hearse or funeral escort vehicle is equipped with and displays, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating or rotating purple or amber light;

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

(d) (1) Except a person operating a public safety vehicle, as defined in Ohio R.C. 4511.01(E), or a school bus, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light.

(2) Except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, operating a public safety vehicle when on duty, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any street or highway any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white oscillating or rotating light.

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

(f) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.17)

737.17 FOCUS AND AIM OF HEADLIGHTS.

(a) No person shall use any lights mentioned in Section 737.02 to 737.16, inclusive, upon any motor vehicle, trailer or semitrailer unless the lights are equipped, mounted and adjusted as to focus and aim in accordance with State regulations.

(b) The headlights on any motor vehicle shall comply with the headlamp color requirements contained in federal motor vehicle safety standard number 108, 49 C.F.R. 571.108. No person shall operate a motor vehicle in violation of this subsection.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.19)

737.18 MOTOR VEHICLE AND MOTORCYCLE BRAKES.

(a) The following requirements govern as to brake equipment on vehicles:

(1) Every motor vehicle, other than a motorcycle, when operated upon a street or highway, shall be equipped with brakes adequate to control the movement of and to stop and hold such 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.

737.20 MUFFLER; MUFFLER CUTOUT; EXCESSIVE SMOKE, GAS OR NOISE.

(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, by-pass 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 the person's 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 other 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.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.22)

737.21 REAR-VIEW MIRROR; CLEAR VIEW TO FRONT, BOTH SIDES AND REAR.

(a) Every motor vehicle and motorcycle shall be equipped with a mirror so located as to reflect to the operator a view of the street 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 or motorcycles and shall have a clear view to the rear of their vehicles or motorcycles by mirror.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.23)

737.22 WINDSHIELD AND WINDSHIELD WIPER; SIGN OR POSTER THEREON.

(a) No person shall drive any motor vehicle on a street or highway, other than a motorcycle or motorized bicycle, that is not equipped with a windshield.

(b) (1) No person shall drive any motor vehicle, other than a bus, with any sign, poster or other nontransparent material upon the front windshield, sidewings, side or rear windows of such vehicle other than a certificate or other paper required to be displayed by law, except that there may be in the lower left-hand or right-hand corner of the windshield a sign, poster or decal not to exceed four inches in height by six inches in width. No sign, poster or decal shall be displayed in the front windshield in such a manner as to conceal the vehicle identification number for the motor vehicle when in accordance with federal law, that number is located inside the vehicle passenger compartment and so placed as to be readable through the vehicle glazing without moving any part of the vehicle.

(2) Subsection (b)(1) of this section does not apply to a person who is driving a passenger car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if either of the following apply to the device:

A. It is a "vehicle safety technology" as defined in 49 C.F.R. §393.5 and complies with 49 C.F.R. §393.60(e)(1)(ii).

B. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals, and it does not conceal the vehicle identification number.

(3) Subsection (b)(1) of this section does not apply to a person who is driving a commercial car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if either of the following apply to the device:

A. It is a "vehicle safety technology" as defined in 49 C.F.R. §393.5 and complies with 49 C.F.R. §393.60(e)(1)(ii).

B. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals, and it is mounted not more than eight and one-half inches below the upper edge of the windshield.

(c) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield. The device shall be maintained in good working order and so constructed as to be controlled or operated by the operator of the vehicle.

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

(ORC 4513.24)

737.23 LIMITED LOAD EXTENSION ON LEFT SIDE OF PASSENGER VEHICLE.

(a) No passenger-type vehicle shall be operated on a street with any load carried on such vehicle which extends more than six inches beyond the line of the fenders on the vehicle's left side. (ORC 4513.30)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

737.24 MOTOR VEHICLE STOP LIGHTS.

(a) Every motor vehicle, trailer, semitrailer, and pole trailer when operated upon a street or highway shall be equipped with two or more stop lights, except that passenger cars manufactured or assembled prior to January 1, 1967, motorcycles, and motor-driven cycles shall be equipped with at least one stop light. Stop lights shall be mounted on the rear of the vehicle, actuated upon application of the service brake, and may be incorporated with other rear lights. Such stop lights when actuated shall emit a red light visible from a distance of five hundred feet to the rear, provided that in the case of a train of vehicles only the stop lights on the rear-most vehicle need be visible from the distance specified.

Such stop lights 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.

When stop lights 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 Ohio R.C. 4513.19.

CHAPTER 741

Commercial Drivers

741.01	Definitions.	741.04	Prohibitions.
741.02	Exemptions.	741.05	Criminal offenses.
741.03	Prerequisites to operation of a commercial motor vehicle.	741.06	Employment of drivers of commercial vehicles.

CROSS REFERENCES

See sectional histories for similar State law

Disqualification - see Ohio R.C. 4506.16

Suspension or revocation of license - see Ohio R.C. 4507.16

Warning devices when disabled on freeways - see Ohio R.C. 4513.28

Arrest notice of driver - see Ohio R.C. 5577.14

Load limits - see TRAF. Ch. 739

741.01 DEFINITIONS.

As used in this chapter:

- (a) "Alcohol concentration" means the concentration of alcohol in a person's blood, breath or urine. When expressed as a percentage, it means grams of alcohol per the following:
 - (1) One hundred milliliters of whole blood, blood serum, or blood plasma;
 - (2) Two hundred ten liters of breath;
 - (3) One hundred milliliters of urine.
- (b) "Commercial driver's license" means a license issued in accordance with Ohio R.C. Chapter 4506 that authorizes an individual to drive a commercial motor vehicle.
- (c) "Commercial motor vehicle" means any motor vehicle designed or used to transport persons or property that meets any of the following qualifications:
 - (1) Any combination of vehicles with a gross vehicle weight or combined gross vehicle weight rating of 26,001 pounds or more, provided the gross vehicle weight or gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds;
 - (2) Any single vehicle with a gross vehicle weight or gross vehicle weight rating of 26,001 pounds or more;
 - (3) Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport sixteen or more passengers including the driver;
 - (4) Any school bus with a gross vehicle weight or gross vehicle weight rating of less than 26,001 pounds that is designed to transport fewer than sixteen passengers including the driver;
 - (5) Is transporting hazardous materials for which placarding is required under subpart F of 49 C.F.R. part 172, as amended;

(6) Any single vehicle or combination of vehicles that is designed to be operated and to travel on a public street or highway and is considered by the Federal Motor Carrier Safety Administration to be a commercial motor vehicle, including, but not limited to, a motorized crane, a vehicle whose function is to pump cement, a rig for drilling wells, and a portable crane.

(d) "Controlled substance" means all of the following:

- (1) Any substance classified as a controlled substance under the "Controlled Substances Act," 80 Stat. 1242 (1970), 21 U.S.C.A. 802(6), as amended;
- (2) Any substance included in schedules I through V of 21 C.F.R. part 1308, as amended;
- (3) Any drug of abuse.

(e) "Disqualification" means any of the following:

- (1) The suspension, revocation, or cancellation of a person's privileges to operate a commercial motor vehicle;
- (2) Any withdrawal of a person's privileges to operate a commercial motor vehicle as the result of a violation of state or local law relating to motor vehicle traffic control other than parking, vehicle weight, or vehicle defect violations;
- (3) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. 391.

(f) "Drive" means to drive, operate or be in physical control of a motor vehicle.

(g) "Driver" means any person who drives, operates or is in physical control of a commercial motor vehicle or is required to have a commercial driver's license.

(h) "Driver's license" means a license issued by the Ohio Bureau of Motor Vehicles that authorizes an individual to drive.

(i) "Drug of abuse" means any controlled substance, dangerous drug as defined in Ohio R.C. 4729.01, harmful intoxicant as defined in Ohio R.C. 2925.01, or over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes.

(j) "Employer" means any person, including the Federal Government, any state and a political subdivision of any state, that owns or leases a commercial motor vehicle or assigns a person to drive such a motor vehicle.

(k) "Endorsement" means an authorization on a person's commercial driver's license that is required to permit the person to operate a specified type of commercial motor vehicle.

(l) "Farm truck" means a truck controlled and operated by a farmer for use in the transportation to or from a farm, for a distance of not more than one hundred fifty miles, of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm, from a distance of not more than one hundred fifty miles, of supplies for the farm, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock and poultry production, and livestock, poultry and other animals and things used for breeding, feeding, or other purposes connected with the operation of the farm, when the truck is operated in accordance with this subsection and is not used in the operations of a motor carrier, as defined in Ohio R.C. 4923.01.

(m) "Fatality" means the death of a person as the result of a motor vehicle accident occurring not more than three hundred sixty-five days prior to the date of a death.

In the event that the Director of Public Safety shall issue an order pursuant to the authority herein, such parking prohibition or limitation shall be designated and marked by appropriate signs informing the public of the same.

(Ord. 88-122. Passed 10-3-88.)

751.04 MANNER OF PARKING ON PRIVATE DRIVEWAYS.

(a) No person being the owner, lessee, agent or tenant having charge of lots or lands, shall customarily or seasonally park in excess of four motor vehicles in any driveway. The only exception to this requirement shall be in a circumstance where the owner, lessee, agent or tenant, or members of his or her immediate family own more than four motor vehicles and all garage space on such property is regularly in use for parking of the maximum number of automobiles or motor vehicles which such garage space can accommodate and where the driveway is of such length and width to accommodate the parking of more than four motor vehicles with no such motor vehicle extending onto the sidewalk or public right-of-way.

(b) For the purposes of this section, a driveway is limited to the width of the garage extending to the public right of way. Any further extensions of the parking area must be approved by the Municipal Planning Commission.

(c) Nothing in this section shall invalidate the provisions of other ordinances regulating or prohibiting the manner of parking on streets, highways, public property or private property within the Municipality.

(Ord. 88-122. Passed 10-3-88.)

751.05 MISCELLANEOUS PROHIBITIONS.

No person shall park a vehicle upon any street or thoroughfare within the City for the purpose of:

- (a) Displaying such vehicle for sale;
- (b) Washing, waxing or otherwise cleaning such vehicle; or
- (c) Maintaining or repairing such vehicle.

(Ord. 88-122. Passed 10-3-88.)

751.06 PARKING FOR PHYSICALLY LIMITED PERSONS.

(a) Accessible parking locations and privileges for persons with disabilities that limit or impair the ability to walk 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 access and shall be reasonably close to exits, entrances, elevators, and ramps. All elevated signs posted in accordance with this division and Ohio R.C. 3781.111(C) shall be mounted on a fixed or movable post, and the distance from the ground to the bottom edge of the sign shall measure not less than five feet. If a new sign or a replacement sign designating an accessible parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the designated accessible parking location if the motor vehicle is not legally entitled to be parked in that location.

(b) (1) A. No person shall stop, stand or park any motor vehicle at accessible parking locations provided under subsection (e) of this section, or at accessible clearly marked parking locations provided in or on privately owned parking lots, parking garages, or other parking areas and designated in accordance with that division, unless one of the following applies:

1. The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or accessible license plates; or
2. The motor vehicle is being operated by or for the transport of a person with a disability and is displaying a parking card or accessible license plates.

B. Any motor vehicle that is parked in an accessible marked parking location in violation of subsections (f)(1)A.1. or (f)(1)A.2. of this section may be towed or otherwise removed from the parking location by the law enforcement agency of the municipality. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by the municipality for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it shall not be released to the lessee until the lessee presents proof that the person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by the municipality for towing and storing motor vehicles.

C. If a person is charged with a violation of subsections (f)(1)A.1. or (f)(1)A.2. of this section, it is an affirmative defense to the charge that the person suffered an injury not more than seventy-two hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria contained in Ohio R.C. 4503.44(A)(1).

(2) No person shall stop, stand, or park any motor vehicle in an area that is commonly known as an access aisle, which area is marked by diagonal strips and is located immediately adjacent to an accessible parking location provided under subsection (e) of this section or at an accessible clearly marked parking location provided in or on a privately owned parking lot, parking garage, or other parking area and designated in accordance with that division.

(c) When a motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a removable windshield placard or a temporary removable windshield placard or accessible license plates, or when a motor vehicle is being operated by or for the transport of a person with a disability, and is displaying a parking card or accessible license plates, the motor vehicle is permitted to park for a period of two 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.

(d) No owner of an office, facility, or parking garage where accessible parking locations are required to be designated in accordance with subsection (e) of this section shall fail to properly mark the accessible parking locations in accordance with that division or fail to maintain the markings of the accessible locations, including the erection and maintenance of the fixed or movable signs.

(e) Nothing in this section shall be construed to require a person or organization to apply for a removable windshield placard or accessible license plates if the parking card or accessible license plates, issued to the person or organization under prior law have not expired or been surrendered or revoked.

(f) As used in this section:

- (1) "Accessible license plates" and "removable windshield placard" mean any license plates or removable windshield placard or temporary removable windshield placard issued under Ohio R.C. 4503.41 or 4503.44, and also mean any substantially equivalent license plates or removable windshield placard or temporary removable windshield placard issued by a state, district, country, or sovereignty.
- (2) "Person with a disability" means any person who has lost the use of one or both legs or one or both arms, who is blind, deaf, or unable to move without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary or other disabling condition.
- (3) "Person with a disability that limits or impairs the ability to walk" has the same meaning as in Ohio R.C. 4503.44. (ORC 4511.69)

751.07 SNOW EMERGENCY; PARKING PROHIBITION.

(a) When, in the opinion of the Director of Public Safety, a snowfall of approximately two inches in depth has occurred, thereby creating an emergency to the public safety, and impairing the transportation of vital City services necessary for the health and welfare of the residents of the City, the Director may declare a snow emergency until such time as snow removal operations shall be completed.

(b) Upon the determination of a snow emergency, the Director of Public Safety shall announce the same by use of local radio and television media, as to times of the beginning and end of such snow emergency.

(c) Upon the declaration of a snow emergency, no person shall park any motor vehicle upon any street or thoroughfare within the City.

(Ord. 88-122. Passed 10-3-88.)

751.08 PARKING OF COMMERCIAL VEHICLES PROHIBITED; EXCEPTIONS/EXEMPTIONS FOR CERTAIN VEHICLES.

(a) No person shall stand or park any commercial vehicle with a gross empty weight of 5,000 pounds or more on any residential property within the City for any purpose or length of time other than for the expeditious unloading and delivery or pick-up and loading of materials.

(b) Exception/Exemption Permitted Under Certain Circumstances. An owner or driver of a commercial vehicle which is used in the servicing of medical facilities or emergency services facilities or the equipment providing emergency power to such facilities and who is subject to being "on call" 24 hours a day and seven days a week to perform such services, may apply to the Mayor or his designee for a specific exemption to this parking prohibition for the property owned or occupied by such person. In determining whether to grant the exception/exemption requested, the Mayor or his designee shall consider the following:

- (1) That there is a driveway made of concrete, asphalt or some other suitable smooth hard surface in good condition and good repair on which the vehicle is to be parked.
- (2) That when parked, no portion of such motor vehicle will materially impair the visibility of drivers, pedestrians, bicyclists or others using the road, sidewalk or other portions of the public right of way.

- (3) That the request is accompanied by supporting documentation of necessity.
- (4) That no vehicle which is part of a semi tractor-trailer combination may be issued an exception/exemption.
- (5) That no more than one exception/exemption for one vehicle may be issued for any property. (Ord. 2014-75. Passed 10-6-14.)

751.09 PARKING PROHIBITIONS ON PRIVATE PROPERTY.

If an owner of private property posts on the property, in a conspicuous manner, signage specifically referring to this section and prohibiting parking on the property or stating conditions and regulations under which parking is permitted, no person shall do either of the following:

- (a) Park a vehicle on the property without the owner's consent;
- (b) Park a vehicle on the property in violation of any condition or regulation posted by the owner.

751.10 ABANDONED VEHICLES OR MOTOR VEHICLES.

(a) For the purpose of this section, an "abandoned motor vehicle" or "abandoned vehicle" means any motor vehicle ordinarily mounted on wheels or capable of being propelled from place to place either by its own power or power supplied by some vehicle attached or to be attached thereto, not stored in a garage, which is dismantled, inoperative or unlicensed, standing or parked on any lots or lands in the City, unless it is kept in a completely enclosed, authorized building or garage.

(b) No person shall willfully abandon any vehicle or motor vehicle on any property within the City.

(c) When any motor vehicle that is inoperative through failure of the engine or transmission or other mechanical parts, and being unsafe for operation, continues to remain upon such lots or lands and is or becomes a threat or menace to the health, safety and welfare of the City and its inhabitants, and notwithstanding the penalty contained in Section 751.99, the Director of Public Safety shall cause written notice and demand to be served upon the owner of the abandoned vehicle or abandoned motor vehicle that such vehicle shall be removed from such premises within three working days after the service of such notice. In the event that the owner fails to remove the vehicle, or to contact the Director of Public Safety or his designee within three working days of receipt of such notice, then thereafter the City, under the direction of the Director of Public Safety or his designee, may remove such vehicle and cause it to be placed in storage, all at the owners expense. If the owner is a non-resident, the notice shall be sent to the owners last address of record by registered mail. Any police officer may make service and return of the notice provided for in this section.

(d) Any person who has been notified to move a vehicle, who fails to do so within three working days of notice, shall be guilty of a misdemeanor of the first degree. (Ord. 88-133. Passed 11-21-88.)

751.11 ABANDONED JUNK MOTOR VEHICLE.

(a) "Abandoned junk motor vehicle" means any motor vehicle meeting two or more of the following requirements:

- (1) Left on private property for more than seventy-two hours without the permission of the person having the right to the possession of the property, on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer;
- (2) Extensively damaged, such damage including but not limited to any of the following: missing wheels, tires, motor, or transmission;

(3) Apparently inoperable;

(b) No person shall willfully leave an abandoned junk motor vehicle on private property for more than seventy-two hours without the permission of the person having the right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right of way of any road for forty-eight hours or longer without notification to the Chief of Police of the reasons for leaving the motor vehicle in such place.

(c) For purposes of this section, the fact that a motor vehicle has been so left without permission or notification is *prima-facia* evidence of abandonment.

(Ord. 88-122. Passed 10-3-88.)

751.12 LICENSE REGISTRANT LIABLE.

At any trial conducted pursuant to this chapter, testimony that the vehicle which is the subject of the charge bear a license plate issued by the Ohio Division of Motor Vehicles to the named defendant, shall be *prima facia* evidence that the vehicle alleged to be in violation was parked by such defendant.

(Ord. 88-122. Passed 10-3-88.)

751.13 POLICE MAY REMOVE UNATTENDED VEHICLE WHICH OBSTRUCTS TRAFFIC.

(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.

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 do not apply to any of the following:

- (1) A motor vehicle that is parked on residential property;
- (2) A motor vehicle that is locked, regardless of where it is parked;
- (3) An emergency vehicle;
- (4) A public safety vehicle.

751.14 OPENING VEHICLE DOOR ON TRAFFIC SIDE.

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.

(ORC 4511.70(C))

751.15 LIMITATIONS ON SALE OF MOTOR VEHICLES IN RESIDENTIAL DISTRICTS.

(a) "Sale of motor vehicles" means advertising that a motor vehicle is for sale, putting a sign in, on or near a motor vehicle that indicates a motor vehicle is for sale, showing a motor vehicle to a prospective buyer, exchanging money or any other type of consideration for a motor vehicle, exchanging the title of a motor vehicle, or otherwise making a motor vehicle available for sale.

(b) The sale of motor vehicles from residential lots in the R-SF-A, R-SF-B and R-T zoning districts, shall be limited as follows:

- (1) All motor vehicles offered or available for sale must be titled to either an owner or occupant of the residential lot;

- (2) All motor vehicles offered or available for sale must be operable;
- (3) All motor vehicles offered or available for sale must be stored on a hard surface driveway or parking area;
- (4) Only one motor vehicle may be offered or available for sale at a time; and
- (5) The offering for sale of motor vehicles is limited to two (2) motor vehicles per residential zoning lot per year.

(c) Under special circumstances, the owner or occupant of a residential lot may petition the Municipal Planning Commission for a limited exception to the above requirements and limitations. The Municipal Planning Commission may grant a permit for the sale of motor vehicles that does not comply with the requirements stated in Section 751.15(b). When reviewing an application for such a permit, the Planning Commission shall consider: the number of motor vehicles to be sold; the size of the lot from which the motor vehicles will be sold; the number of drivers living on the lot; and the appropriateness of multiple motor vehicle sales in the one-year period and the duration or extent of any exception and any other factors negatively impacting upon the use and employment of the neighborhood or its residents.

(d) Any person offering or making available for sale a motor vehicle in a R-SF-A, R-SF-B or R-T zoning district other than as provided in subsection (b) or (c) hereof, shall be guilty of the Unauthorized Sale of a Motor Vehicle in a Residential District and be subject to the penalties as contained in Section 751.99 of the Codified Ordinances (Misdemeanor of the Fourth Degree). (Ord. 2007-38. Passed 6-4-07.)

751.99 PENALTY; WAIVER.

(a) A motor vehicle parking in violation of any provision of this chapter may be removed upon the order of any officer of the Division of Police, and impounded at a location reasonably close to the City. Any person found guilty of a violation of this chapter, resulting in such removal and impoundment, shall be responsible for, and shall pay, all reasonable costs of such removal and impoundment, including towing and storage fees, if any. Any person being the owner of a vehicle towed and stored by the City pursuant to the provisions of Section 751.10(c) shall be responsible for and shall pay all reasonable costs of such removal and storage.

(b) If no other penalty is specified, whoever is found guilty of violating any provisions of this chapter is guilty of a misdemeanor of the fourth degree and subject to the penalties provided for the same by statute. Any person found guilty of more than three violations of this chapter in any six month period is guilty of a misdemeanor of the third degree for each such subsequent violation, and is subject to the penalties provided for the same by statute. The six-month period referred to herein commences on the date of the conviction or waiver upon the first violation. (Ord. 88-133. Passed 11-21-88.)

(c) Whoever is charged with the violation of Sections 751.01, 751.02, (except 751.02(p)), 751.03, 751.04, 751.05, 751.07, 751.08, 751.09 or 751.11(b) may, in lieu of charge, trial, finding and penalty, pay the sum of twenty dollars (\$20.00) or, in the case of a violation of 751.02(p) (fire lane parking violation) or 751.06 (handicap parking violation), pay the sum of fifty dollars (\$50.00) at the Traffic Violations Bureau, in person or by mail, within forty-eight hours of such violation, together with the execution of a written waiver of all further rights granted to persons charged with the commission of a crime.

(d) In the event that the waiver and sum provided in Section 751.99(c), above, is not executed and paid, the person charged with such violation may pay the sum of thirty dollars (\$30.00) at the Traffic Violation Bureau, in person or by mail, within fifteen days following the date of such violation, together with the execution of a written waiver of all further rights granted to persons charged with the commission of a crime.

(Ord. 2004-9. Passed 2-17-04.)

(e) The execution of the written waiver, as set out herein, shall be deemed a plea of guilty, waiver of court appearance, and acknowledgment of conviction of the violation alleged, and may be accepted, together with the monetary sum set out herein above, in full satisfaction of the penalty prescribed by ordinance upon conviction of a violation of any provision of this chapter. (Ord. 88-133. Passed 11-21-88.)

**CODIFIED ORDINANCES OF BEREAL
PART NINE - GENERAL OFFENSES CODE**

**CHAPTER 901
General Provisions and Penalty**

901.01	Definitions.	901.08	Culpable mental states.
901.02	Classification of offenses.	901.09	Attempt.
901.03	Common law offenses abrogated.	901.10	Complicity.
901.04	Rules of construction.	901.11	Organizational criminal liability.
901.05	Criminal law jurisdiction.	901.12	Personal accountability for organizational conduct.
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901.07	Requirements for criminal liability.	901.14	Conspiracy.
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CROSS REFERENCES

See sectional histories for similar State law
 Limitation of prosecution for income tax violations - see Ohio R.C. 718.06
 Modification of sentence - see Ohio R.C. 2929.10(C), (D)
 Penalty considerations - see Ohio R.C. 2929.22
 Citation issuance for minor misdemeanors - see Ohio
 R.C. 2935.26 et seq.

901.01 DEFINITIONS.

As used in the Codified Ordinances:

- (a) "Force" means any violence, compulsion or constraint physically exerted by any means upon or against a person or thing.
- (b) "Deadly force" means any force that carries a substantial risk that it will proximately result in the death of any person.
- (c) "Physical harm to persons" means any injury, illness or other physiological impairment, regardless of its gravity or duration.
- (d) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.
- (e) "Serious physical harm to persons" means any of the following:
 - (1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
 - (2) Any physical harm that carries a substantial risk of death;
 - (3) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;

- (4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;
- (5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.
- (f) "Serious physical harm to property" means any physical harm to property that does either of the following:
 - (1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;
 - (2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use and enjoyment for an extended period of time.
- (g) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.
- (h) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.
- (i) "Offense of violence" means any of the following:
 - (1) A violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.18, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2917.321, 2919.25, 2921.03, 2921.04, 2921.34, 2923.161, 2903.34(A)(1), 2911.12(A)(1) to (3) or 2919.22(B)(1) to (4), or felonious sexual penetration in violation of former Ohio R.C. 2907.12;
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section listed in subsection (i)(1) hereof;
 - (3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed, purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;
 - (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (i)(1), (2) or (3) hereof.
 - (5) A violation of division (C) of Ohio R.C. 959.131.
- (j) (1) "Property" means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. "Financial instruments associated with computers" include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.
(2) As used in this section, "trade secret" has the same meaning as in Ohio R.C. 1333.61, and "telecommunications service" and "information service" have the same meanings as in Ohio R.C. 2913.01.

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

(k) "Law enforcement officer" means any of the following:

- (1) A sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D) or State highway patrol trooper;
- (2) An officer, agent or employee of the State or any of its agencies, instrumentalities or political subdivisions, upon whom, by statute, Charter or ordinance, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;
- (3) A mayor or manager in the mayor's or manager's capacity as chief conservator of the peace within the mayor's or manager's municipal corporation;
- (4) A member of an auxiliary police force organized by county, township or municipal law enforcement authorities, within the scope of the member's appointment or commission;
- (5) A person lawfully called pursuant to Ohio R.C. 311.07 to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;
- (6) A person appointed by a mayor pursuant to Ohio R.C. 737.10 as a special patrolling officer during riot or emergency, for the purposes and during the time when the person is appointed;
- (7) A member of the organized militia of this State or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;
- (8) A prosecuting attorney, assistant prosecuting attorney, secret service officer or municipal prosecutor;
- (9) A veterans' home police officer appointed under Ohio R.C. 5907.02;
- (10) A member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y);
- (11) A special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28;
- (12) The Senate Sergeant of Arms and or Assistant Sergeant at Arms;
- (13) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in Section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States Department of Transportation as provided in Parts 1542 and 1544 of Title 49 of the Code of Federal Regulations, as amended.

(l) "Privilege" means an immunity, license or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office or relationship, or growing out of necessity.

(m) "Contraband" means any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. "Contraband" includes, but is not limited to, all of the following:

(1) Any controlled substance, as defined in Ohio R.C. 3719.01, or any device, or paraphernalia;

(2) Any unlawful gambling device, or paraphernalia;

(3) Any dangerous ordnance or obscene material.

(n) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in Ohio R.C. 2901.05, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of the person's acts.

(o) (1) A. Subject to subsection (o)(2) hereof, as used in any section contained in Part Nine - General Offenses Code that sets forth a criminal offense, "person" includes all of the following:

1. An individual, corporation, business trust, estate, trust, partnership, and association;
2. An unborn human who is viable.

B. As used in any section contained in Part Nine - General Offenses Code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, trust, partnership and association.

C. As used in subsection (o)(1)A. hereof:

1. "Unborn human" means an individual organism of the species *Homo sapiens* from fertilization until live birth.
2. "Viable" means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.

(2) Notwithstanding subsection (o)(1)A. hereof, in no case shall the portion of the definition of the term "person" that is set forth in subsection (o)(1)A.2. hereof be applied or construed in any section contained in Part Nine - General Offenses Code that sets forth a criminal offense in any of the following manners:

A. Except as otherwise provided in subsection (o)(2)A. hereof, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate Ohio R.C. 2919.12, division (B) of Ohio R.C. 2919.13, or Ohio R.C. 2919.151, 2919.17 or 2919.18, may be punished as a violation of Ohio R.C. 2919.12, division (B) of Ohio R.C. 2919.13, or Ohio R.C. 2919.151, 2919.17 or 2919.18, as applicable. Consent is sufficient under this subsection if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with Ohio R.C. 2919.12.

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

1. Her delivery of a stillborn baby;

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

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

(q) "School", "school building" and "school premises" have the same meaning as in Ohio R.C. 2925.01.

(r) "School activity" means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Ohio R.C. Chapter 3314; a governing body of an educational service center; or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07.

(s) "School bus" has the same meaning as in Ohio R.C. 4511.01.
(ORC 2901.01)

901.02 CLASSIFICATION OF OFFENSES.

As used in the Codified Ordinances:

(a) Offenses include misdemeanors of the first, second, third and fourth degree, minor misdemeanors and offenses not specifically classified.

(b) Regardless of the penalty that 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 that may be imposed is one of the following:

- (1) For an offense committed prior to January 1, 2004, a fine not exceeding one hundred dollars (\$100.00);
- (2) For an offense committed on or after January 1, 2004, a fine not exceeding one hundred fifty dollars (\$150.00), community service under division (D) of Ohio R.C. 2929.27, or a financial sanction other than a fine under Ohio R.C. 2929.28. (ORC 2901.02)

901.03 COMMON LAW OFFENSES ABROGATED.

(a) No conduct constitutes a criminal offense against the Municipality unless it is defined as an offense in the Codified Ordinances or any other Municipal ordinance.

(b) An offense is defined when one or more sections of the Codified Ordinances state a positive prohibition or enjoin a specific duty, and provide a penalty for violation of such prohibition or failure to meet such duty.

(c) This section does not affect the power of a court to punish for contempt or to employ any sanction authorized by law to enforce an order, civil judgment or decree.
(ORC 2901.03)

901.04 RULES OF CONSTRUCTION.

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

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

(c) Any provision of a section of the Codified Ordinances that refers to a previous conviction of or plea of guilty to a violation of a section of the Codified Ordinances or Ohio Revised Code or of a division of a section of the Codified Ordinances or Ohio Revised Code shall be construed to also refer to a previous conviction of or plea of guilty to a substantially equivalent offense under an existing or former law of this State, another state, or the United States or under an existing or former municipal ordinance.

(d) Any provision of the Codified Ordinances that refers to a section, or to a division of a section, of the Codified Ordinances that defines or specifies a criminal offense shall be construed to also refer to an existing or former law of this State, another state, or the United States, to an existing or former municipal ordinance, or to an existing or former division of any such existing or former law or ordinance that defines or specifies, or that defined or specified, a substantially equivalent offense. (ORC 2901.04)

901.05 CRIMINAL LAW JURISDICTION.

(a) A person is subject to misdemeanor prosecution and punishment in this Municipality if any of the following occur:

- (1) The person commits an offense under the laws of this Municipality, any element of which takes place in this Municipality.
- (2) While in this Municipality, the person attempts to commit, or is guilty of complicity in the commission of, an offense in another jurisdiction, which offense is an offense under both the laws of this Municipality or this State and the other jurisdiction, or, while in this Municipality, the person conspires to commit an offense in another jurisdiction, which offense is an offense under both the laws of this Municipality or this State and the other jurisdiction, and a substantial overt act in furtherance of the conspiracy is undertaken in this Municipality by the person or another person involved in the conspiracy, subsequent to the person's entrance into the conspiracy. In any case in which a person attempts to commit, is guilty of complicity in the commission of, or conspires to commit an offense in another jurisdiction as described in this subsection, the person is subject to criminal prosecution and punishment in this Municipality for the attempt, complicity, or conspiracy, and for any resulting offense that is committed or completed in the other jurisdiction.
- (3) While out of this Municipality, the person conspires or attempts to commit, or is guilty of complicity in the commission of, an offense in this Municipality.
- (4) While out of this Municipality, the person omits to perform a legal duty imposed by the laws of this Municipality, which omission affects a legitimate interest of the Municipality in protecting, governing or regulating any person, property, thing, transaction or activity in this Municipality.

(2) After conspiring to commit an offense, the actor abandoned the conspiracy prior to the commission of or attempt to commit any offense that was the object of the conspiracy, either by advising all other conspirators of the actor's abandonment, or by informing any law enforcement authority of the existence of the conspiracy and of the actor's participation in the conspiracy.

(j) Whoever violates this section is guilty of conspiracy, which is a misdemeanor of the first degree, when the most serious offense that is the object of the conspiracy is a felony of the fifth degree.

(k) This section does not define a separate conspiracy offense or penalty where conspiracy is defined as an offense by one or more sections of this Code, other than this section. In such a case, however:

- (1) With respect to the offense specified as the object of the conspiracy in the other section or sections, subsection (a) hereof defines the voluntary act or acts and culpable mental state necessary to constitute the conspiracy;
- (2) Subsections (b) to (i) hereof are incorporated by reference in the conspiracy offense defined by the other section or sections of this Code.

(l) (1) In addition to the penalties that otherwise are imposed for conspiracy, a person who is found guilty of conspiracy to engage in a pattern of corrupt activity is subject to divisions (B)(2) and (3) of Ohio R.C. 2923.32, division (A) of Ohio R.C. 2981.04 and division (D) of Ohio R.C. 2981.06.

(2) If a person is convicted of or pleads guilty to conspiracy and if the most serious offense that is the object of the conspiracy is a felony drug trafficking, manufacturing, processing or possession offense, in addition to the penalties or sanctions that may be imposed for the conspiracy under subsection (j) hereof and Ohio R.C. Chapter 2929, both of the following apply:

- A. The provisions of divisions (D), (F) and (G) of Ohio R.C. 2925.03, division (D) of Ohio R.C. 2925.04, division (D) of Ohio R.C. 2925.05, division (D) of Ohio R.C. 2925.06 and division (E) of Ohio R.C. 2925.11 that pertain to mandatory and additional fines, driver's or commercial driver's license or permit suspensions, and professionally licensed persons and that would apply under the appropriate provisions of those divisions to a person who is convicted of or pleads guilty to the felony drug trafficking, manufacturing, processing, or possession offense that is the most serious offense that is the basis of the conspiracy shall apply to the person who is convicted of or pleads guilty to the conspiracy as if the person had been convicted or pleaded guilty to the felony drug trafficking, manufacturing, processing or possession offense that is the most serious offense that is the basis of the conspiracy.
- B. The court that imposes sentence upon the person who is convicted of or pleads guilty to the conspiracy shall comply with the provisions identified as being applicable under subsection (l)(2) of this section, in addition to any other penalty or sanction that it imposes for the conspiracy under subsection (j) of this section and Ohio R.C. Chapter 2929.

(m) As used in this section:

- (1) "Felony drug trafficking, manufacturing, processing or possession offense" means any of the following that is a felony:
 - A. A violation of Ohio R.C. 2925.03, 2925.04, 2925.05, or 2925.06;
 - B. A violation of Ohio R.C. 2925.11 that is not a minor drug possession offense.
- (2) "Minor drug possession offense" has the same meaning as in Ohio R.C. 2925.01. (ORC 2923.01)

901.99 PENALTIES FOR MISDEMEANORS.

(a) Financial Sanctions. In addition to imposing court costs pursuant to Ohio R.C. 2947.23, the court imposing a sentence upon an offender for a misdemeanor committed under the Codified Ordinances, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section and, if the offender is being sentenced for a criminal offense as defined in Ohio R.C. 2930.01, shall sentence the offender to make restitution pursuant to this section and Ohio R.C. 2929.281. If the court, in its discretion or as required by this section, imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(1) Restitution.

- A. Unless the misdemeanor offense could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender's crime or the victim's estate, in an amount based on the victim's economic loss. The court may not impose restitution as a sanction pursuant to this section if the offense could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.
- B. The court shall determine the amount of restitution to be paid by the offender. The victim, victim's representative, victim's attorney, if applicable, the prosecutor or the prosecutor's designee, and the offender may provide information relevant to the determination of the amount of restitution. The amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court imposes restitution for the cost of accounting or auditing done to determine the extent of economic loss, the court may order restitution for any amount of the victim's costs of accounting or auditing provided that the amount of restitution is reasonable and does not exceed the value of property or services stolen or damaged as a result of the offense. If the court decides to or is required to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim, victim's representative, victim's attorney, if applicable, or victim's estate disputes the amount of restitution. The court shall determine the amount of full restitution by a preponderance of the evidence.
- C. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or the victim's estate against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under Ohio R.C. 3937.18.

- D. The court may order that the offender pay a surcharge, of not more than five percent (5%) of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.
- E. The victim, victim's attorney, if applicable, or the attorney for the victim's estate may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate but shall not reduce the amount of restitution ordered, except as provided in Ohio R.C. 2929.281(A).

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

- A. For a misdemeanor of the first degree, not more than one thousand dollars (\$1,000);
- B. For a misdemeanor of the second degree, not more than seven hundred fifty dollars (\$750.00);
- C. For a misdemeanor of the third degree, not more than five hundred dollars (\$500.00);
- D. For a misdemeanor of the fourth degree, not more than two hundred fifty dollars (\$250.00);
- E. For a minor misdemeanor, not more than one hundred fifty dollars (\$150.00).

(3) Reimbursement of costs of sanctions.

- A. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:
 1. All or part of the costs of implementing any community control sanction, including a supervision fee under Ohio R.C. 2951.021 and the costs of global positioning system device monitoring;
 2. All or part of the costs of confinement in a jail or other residential facility, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined.
- B. The amount of reimbursement ordered under subsection (a)(3)A. of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that subsection. If the court does not order reimbursement under that subsection, confinement costs may be assessed pursuant to a repayment policy adopted under Ohio R.C. 2929.37. In addition, the offender may be required to pay the fees specified in Ohio R.C. 2929.38 in accordance with that section. (ORC 2929.28)

(b) Jail Terms.

(1) Except as provided in Ohio R.C. 2929.22 or 2929.23 of the Revised Code, and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this General Offenses Code, the court shall impose a definite jail term that shall be one of the following:

- A. For a misdemeanor of the first degree, not more than one hundred eighty days;
- B. For a misdemeanor of the second degree, not more than ninety days;
- C. For a misdemeanor of the third degree, not more than sixty days;
- D. For a misdemeanor of the fourth degree, not more than thirty days.

(2) A court that sentences an offender to a jail term under this section may permit the offender to serve the sentenced in intermittent confinement or may authorize a limited release of the offender as provided in Ohio R.C. 2929.26(B). The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.

- B. 1. If a prosecutor, as defined in Ohio R.C. 2935.01, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.
- 2. If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.

(3) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to Ohio R.C. 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.

(4) If a person is sentenced to a jail term pursuant to this section, the court may impose as part of the sentence pursuant to Ohio R.C. 2929.28 a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to Ohio R.C. 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and Ohio R.C. 2929.37, both of the following apply:

CHAPTER 909
Disorderly Conduct and Peace Disturbance

909.01	Riot.	909.06	Inducing panic.
909.02	Failure to disperse.	909.07	Making false alarms.
909.03	Disorderly conduct; intoxication.	909.08	Impeding public passage of an emergency service responder.
909.04	Disturbing a lawful meeting.	909.99	Penalty.
909.05	Misconduct at an emergency.		

CROSS REFERENCES

See sectional histories for similar State law
 Use of force to suppress riot - see Ohio R.C. 2917.05
 Cordon off riot areas, prohibiting sales of firearms
 and explosives - see Ohio R.C. 3761.16
 Emergency suspension of permits and sales by Director of
 Liquor Control - see Ohio R.C. 4301.251
 Criminal trespass - see GEN. OFF. 941.05

909.01 RIOT.

(a) No person shall participate with four or more others in a course of disorderly conduct in violation of Section 909.03:

- (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 such institution.

(b) No person shall participate with four or more others with purpose to do an act with unlawful force or violence, even though such act might otherwise be lawful.

(c) Whoever violates this section is guilty of riot, a misdemeanor of the first degree.
 (ORC 2917.03)

909.02 FAILURE TO DISPERSE.

(a) Where five or more persons are participating in a course of disorderly conduct in violation of Section 909.03, 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 such other persons to disperse. No person shall knowingly fail to obey such order.

(b) Nothing in this section requires persons to disperse who are peaceably assembled for a lawful purpose.

(c) (1) Whoever violates this section is guilty of failure to disperse.
(2) Except as otherwise provided in subsection (c)(3) hereof, failure to disperse is a minor misdemeanor.
(3) Failure to disperse is a misdemeanor of the fourth degree if the failure to obey the order described in subsection (a) hereof, creates the likelihood of physical harm to persons or is committed at the scene of a fire, accident, disaster, riot, or emergency of any kind. (ORC 2917.04)

909.03 DISORDERLY CONDUCT; INTOXICATION.

(a) No person shall recklessly cause inconvenience, annoyance or alarm to another by doing any of the following:

(1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;
(2) Making unreasonable noise or offensively coarse utterance, gesture or display, or communicating unwarranted and grossly abusive language to any person, which by its very utterance or usage inflicts injury or tends to incite an immediate breach of the peace;
(3) Insulting, taunting or challenging another, under circumstances in which such conduct is likely to provoke a violent response;
(4) Hindering or preventing the movement of persons on a public street, road, highway or right of way, or to, from, within or upon public or private property, so as to interfere with the rights of others, and by any act which serves no lawful and reasonable purpose of the offender;
(5) Creating a condition which is physically offensive to persons or which presents a risk of physical harm to persons or property, by any act which serves no lawful and reasonable purpose of the offender.

(b) No person, while voluntarily intoxicated shall do either of the following:
(1) In a public place or in the presence of two or more persons, engage in conduct likely to be offensive or to cause inconvenience, annoyance or alarm to persons of ordinary sensibilities, which conduct the offender, if he were not intoxicated, should know is likely to have such effect on others;
(2) Engage in conduct or create a condition which presents a risk of physical harm to himself or another, or to the property of another.

(c) Violation of any statute or ordinance of which an element is operating a motor vehicle, locomotive, watercraft, aircraft or other vehicle while under the influence of alcohol or any drug of abuse, is not a violation of subsection (b) hereof.

(d) If a person appears to an ordinary observer to be intoxicated, it is probable cause to believe that person is voluntarily intoxicated for purposes of subsection (b) hereof.

(e) (1) Whoever violates this section is guilty of disorderly conduct.
(2) Except as otherwise provided in this subsection (e)(3) and (e)(4), disorderly conduct is a minor misdemeanor.

- (3) Disorderly conduct is a misdemeanor of the fourth degree if any of the following applies:
 - A. The offender persists in disorderly conduct after reasonable warning or request to desist.
 - B. The offense is committed in the vicinity of a school or in a school safety zone.
 - C. The offense is committed in the presence of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person who is engaged in the person's duties at the scene of a fire, accident, disaster, riot or emergency of any kind.
 - D. The offense is committed in the presence of any emergency facility person who is engaged in the person's duties in an emergency facility.
- (4) If an offender previously has been convicted of or pleaded guilty to three or more violations of subsection (b) of this section, a violation of subsection (b) of this section is a misdemeanor of the fourth degree.

(f) As used in this section:

- (1) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
- (2) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
- (3) "Emergency facility" has the same meaning as in Ohio R.C. 2909.04.
- (4) "Committed in the vicinity of a school" has the same meaning as in Ohio R.C. 2925.01. (ORC 2917.11)

909.04 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 such meeting, procession or gathering;
- (2) Make any utterance, gesture or display which outrages the sensibilities of the group.

(b) Whoever violates this section is guilty of disturbing a lawful meeting. Except as otherwise provided in this section, disturbing a lawful meeting is a misdemeanor of the fourth degree. Disturbing a lawful meeting is a misdemeanor of the first degree if either of the following applies:

- (1) The violation is committed with the intent to disturb or disquiet any assemblage of people met for religious worship at a tax-exempt place of worship, regardless of whether the conduct is within the place at which the assemblage is held or is on the property on which that place is located and disturbs the order and solemnity of the assemblage.
- (2) The violation is committed with the intent to prevent, disrupt, or interfere with a virtual meeting or gathering of people for religious worship, through use of a computer, computer system, telecommunications device, or other electronic device or system, or in any other manner.

(c) As used in this section:

- (1) "Computer" has the same meaning as in Ohio R.C. 2913.01.
- (2) "Computer system" has the same meaning as in Ohio R.C. 2913.01.

- (3) "Telecommunications device" has the same meaning as in Ohio R.C. 2913.01.
- (4) "Virtual meeting or gathering" means a meeting or gathering by interactive video conference or teleconference, or by a combination thereof. (ORC 2917.12)

909.05 MISCONDUCT AT AN EMERGENCY.

- (a) No person shall knowingly do any of the following:
 - (1) Hamper the lawful operations of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person, engaged in the person's duties at the scene of a fire, accident, disaster, riot, or emergency of any kind;
 - (2) Hamper the lawful activities of any emergency facility person who is engaged in the person's duties in an emergency facility;
 - (3) Fail to obey the lawful order of any law enforcement officer engaged in the law enforcement officer's duties at the scene of or in connection with a fire, accident, disaster, riot, or emergency of any kind.

(b) Nothing in this section shall be construed to limit access or deny information to any news media representative in the lawful exercise of the news media representative's duties.

(c) Whoever violates this section is guilty of misconduct at an emergency. Except as otherwise provided in this subsection, misconduct at an emergency is a misdemeanor of the fourth degree. If a violation of this section creates a risk of physical harm to persons or property, misconduct at an emergency is a misdemeanor of the first degree.

- (d) As used in this section:
 - (1) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
 - (2) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
 - (3) "Emergency facility" has the same meaning as in Ohio R.C. 2909.04. (ORC 2917.13)

909.06 INDUCING PANIC.

- (a) No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:
 - (1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that such report or warning is false;
 - (2) Threatening to commit any offense of violence;
 - (3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

(b) Division (a) hereof does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of inducing panic, a misdemeanor of the first degree. If inducing panic results in physical harm to any person, economic harm of one thousand dollars (\$1,000) or more, if the public place involved in a violation of this section is a school or an institution of higher education, or if the violation pertains to a purported, threatened or actual use of a weapon of mass destruction, inducing panic is a felony and shall be prosecuted under appropriate State law.

(d) Any act that is a violation of this section and any other section of the Codified Ordinances may be prosecuted under this section, the other section, or both sections.

(e) As used in this section:

(1) "Economic harm" means any of the following:

A. All direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" as described in this division includes, but is not limited to, all of the following:

1. All wages, salaries, or other compensation lost as a result of the criminal conduct;
2. The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
3. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
4. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

B. All costs incurred by the Municipality as a result of, or in making any response to, the criminal conduct that constituted the violation of this section or Section 909.07, including, but not limited to, all costs so incurred by any law enforcement officers, firefighters, rescue personnel, or emergency medical services personnel of the state or the political subdivision.

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

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

A. Any weapon that is designed or intended to cause death or serious physical harm through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;

B. Any weapon involving a disease organism or biological agent;

C. Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life;

D. Any of the following, except to the extent that the item or device in question is expressly excepted from the definition of "destructive device" pursuant to 18 U.S.C. 921(a)(4) and regulations issued under that section:

1. Any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device;

2. Any combination of parts either designed or intended for use in converting any item or device into any item or device described in division (e)(3)D.1. of this section and from which an item or device described in that division may be readily assembled.

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

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

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

- A. A state university or college as defined in Ohio R.C. 3345.12(A)(1), community college, state community college, university branch, or technical college;
- B. A private, nonprofit college, university or other post-secondary institution located in this State that possesses a certificate of authorization issued by the Ohio Board of Regents pursuant to Ohio R.C. Chapter 1713.
- C. A post-secondary institution with a certificate of registration issued by the State Board of Career Colleges and Schools under Ohio R.C. Chapter 3332. (ORC 2917.31)

909.07 MAKING FALSE ALARMS.

(a) No person shall do any of the following:

- (1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;
- (2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;
- (3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur.
- (4) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to impede the operation of a critical infrastructure facility.

(b) This section does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of making false alarms, a misdemeanor of the first degree. If a violation of this section results in economic harm of one thousand dollars (\$1,000) or more, or if a violation of this section pertains to a purported, threatened, or actual use of a weapon of mass destruction, making false alarms is a felony and shall be prosecuted under appropriate State law.

(d) Any act that is a violation of this section and any other section of the Codified Ordinances may be prosecuted under this section, the other section, or both sections.

(e) As used in this section:

- (1) "Critical infrastructure facility" has the same meaning as in Ohio R.C. 2911.21.
- (2) "Economic harm" and "weapon of mass destruction" have the same meaning as in Section 509.06. (ORC 2917.32)

909.08 IMPEDING PUBLIC PASSAGE OF AN EMERGENCY SERVICE RESPONDER.

(a) No person, without privilege to do so, shall recklessly obstruct any highway, street, sidewalk, or any other public passage in such a manner as to render the highway, street, sidewalk, or passage impassable without unreasonable inconvenience or hazard if both of the following apply:

- (1) The obstruction prevents an emergency vehicle from accessing a highway or street, prevents an emergency service responder from responding to an emergency, or prevents an emergency vehicle or an emergency service responder from having access to an exit from an emergency.
- (2) Upon receipt of a request or order from an emergency service responder to remove or cease the obstruction, the person refuses to remove or cease the obstruction.

(b) Subsection (a) of this section does not limit or affect the application of Ohio R.C. 2921.31 or any other section of the Ohio Revised Code. Any conduct that is a violation of subsection (a) of this section and that also is a violation of Ohio R.C. 2921.31 or any other section of the Ohio Revised Code may be prosecuted under this section, the other section of the Ohio Revised Code or both sections.

(c) Whoever violates this section is guilty of unlawfully impeding public passage of an emergency service responder, a misdemeanor of the first degree.

(d) As used in this section, "emergency service responder" has the same meaning as in Ohio R.C. 2921.01. (ORC 2917.14)

909.99 PENALTY.

(EDITOR'S NOTE: See Section 901.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 913

Drug Abuse Control

913.01	Definitions.	913.10	Hypodermic possession, display and dispensing.
913.02	Gift of marihuana.	913.11	Harmful intoxicants; possessing nitrous oxide in motor vehicle.
913.03	Drug abuse; controlled substance possession or use.	913.12	Drug paraphernalia.
913.04	Possessing drug abuse instruments.	913.121	Marihuana drug paraphernalia.
913.05	Permitting drug abuse.	913.13	Counterfeit controlled substances.
913.06	Illegal cultivation of marihuana.	913.14	Offender may be required to pay for controlled substance tests.
913.07	Possessing or using harmful intoxicants.	913.15	Sale of dextromethorphan.
913.08	Illegally dispensing drug samples.	913.99	Penalty.
913.09	Controlled substance or prescription labels.		

CROSS REFERENCES

See sectional histories for similar State law
 Federal prosecution bar to local prosecution - see Ohio R.C.
 2925.50, 3719.19
 Analysis report and notarized statement as evidence - see
 Ohio R.C 2925.51
 Criteria for granting probation - see Ohio R.C 3719.70(B)
 Adulterating food with drug of abuse - see GEN. OFF. 937.13
 Using weapons while under the influence - see GEN. OFF. 949.03.

913.01 DEFINITIONS.

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

- (a) "Administer." Has the same meaning as in Ohio R.C. 3719.01.
- (b) "Adulterate." To cause a drug to be adulterated as described in Ohio R.C. 3715.63.
- (c) "Alcohol and Drug Addiction Services". Has the same meaning as in Ohio R.C. 5119.01.

(d) "Bulk amount." Of a controlled substance, means any of the following:

- (1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II, or Schedule III, with the exception of any controlled substance analog, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in subsection (c)(2), (5), or (6) of this definition, whichever of the following is applicable:
 - A. An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I opiate or opium derivative;
 - B. An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;
 - C. An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a Schedule I stimulant or depressant;
 - D. An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II opiate or opium derivative;
 - E. An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of phencyclidine;
 - F. An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the federal drug abuse control laws, as defined in this section, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;
 - G. An amount equal to or exceeding three grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the federal drug abuse control laws;
- (2) An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;
- (3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III opiate or opium derivative;
- (4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance;

- (5) An amount equal to or exceeding 200 solid dosage units, sixteen grams, or sixteen milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid;
- (6) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in Schedule III, Schedule IV, or Schedule V, if the defendant is charged with a violation of Ohio R.C. 2925.11 and the sentencing provisions set forth in Ohio R.C. 2925.11(C)(10)(b) and (C)(11) will not apply regarding the defendant and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in division (1), (2), (3), (4), or (5) of this definition for the other Schedule III, Schedule IV, or Schedule V controlled substance that is combined with the fentanyl-related compound.
- (e) "Certified grievance committee." A duly constituted and organized committee of the Ohio State Bar Association or of one or more local bar associations of the state that complies with the criteria set forth in Rule V, Section 6 of the Rules for the Government of the Bar of Ohio.
- (f) "Cocaine." Any of the following:
 - (1) A cocaine salt, isomer or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine.
 - (2) Coca leaves or a salt, compound, derivative or preparation of coca leaves, including ecgonine, a salt, isomer or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine.
 - (3) A salt, compound, derivative or preparation of a substance identified in subsection (e)(1) or (2) of this definition that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.
- (g) "Committed in the vicinity of a juvenile." An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within 100 feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within 100 feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.
- (h) "Committed in the vicinity of a school." An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises.
- (i) "Committed in the vicinity of a substance addiction services provider or a recovering addict". An offense is "committed in the vicinity of a substance addiction services provider or a recovering addict" if either of the following apply:
 - (1) The offender commits the offense on the premises of a substance addiction services provider's facility, including a facility licensed prior to June 29, 2019, under Ohio R.C. 5119.391 to provide methadone treatment or an opioid treatment program licensed on or after that date under Ohio R.C. 5119.37, or within 500 feet of the premises of a substance addiction services provider's facility and the offender knows or should know that the offense is being committed within the vicinity of the substance addiction services provider's facility.

(2) The offender sells, offers to sell, delivers, or distributes the controlled substance or controlled substance analog to a person who is receiving treatment at the time of the commission of the offense, or received treatment within 30 days prior to the commission of the offense, from a substance addiction services provider and the offender knows that the person is receiving or received that treatment.

(j) "Controlled substance." Has the same meaning as in Ohio R.C. 3719.01.

(k) "Controlled substance analog." Has the same meaning as in Ohio R.C. 3719.01.

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

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

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

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

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

(m) "Cultivate." Includes planting, watering, fertilizing or tilling.

(n) "Dangerous drug." Has the same meaning as in Ohio R.C. 4729.01.

(o) "Deception." Has the same meaning as in Ohio R.C. 2913.01.

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

(q) "Dispense." Has the same meaning as in Ohio R.C. 3719.01.

(r) "Distribute." Has the same meaning as in Ohio R.C. 3719.01.

(s) "Drug." Has the same meaning as in Ohio R.C. 4729.01.

(t) "Drug abuse offense." Any of the following:

(1) A violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs, or any violation of Ohio R.C. 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37.

(2) A violation of an existing or former law of any municipality, state or of the United States, that is substantially equivalent to any section listed in subsection (r)(1) of this definition.

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

(4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit, any offense under subsection (r)(1), (2) or (3) of this definition.

(u) "Drug of abuse." Has the same meaning as in Ohio R.C. 3719.011.

(v) "Felony drug abuse offense." Any drug abuse offense that would constitute a felony under the laws of this state, any other state or the United States.

(w) "Fentanyl-related compound." Any of the following:

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

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

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

- B. Any aerosol propellant.
- C. Any fluorocarbon refrigerant.
- D. Any anesthetic gas.
- (2) Gamma Butyrolactone;
- (3) 1,4 Butanediol.
- (y) "Hashish".
 - (1) A resin or a preparation of a resin to which both of the following apply:
 - A. It is contained in or derived from any part of the plant of the genus cannabis, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.
 - B. It has a delta-9 tetrahydrocannabinol concentration of more than 0.3%.
 - (2) The term does not include a hemp byproduct in the possession of a licensed hemp processor under Ohio R.C. Chapter 928, provided that the hemp byproduct is being produced, stored, and disposed of in accordance with rules adopted under Ohio R.C. 928.03.
- (z) "Hypodermic." Has the same meaning as in Ohio R.C. 3719.01.
- (aa) "Juvenile." A person under eighteen years of age.
- (bb) "Licensed health professional authorized to prescribe drugs." Has the same meaning as in Ohio R.C. 4729.01.
- (cc) "L.S.D." Lysergic acid diethylamide.
- (dd) "Major drug offender." Has the same meaning as in Ohio R.C. 2929.01.
- (ee) "Mandatory prison term." Has the same meaning as in Ohio R.C. 2929.01.
- (ff) "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.
- (gg) "Manufacturer." Has the same meaning as in Ohio R.C. 3719.01.
- (hh) "Marijuana." Has the same meaning as in Ohio R.C. 3719.01, except that it does not include hashish.
- (ii) "Methamphetamine." Methamphetamine, any salt, isomer or salt of an isomer of methamphetamine, or any compound, mixture, preparation or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine.
- (jj) "Minor drug possession offense." Either of the following:
 - (1) A violation of Ohio R.C. 2925.11, as it existed prior to July 1, 1996, or a substantially equivalent municipal ordinance.
 - (2) A violation of Ohio R.C. 2925.11, as it exists on and after July 1, 1996, or a substantially equivalent municipal ordinance, that is a misdemeanor or a felony of the fifth degree.
- (kk) "Official written order." Has the same meaning as in Ohio R.C. 3719.01.
- (ll) "Person." Has the same meaning as in Ohio R.C. 3719.01.
- (mm) "Person with a drug dependency" has the same meaning as in Ohio R.C. 3719.011.
- (nn) "Pharmacist." Has the same meaning as in Ohio R.C. 3719.01.
- (oo) "Pharmacy." Has the same meaning as in Ohio R.C. 3719.01.
- (pp) "Possess" or "possession." Having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.
- (qq) "Premises of a substance addiction services provider's facility". Means the parcel of real property on which any substance addiction service provider's facility is situated.
- (rr) "Prescription." Has the same meaning as in Ohio R.C. 4729.01.

(ss) "Presumption for a prison term" or "presumption that a prison term shall be imposed." A presumption as described in Ohio R.C. 2929.13(D) that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under Ohio R.C. 2929.11.

(tt) "Professional license." Any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate or temporary registration that is described in Ohio R.C. 2925.01(W)(1) to (W)(37) and that qualifies a person as a professionally licensed person.

(uu) "Professionally licensed person." Any of the following:

- (1) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under Ohio R.C. Chapter 4701 and who holds an Ohio permit issued under that chapter;
- (2) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under Ohio R.C. Chapter 4703;
- (3) A person who is registered as a landscape architect under Ohio R.C. Chapter 4703 or who holds a permit as a landscape architect issued under that chapter;
- (4) A person licensed under Ohio R.C. Chapter 4707;
- (5) A person who has been issued a certificate of registration as a registered barber under Ohio R.C. Chapter 4709;
- (6) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Ohio R.C. Chapter 4710;
- (7) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, advanced cosmetologist's license, advanced hair designer's license, advanced manicurist's license, advanced esthetician's license, advanced natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under Ohio R.C. Chapter 4713;
- (8) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license or a dental hygienist's teacher's certificate under Ohio R.C. Chapter 4715;
- (9) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under Ohio R.C. Chapter 4717;
- (10) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under Ohio R.C. Chapter 4723;
- (11) A person who has been licensed to practice optometry or to engage in optical dispensing under Ohio R.C. Chapter 4725;
- (12) A person licensed to act as a pawnbroker under Ohio R.C. Chapter 4727;
- (13) A person licensed to act as a precious metals dealer under Ohio R.C. Chapter 4728;
- (14) A person licensed under Ohio R.C. Chapter 4729 as a pharmacist or pharmacy intern or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;

- (15) A person licensed under Ohio R.C. Chapter 4729 as a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs;
- (16) A person who is authorized to practice as a physician assistant under Ohio R.C. Chapter 4730;
- (17) A person who has been issued a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under Ohio R.C. Chapter 4731 or has been issued a certificate to practice a limited branch of medicine under that chapter;
- (18) A person licensed as a psychologist, independent school psychologist, or school psychologist under Ohio R.C. Chapter 4732;
- (19) A person registered to practice the profession of engineering or surveying under Ohio R.C. Chapter 4733;
- (20) A person who has been issued a license to practice chiropractic under Ohio R.C. Chapter 4734;
- (21) A person licensed to act as a real estate broker or real estate salesperson under Ohio R.C. Chapter 4735;
- (22) A person registered as a registered environmental health specialist under Ohio R.C. Chapter 4736;
- (23) A person licensed to operate or maintain a junkyard under Ohio R.C. Chapter 4737;
- (24) A person who has been issued a motor vehicle salvage dealer's license under Ohio R.C. Chapter 4738;
- (25) A person who has been licensed to act as a steam engineer under Ohio R.C. Chapter 4739;
- (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Ohio R.C. Chapter 4741;
- (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Ohio R.C. Chapter 4747;
- (28) A person who has been issued a class A, class B or class C license or who has been registered as an investigator or security guard employee under Ohio R.C. Chapter 4749;
- (29) A person licensed to practice as a nursing home administrator under Ohio R.C. Chapter 4751;
- (30) A person licensed to practice as a speech-language pathologist or audiologist under Ohio R.C. Chapter 4753;
- (31) A person issued a license as an occupational therapist or physical therapist under Ohio R.C. Chapter 4755;
- (32) A person who is licensed as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under Ohio R.C. Chapter 4757;
- (33) A person issued a license to practice dietetics under Ohio R.C. Chapter 4759;
- (34) A person who has been issued a license or limited permit to practice respiratory therapy under Ohio R.C. Chapter 4761;
- (35) A person who has been issued a real estate appraiser certificate under Ohio R.C. Chapter 4763;

- (36) A person who has been issued a home inspector license under Ohio R.C. Chapter 4764;
- (37) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules.
- (vv) "Public premises." Any hotel, restaurant, tavern, store, arena, hall or other place of public accommodation, business, amusement or resort.
- (ww) "Sale." Has the same meaning as in Ohio R.C. 3719.01.
- (xx) "Sample drug." A drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.
- (yy) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" or "Schedule V." Have the same meaning as in Ohio R.C. 3719.01.
- (zz) "School." Any school operated by a board of education, any community school established under Ohio R.C. Chapter 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.
- (aaa) "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.
- (bbb) "School premises." Either of the following:
 - (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed.
 - (2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under Ohio R.C. Chapter 3314, or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio 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.
- (ccc) "Standard Pharmaceutical Reference Manual." The current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.
- (ddd) "Substance Addiction Services Provider". Means an agency, association, corporation or other legal entity, individual, or program that provides one or more of the following at a facility:
 - (1) Either alcohol addiction services, or drug addiction services, or both such services that are certified by the Ohio Director of Mental Health and Addiction Services under Ohio R.C. 5119.36;
 - (2) Recovery supports that are related to either alcohol addiction services, or drug addiction services, or both such services and paid for with federal, state, or local funds administered by the Ohio Department of Mental Health and Addiction Services or a board of alcohol, drug addiction, and mental health services.

- (eee) "Unit dose." An amount or unit or a compound, mixture or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.
- (fff) "Wholesaler." Has the same meaning as in Ohio R.C. 3719.01.
(ORC 2925.01)

913.02 GIFT OF MARIJUANA.

(a) No person shall knowingly give or offer to make a gift of twenty grams or less of marihuana.

(b) Whoever violates this section is guilty of trafficking in marihuana. 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 was committed in the vicinity of a school or the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.

(c) The court may by order suspend for not more than five years the driver's or commercial driver's license or permit of any person who is convicted of or pleads guilty to any violation of this section. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit in accordance with Ohio R.C. 2925.03(G). If an offender's driver's or commercial driver's license or permit is suspended pursuant to this subsection, the offender, at any time after the expiration of two years from the day on which the offender's sentence was imposed, may file a motion with the sentencing court requesting termination of the suspension; upon the filing of such a motion and the court's finding of good cause for the termination, the court may terminate the suspension.

(ORC 2925.03)

913.03 DRUG ABUSE; CONTROLLED SUBSTANCE POSSESSION OR USE.

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

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

- A. Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731 and 4741.
- B. If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;
- C. Any person who sells, offers for sale, prescribes, dispenses or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed or administered for that purpose in accordance with that Act;

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

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

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

1. "Community addiction services provider" has the same meaning as in Ohio R.C. 5119.01.
2. "Community control sanction" and "drug treatment program" have the same meanings as in Ohio R.C. 2929.01.
3. "Health care facility" has the same meaning as in Ohio R.C. 2919.16.
4. "Minor drug possession offense" means a violation of this section that is a misdemeanor or a felony of the fifth degree.
5. "Post-release control sanction" has the same meaning as in Ohio R.C. 2967.28.
6. "Peace officer" has the same meaning as in Ohio R.C. 2935.01.
7. "Public agency" has the same meaning as in Ohio R.C. 2930.01.
8. "Qualified individual" means a person who is acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.
9. "Seek or obtain medical assistance" includes, but is not limited to making a 9-1-1 call, contacting in person or by telephone call an on-duty peace officer, or transporting or presenting a person to a health care facility.

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

1. The evidence of the obtaining, possession or use of the controlled substance or controlled substance analog, drug abuse instruments, or drug paraphernalia that would be the basis of the offense was obtained as a result of the qualified individual seeking the medical assistance or experiencing an overdose and needing medical assistance.
2. Subject to subsection (b)(2)F. of this section, within thirty days after seeking or obtaining the medical assistance, the qualified individual seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.

3. Subject to subsection (b)(2)F. of this section, the qualified individual who obtains a screening and receives a referral for treatment under subsection (b)(2)B.2. of this section, upon the request of any prosecuting attorney, submits documentation to the prosecuting attorney that verifies that the qualified individual satisfied the requirements of that subsection. The documentation shall be limited to the date and time of the screening obtained and referral received.
- C. If a person who is serving a community control sanction or is under a sanction on post-release control acts pursuant to subsection (b)(2)B. of this section, then Ohio R.C. 2929.141(B), Ohio R.C. 2929.15(B)(2), Ohio R.C. 2929.25(D)(3) or Ohio R.C. 2967.28(F)(3) applies to the person with respect to any violation of the sanction or post-release control sanction based on a minor drug possession offense, as defined in Ohio R.C. 2925.11, or a violation of Ohio R.C. 2925.12, Ohio R.C. 2925.14(C)(1), or Ohio R.C. 2925.141.
- D. Nothing in subsection (b)(2)B. of this section shall be construed to do any of the following:
 1. Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of subsection (b)(2)B. of this section or with regards to any crime other than a minor drug possession offense or a violation of Ohio R.C. 2925.12, Ohio R.C. 2925.14(C)(1) or Ohio R.C. 2925.141 committed by a person who qualifies for protection pursuant to subsection (b)(2)B. of this section;
 2. Limit any seizure of evidence or contraband otherwise permitted by law;
 3. Limit or abridge the authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in that division;
 4. Limit, modify or remove any immunity from liability available pursuant to law in effect prior to September 13, 2016, to any public agency or to an employee of any public agency.
- E. Subsection (b)(2)B. of this section does not apply to any person who twice previously has been granted an immunity under subsection (b)(2)B. of this section. No person shall be granted an immunity under subsection (b)(2)B. of this section more than two times.
- F. Nothing in this section shall compel any qualified individual to disclose protected health information in a way that conflicts with the requirements of the "Health Insurance Portability and Accountability Act of 1996", 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and regulations promulgated by the United States Department of Health and Human Services to implement the act or the requirements of 42 C.F.R. Part 2.

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

- (1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule III, IV, or V, whoever violates subsection (a) hereof is guilty of possession of drugs. Possession of drugs is a misdemeanor if the amount of the drug involved does not exceed the bulk amount. The penalty for the offense shall be determined as follows: possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, a felony and shall be prosecuted under appropriate State law.
- (2) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates subsection (a) hereof is guilty of possession of marihuana. Possession of marihuana is a misdemeanor if the amount of the drug involved does not exceed 200 grams. The penalty for the offense shall be determined as follows:
 - A. Except as otherwise provided in subsection (c)(2)B. hereof, possession of marihuana is a minor misdemeanor.
 - B. If the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a misdemeanor of the fourth degree.
- (3) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates subsection (a) hereof is guilty of possession of hashish. Possession of hashish is a misdemeanor if the amount of the drug involved does not exceed the maximum amount specified in subsection (c)(3)B. hereof. The penalty for the offense shall be determined as follows:
 - A. Except as otherwise provided in subsection (c)(3)B. hereof, possession of hashish is a minor misdemeanor.
 - B. If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.

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

(e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness. (ORC 2925.11)

913.04 POSSESSING DRUG ABUSE INSTRUMENTS.

(a) No person shall knowingly make, obtain, possess or use any instrument, article or thing the customary and primary purpose of which is for the administration or use of a dangerous drug, other than marihuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article or thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marihuana, or to prepare a dangerous drug, other than marihuana, for unlawful administration or use.

(b) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731 and 4741.

(2) Division (B)(2) of Ohio R.C. 2925.11 applies with respect to a violation of this section when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.

(c) Whoever violates this section is guilty of possessing drug abuse instruments, a misdemeanor of the second degree. If the offender previously has been convicted of a drug abuse offense, violation of this section is a misdemeanor of the first degree.

(d) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.12)

913.05 PERMITTING DRUG ABUSE.

(a) No person, who is the owner, operator or person in charge of a locomotive, watercraft, aircraft or other vehicle as defined in Ohio R.C 4501.01(A), shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.

(b) No person, who is the owner, lessee or occupant, or who has custody, control or supervision of premises, or real estate, including vacant land, shall knowingly permit the premises, or real estate, including vacant land, to be used for the commission of a felony drug abuse offense by another person.

(c) Whoever violates this section is guilty of permitting drug abuse, a misdemeanor of the first degree. If the felony drug abuse offense in question is a violation of Ohio R.C. 2925.02, 2925.03, 2925.04 or 2925.041 as provided in Ohio R.C. 2925.13, permitting drug abuse is a felony and shall be prosecuted under appropriate State law.

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

- (5) Testing equipment for identifying, or analyzing the strength, effectiveness or purity of, a controlled substance, except for those exempted in subsection (d)(4) of this section;
- (6) A scale or balance for weighing or measuring a controlled substance;
- (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, for cutting a controlled substance;
- (8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana;
- (9) A blender, bowl, container, spoon or mixing device for compounding a controlled substance;
- (10) A capsule, balloon, envelope or container for packaging small quantities of a controlled substance;
- (11) A container or device for storing or concealing a controlled substance;
- (12) A hypodermic syringe, needle or instrument for parenterally injecting a controlled substance into the human body;
- (13) An object, instrument or device for ingesting, inhaling or otherwise introducing into the human body, marihuana, cocaine, hashish or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic or ceramic pipe, with or without a screen, permanent screen, hashish head or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.

(b) In determining if any equipment, product or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:

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

- (10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product or material to the total sales of the business enterprise;
- (11) The existence and scope of legitimate uses of the equipment, product or material in the community;
- (12) Expert testimony concerning the use of the equipment, product or material.

(c) (1) Subject to subsection (d)(2), (d)(3) and (d)(4) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.

(2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product or material will be used as drug paraphernalia.

(3) No person shall place an advertisement in any newspaper, magazine, handbill or other publication that is published and printed and circulates primarily within this State, if the person knows that the purpose of the advertisement is to promote the illegal sale in the State of the equipment, product or material that the offender intended or designed for use as drug paraphernalia.

(d) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 913.10.

(2) Subsection (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.

(3) Division (B)(2) of Ohio R.C. 2925.11 applies with respect to a violation of subsection (c)(1) of this section when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.

(4) Subsection (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug testing strips to determine the presence of fentanyl or a fentanyl-related compound.

(e) Notwithstanding Ohio R.C. Chapter 2981, any drug paraphernalia that was used, possessed, sold or manufactured in violation of this section shall be seized, after a conviction for that violation shall be forfeited, and upon forfeiture shall be disposed of pursuant to Ohio R.C. 2981.12.

(f) (1) Whoever violates subsection (c)(1) hereof is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.

(2) Except as provided in subsection (f)(3) hereof, whoever violates subsection (c)(2) hereof is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.

(3) Whoever violates subsection (c)(2) hereof by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.

(4) Whoever violates subsection (c)(3) hereof is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.

(g) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38. (ORC 2925.14)

913.121 MARIHUANA DRUG PARAPHERNALIA.

(a) As used in this section, "drug paraphernalia" has the same meaning as in Section 913.12.

(b) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, all factors identified in subsection (b) of Section 913.12.

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

(d) This section does not apply to any person identified in subsection (d)(1) of Section 913.12 and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 913.10.

(e) (1) Subsection (e) of Section 913.12 applies with respect to any drug paraphernalia that was used or possessed in violation of this section.

(2) Division (B)(2) of Ohio R.C. 2925.11 applies with respect to a violation of this subsection when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.

(f) (1) Whoever violates subsection (c) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a minor misdemeanor.

(2) Arrest or conviction for a violation of subsection (c) 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.

(g) (1) In addition to any other sanction imposed upon an offender for a violation of this section, the court shall do the following if applicable:

- A. If the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.
- B. If the offender is a professionally licensed person, the court immediately shall comply with Ohio R.C. 2925.38.

(ORC 2925.141)

913.13 COUNTERFEIT CONTROLLED SUBSTANCES.

(a) No person shall knowingly possess any counterfeit controlled substance.

(b) Whoever violates this section is guilty of possession of counterfeit controlled substances, a misdemeanor of the first degree. (ORC 2925.37)

(c) The court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.37)

913.14 OFFENDER MAY BE REQUIRED TO PAY FOR CONTROLLED SUBSTANCE TESTS.

In addition to the financial sanctions authorized or required under Ohio R.C. 2929.18 and 2929.28 and to any costs otherwise authorized or required under any provision of law, the court imposing sentence upon an offender who is convicted of or pleads guilty to a drug abuse offense may order the offender to pay to the state, municipal, or county law enforcement agencies that handled the investigation and prosecution all of the costs that the state, municipal corporation, or county reasonably incurred in having tests performed under Ohio R.C. 2925.51, or in any other manner on any substance that was the basis of, or involved in, the offense to determine whether the substance contained any amount of a controlled substance if the results of the tests indicate that the substance tested contained any controlled substance. No court shall order an offender under this section to pay the costs of tests performed on a substance if the results of the tests do not indicate that the substance tested contained any controlled substance.

The court shall hold a hearing to determine the amount of costs to be imposed under this section. The court may hold the hearing as part of the sentencing hearing for the offender. (ORC 2925.511)

913.15 SALE OF DEXTROMETHORPHAN.

(a) As used in this section:

- (1) "Dextromethorphan" means the dextrorotatory isomer of 3-methoxy-N-methylmorphinan, including its salts, but not including its racemic or levorotatory forms.
- (2) "Evidence of majority and identity" means a document issued by the federal government or a state, county, or municipal government, or a subdivision or agency of any of the foregoing, including a driver's or commercial driver's license, an identification card issued under Ohio R.C. 4507.50 to 4507.52, a military identification card, or any other form of identification that bears the name, date of birth, description and picture of the person identified.

(3) "Retailer" means a place of business that offers consumer products for sale to the general public, including a terminal distributor of dangerous drugs that is licensed under Ohio R.C. Chapter 4729 and operated as a pharmacy.

(b) No retailer or employee of a retailer shall knowingly supply, deliver, give or otherwise provide a drug, material, compound, mixture, preparation or substance containing any quantity of dextromethorphan through the sale of any product to a person under eighteen years of age, unless the person has been issued a prescription for the product being purchased.

(c) For purposes of subsection (b) of this section, the person making the sale of a product containing dextromethorphan shall require and obtain evidence of majority and identity from the purchaser, unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be twenty-five years of age or older. Proof that the person making the sale demanded, was shown, and acted in reasonable reliance on the purchaser's evidence of majority and identity is a defense to any charge of a violation of subsection (b) of this section.

(d) A retailer or employee of a retailer is not liable for damages in a civil action for injury, death or loss to person or property that allegedly arises from an act or omission associated with a failure to prevent the sale of a product containing dextromethorphan to a person under eighteen years of age, unless the act or omission constitutes willful or wanton misconduct.

(e) Whoever violates subsection (b) of this section is guilty of illegally selling dextromethorphan, a minor misdemeanor.

(ORC 2925.62)

913.99 PENALTY.

(EDITOR'S NOTE: See Section 901.99 for penalties applicable to any misdemeanor classification.)

917.07 INSTANT BINGO CONDUCT.

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

- (1) Fail to comply with the requirements of divisions (A)(1), (2), and (3) of Ohio R.C. 2915.09;
- (2) Conduct instant bingo unless either of the following applies:
 - A. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 501(c)(3) of the Internal Revenue Code, is a charitable organization as defined in Section 917.01, is in good standing in the State pursuant to Ohio R.C. 2915.08, and is in compliance with Ohio R.C. Chapter 1716;
 - B. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 501(c)(8), 501(c)(10), or 501(c)(19) or is a veteran's organization described in subsection 501(c)(4) of the Internal Revenue Code, and conducts instant bingo under Section 917.14.
- (3) Conduct instant bingo on any day, at any time, or at any premises not specified on the organization's license issued pursuant to Ohio R.C. 2915.08;
- (4) Permit any person whom the organization knows or should have known has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator in the conduct of instant bingo;
- (5) Purchase or lease supplies used to conduct instant bingo or punch board games from any person except a distributor licensed under Ohio R.C. 2915.081;
- (6) Sell or provide any instant bingo ticket or card for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare;
- (7) Sell an instant bingo ticket or card to a person under eighteen (18) years of age;
- (8) Fail to keep unsold instant bingo tickets or cards for less than three (3) years;
- (9) Pay any compensation to a bingo game operator for conducting instant bingo that is conducted by the organization or for preparing, selling, or serving food or beverages at the site of the instant bingo game, permit any auxiliary unit or society of the organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at an instant bingo game conducted by the organization, or permit any auxiliary unit or society of the organization to prepare, sell, or serve food or beverages at an instant bingo game conducted by the organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;
- (10) Pay fees to any person for any services performed in relation to an instant bingo game, except as provided in Section 917.09(d);
- (11) Pay fees to any person who provides refreshments to the participants in an instant bingo game;
- (12) A. Allow instant bingo tickets or cards to be sold to bingo game operators at a premises at which the organization sells instant bingo tickets or cards or to be sold to employees of a D permit holder who are working at a premises at which instant bingo tickets or cards are sold;

B. Subsection (a)(12)A. of this section does not prohibit a licensed charitable organization or a bingo game operator from giving any person an instant bingo ticket as a prize in place of a cash prize won by a participant in an instant bingo game. In no case shall an instant bingo ticket or card be sold or provided for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare.

(13) Fail to display its bingo license, and the serial numbers of the deal of instant bingo tickets or cards to be sold, conspicuously at each premises at which it sells instant bingo tickets or cards;

(14) Possess a deal of instant bingo tickets or cards that was not purchased from a distributor licensed under Ohio R.C. 2915.081 as reflected on an invoice issued by the distributor that contains all of the information required by Section 917.11(f);

(15) Fail, once it opens a deal of instant bingo tickets or cards, to continue to sell the tickets or cards in that deal until the tickets or cards with the top two (2) highest tiers of prizes in that deal are sold;

(16) Possess bingo supplies that were not obtained in accordance with Ohio R.C. 2915.01 to 2915.13.

(b) A charitable organization may purchase, lease, or use instant bingo ticket dispensers to sell instant bingo tickets or cards.

(c) Whoever violates subsection (a) of this section or a rule adopted under Ohio R.C. 2915.091(C) is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (a) of this section or of such a rule, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law. (ORC 2915.091)

917.08 RAFFLES.

(a) (1) Subject to subsection (a)(2) of this section, a person or entity may conduct a raffle to raise money for the person or entity and does not need a license to conduct bingo in order to conduct a raffle drawing that is not for profit if the person or entity is any of the following:

A. Exempt from federal income taxation under IRC §501(a) and described in IRC §501(c)(3);

B. A school district, community school established under Ohio R.C. Chapter 3314, STEM school established under Ohio R.C. Chapter 3326, college-preparatory boarding school established under Ohio R.C. Chapter 3328, or chartered nonpublic school;

C. Exempt from federal income taxation under IRC §501(a) and described in IRC §501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10) or 501(c)(19).

(2) If a person or entity that is described in subsection (a)(1)C. of this section conducts a raffle, the person or entity shall distribute at least fifty percent (50%) of the net profit from the raffle to a charitable purpose described in Section 917.01(j) or to a department or agency of the federal government, the state, or any political subdivision.

(b) Except as provided in subsection (a) of this section, no person shall conduct a raffle drawing that is for profit or a raffle drawing that is not for profit.

(c) Whoever violates subsection (b) of this section is guilty of illegal conduct of a raffle. Except as otherwise provided in this subsection, illegal conduct of a raffle is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (b) of this section, illegal conduct of a raffle is a felony and shall be prosecuted under appropriate State law. (ORC 2915.092)

917.09 CHARITABLE INSTANT BINGO ORGANIZATIONS.

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

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

(2) A charitable instant bingo organization that conducts instant bingo other than at a bingo session under a type III license issued under Ohio R.C. 2915.08 is not required to enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted provided that the owner or lessor is not assisting in the conduct of the instant bingo other than at a bingo session and provided that the conduct of the instant bingo other than at a bingo session at that location is not more than five (5) days per calendar year and not more than ten (10) hours per day.

(c) Except as provided in subsection (f) of this section, no charitable instant bingo organization shall conduct instant bingo other than at a bingo session at a location where the primary source of retail income from all commercial activity at that location is the sale of instant bingo tickets.

(d) The owner or lessor of a location that enters into a contract pursuant to subsection (b) of this section shall pay the full gross profit to the charitable instant bingo organization, in return for the deal of instant bingo tickets. The owner or lessor may retain the money that the owner or lessor receives for selling the instant bingo tickets, provided, however, that after the deal has been sold, the owner or lessor shall pay to the charitable instant bingo organization the value of any unredeemed instant bingo prizes remaining in the deal of instant bingo tickets.

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

As used in this subsection, "expenses" means those items provided for in subsections (s)(4), (5), (6), (7), (8), (12) and (13) of Section 917.01 and that percentage of the owner's or lessor's rent for the location where instant bingo is conducted. "Expenses" in the aggregate, shall not exceed six percent (6%) of the total gross receipts of any deal of instant bingo tickets.

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

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

- (1) That the charitable instant bingo organization has terminated a contract entered into pursuant to subsection (b) of this section with an owner or lessor of a location;
- (2) That the charitable instant bingo organization has entered into a written contract pursuant to subsection (b) of this section with a new owner or lessor of a location;
- (3) That the charitable instant bingo organization is aware of conduct by the owner or lessor of a location at which instant bingo is conducted that is in violation of this chapter or Ohio R.C. Chapter 2915.

(f) Subsection (c) of this section does not apply to a volunteer firefighter's organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, that conducts instant bingo other than at a bingo session on the premises where the organization conducts firefighter training, that has conducted instant bingo continuously for at least five years prior to July 1, 2003, and that, during each of those five years, had gross receipts of at least one million five hundred thousand dollars.

(ORC 2915.093)

917.10 LOCATION OF INSTANT BINGO.

(a) No owner or lessor of a location shall assist a charitable instant bingo organization in the conduct of instant bingo other than at a bingo session at that location unless the owner or lessor has entered into a written contract, as described in Section 917.09, with the charitable instant bingo organization to assist in the conduct of instant bingo other than at a bingo session.

(b) The location of the lessor or owner shall be designated as a location where the charitable instant bingo organization conducts instant bingo other than at a bingo session.

(c) No owner or lessor of a location that enters into a written contract as prescribed in subsection (a) of this section shall violate any provision of Ohio R.C. Chapter 2915, or permit, aid, or abet any other person in violating any provision of Ohio R.C. Chapter 2915.

(d) No owner or lessor of a location that enters into a written contract as prescribed in subsection (a) of this section shall violate the terms of the contract.

(e) (1) Whoever violates subsection (c) or (d) of this section is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (c) or (d) of this section, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law.

(2) If an owner or lessor of a location knowingly, intentionally, or recklessly violates subsection (c) or (d) of this section, any license that the owner or lessor holds for the retail sale of any goods on the owner's or lessor's premises that is issued by the State or a political subdivision is subject to suspension, revocation, or payment of a monetary penalty at the request of the Attorney General. (ORC 2915.094)

CHAPTER 921
Health, Safety and Sanitation

921.01	Abandoned refrigerators and airtight containers.	921.06	Duty to keep sidewalks in repair and clean.
921.02	Venting of heaters and burners.	921.07	Newspaper drop off deliveries.
921.03	Barricades and warning lights; abandoned excavations.	921.08	Noxious or offensive odors.
921.04	Sidewalk obstructions; damage or injury.	921.09	Spreading contagion.
921.05	Notice to fill lots, remove putrid substances.	921.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Flagpole installation in sidewalk - see Ohio R.C. 723.012

Excavation liability - see Ohio R.C. 723.49 et seq.

Removal of noxious weeds or litter - see Ohio R.C. 731.51 et seq.

Nuisances - see Ohio R.C. Ch. 3767

Tampering with safety devices - see GEN. OFF. 941.04

921.01 ABANDONED REFRIGERATORS AND AIRTIGHT CONTAINERS.

(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 semiairtight container which has a capacity of one and one-half cubic feet or more and an opening of fifty 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 such 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 semiairtight container located in that part of a building occupied by a dealer, warehouseman or airman. (ORC 3767.29)

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

921.02 VENTING OF HEATERS AND BURNERS.

(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 gas:

- (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 subsection (a) hereof, 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) Subsection (a) hereof 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 shutoff system, and that has its fuel piped from a source outside of 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 Ohio 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 subsection (a) hereof 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 Ohio 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 subsection.

(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 subsection.

(g) No product labeled as a fuel additive for kerosene heaters and having a flash point below one hundred degrees fahrenheit or thirty-seven and eight-tenths degrees centigrade 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 subsection (a) hereof 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 Ohio R.C. 3737.82. (ORC 3701.82)

(k) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 3701.99(C))

921.03 BARRICADES AND WARNING LIGHTS; ABANDONED EXCAVATIONS.

(a) No person shall abandon or knowingly permit to remain on public or private property, any excavation, well, cesspool or structure which is in the process of construction, reconstruction, repair or alteration unless the same is adequately protected by suitable barricades and guarded by warning devices or lights at night so that the condition will not reasonably prove dangerous to life or limb.

(b) No person shall destroy, remove, damage or extinguish any barricade or warning light that is placed for the protection of the public so as to prevent injury to life or limb.

(c) Any owner or agent in control of a premises upon which a basement, cellar, well or cistern has been abandoned due to demolition, failure to build or any other reason shall cause the same to be filled to the ground surface with rock, gravel, earth or other suitable material.

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

921.04 SIDEWALK OBSTRUCTIONS; DAMAGE OR INJURY.

(a) No person shall place or knowingly drop upon any part of a sidewalk, playground or other public place any tacks, bottles, wire, glass, nails or other articles which may damage property of another or injure any person or animal traveling along or upon such sidewalk or playground.

(b) No person shall walk on, or allow any animal upon, or injure or deface in any way, any soft or newly laid sidewalk pavement.

(c) No person shall place, deposit or maintain any merchandise, goods, material or equipment upon any sidewalk so as to obstruct pedestrian traffic thereon except for such reasonable time as may be actually necessary for the delivery or pickup of such articles. In no such case shall the obstruction remain on such sidewalk for more than one hour.

(d) No person shall unload upon, or transport any heavy merchandise, goods, material or equipment over or across any sidewalk or curb without first placing some sufficient protection over the pavement to protect against damage or injury. The affected area shall be rendered safe and free from danger.

(e) No person shall allow any cellar or trap door, coal chute or elevator or lift opening in any sidewalk to remain open without providing suitable safeguards to protect and warn pedestrian traffic of the dangerous condition.

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

921.05 NOTICE TO FILL LOTS, REMOVE PUTRID SUBSTANCES.

(a) No person shall fail to comply with the following requirements within the lawful time after service or publication of the notice or resolution is made as required by law:

To fill or drain any lot or land or remove all putrid substances therefrom, or remove all obstructions from culverts, covered drains or natural watercourses as provided in Ohio R.C. 715.47.

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

921.06 DUTY TO KEEP SIDEWALKS IN REPAIR AND CLEAN.

(a) No owner or occupant of abutting lands shall fail to keep the sidewalks, curbs or gutters in repair and free from snow, ice or any nuisance. (ORC 723.011)

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

921.07 NEWSPAPER DROP OFF DELIVERIES.

(a) No person shall place or deposit newspapers in bundles, or otherwise, on sidewalks or any public right of way as a delivery drop off of such articles. Delivery of newspapers to a location other than the residential property occupied by a consignee of such papers shall constitute *prima facie* evidence of a violation of this section.

(b) This section does not apply to the deposit of newspapers for the purpose of municipal garbage and rubbish collection by persons owning, occupying or possessing any real property within the City.

(Ord. 1974-119. Passed 11-18-74.)

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

921.08 NOXIOUS OR OFFENSIVE ODORS.

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

(ORC 3767.13)

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

921.09 SPREADING CONTAGION.

(a) No person, knowing or having reasonable cause to believe that the person has a dangerous, contagious disease, shall knowingly fail to take reasonable measures to prevent exposing self to other persons, except when seeking medical aid.

(b) No person, having charge or care of a person whom the person having charge or care knows or has reasonable cause to believe has a dangerous, contagious disease, shall recklessly fail to take reasonable measures to protect others from exposure to the contagion, and to inform health authorities of the existence of the contagion.

(c) No person, having charge of a public conveyance or place of public accommodation, amusement, resort or trade, and knowing or having reasonable cause to believe that persons using such conveyance or place have been or are being exposed to a dangerous, contagious disease, shall negligently fail to take reasonable measures to protect the public from exposure to the contagion, and to inform health authorities of the existence of the contagion.
(ORC 3701.81)

(d) Whoever violates this section is guilty of a misdemeanor of the second degree.
(ORC 3701.99(C))

921.99 PENALTY.

(EDITOR'S NOTE: See Section 901.99 for penalties applicable to any misdemeanor classification.)

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

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

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

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

(3) No manager, superintendent or other person in charge of a hospital, sanitarium or other medical facility in which a person is attended or treated for any burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

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

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

(f) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist or

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

(2) Notwithstanding Ohio R.C. 4731.22, the physician-patient privilege or advanced practice registered nurse-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted under subsection (f)(1) of this section, and the information may be admitted as evidence in accordance with the Rules of Evidence.

(g) Subsections (a) and (d) of this section do not require disclosure of information, when any of the following applies:

(1) The information is privileged by reason of the relationship between attorney and client; physician and patient; advanced practice registered nurse and patient; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.

(2) The information would tend to incriminate a member of the actor's immediate family.

(3) Disclosure of the information would amount to revealing a news source, privileged under Ohio R.C. 2739.04 or 2739.12.

(4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as a member of the clergy by a person seeking the aid or counsel of that member of the clergy.

(5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for persons with drug dependencies or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or community addiction services provider whose alcohol and drug addiction services are certified pursuant to Ohio R.C. 5119.36.

(6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of Ohio R.C. 2907.02 or 2907.05 or to victims of felonious sexual penetration in violation of former Ohio R.C. 2907.12. As used in this subsection, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide those services.

(h) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.

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

- (1) In a State liquor store;
- (2) Except as provided in subsection (c) or (i) hereof, on the premises of the holder of any permit issued by the Division of Liquor Control;
- (3) In any other public place;
- (4) Except as provided in subsection (d) or (e) hereof, while operating or being a passenger in or on a motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking;
- (5) Except as provided in subsection (d) or (e) hereof, while being in or on a stationary motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking.

(c) (1) A person may have in the person's possession an opened container of any of the following:

- A. Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-2(f), A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, D-9, E, F, F-2, F-5, F-7 or F-8 permit;
- B. Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit, wine served as a tasting sample by an A-2, A-2f, S-1, or S-2 permit holder for consumption on the premises of a farmers market for which an F-10 permit has been issued, or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;
- C. Beer or intoxicating liquor consumed on the premises of a convention facility as provided in Ohio R.C. 4303.201;
- D. Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Liquor Control Commission.
- E. Spirituous liquor to be consumed for purposes of a tasting sample, as defined in Ohio R.C. 4301.171.

(2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this section, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.

(3) A. A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.

B. As used in subsection (c)(3)A. of this section:

1. "Orchestral performance" means a concert comprised of a group of not fewer than forty musicians playing various musical instruments.
2. "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than one hundred fifty acres of land and that is open for performances from the first day of April to the last day of October of each year.

(4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in subsection (c)(3)B.1. hereof if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.

(5) A person may have in the person's possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending either of the following:

- A. An orchestral performance and the F-9 permit holder grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued;
- B. An outdoor performing arts event or orchestral performance that is free of charge and the F-9 permit holder annually hosts not less than twenty-five other events or performances that are free of charge on the permit premises.

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

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

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

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

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

(2) When a nuisance subject to this Chapter has not been abated within the time prescribed in the notice, the Director may authorize the immediate abatement of such nuisance by the City notwithstanding the pendency of an appeal of such order/notice to the Municipal Planning Commission. If, as a result of such appeal, the Planning Commission overturns the order of the Director, then the owner shall not be obligated to pay to the City its costs to abate the nuisance.

(g) Relationship to Other Laws. The authority to abate nuisances, and the procedures required herein, as set forth in this Chapter, shall be in addition to and shall not limit the authority to abate nuisances granted in other ordinances of the City or the laws or Constitution of the State of Ohio.

(h) Penalty. Any owner of real estate, upon which a nuisance exists or the cause or source of such nuisance is located, who fails to comply with the direction of the Director of Public Service or Director of Public Safety to abate such nuisance within the time specified in the notice from the Director, shall be deemed guilty of a minor misdemeanor for a first offense and guilty of a misdemeanor of the fourth degree for a second or subsequent offense within one year. Each day of failure to comply shall constitute a separate offense.

(Ord. 2018-31. Passed 5-21-18.)

931.02 CRIMINAL ACTIVITIES AS A NUISANCE; ABATEMENT, PROCEDURE AND COSTS OF ENFORCEMENT.

(a) The following activities occurring on any privately owned lot, or within 30 feet from the property line of same, and engaged in by an owner, occupant, tenant, guest or invitee of one lawfully residing or occupying the premises or establishment on the subject lot, are hereby declared to be nuisances:

- (1) Any act that would constitute a violation of any section of Part Nine "General Offense" of the Codified Ordinances of the City of Berea, or any similar Ohio Revised Code provision, except any act that would constitute an offense against a family member in violation of a provision of Chapter 937 of the Codified Ordinances of the City of Berea or Chapter 2919 of the Ohio Revised Code;
- (2) Any act that would constitute a violation of Chapter 321 of the Codified Ordinances of the City of Berea, Garbage and Rubbish or similar Ohio Revised Code provision;
- (3) Any act that would constitute a violation of Chapter 327 of the Codified Ordinances of the City of Berea, Trees and Weeds or similar Ohio Revised Code provision;
- (4) Any act that would constitute a violation of Chapter 1329 of the Building Code of the City of Berea, Exterior Maintenance or similar Ohio Revised Code provision;
- (5) Any act that would constitute a felony under the Ohio Revised Code except any act that would constitute an offense against a family member in violation of any provision of Chapter 2919 of the Ohio Revised Code.
- (6) Any act that would constitute a violation of Chapter 1519 of the Codified Ordinances of the City of Berea, Fireworks.

(Ord. 2022-27. Passed 5-16-22.)

(b) The Chief of Police or his designee, upon finding that one (1) or more nuisance activities declared in subsection (a) hereinabove have occurred within thirty (30) feet of any property line of the same premises, may cause a written warning letter to be sent via regular mail to the last known address of the property owner and the occupant(s), declaring that such property may be declared a nuisance property if a second or additional nuisance activities occur at or within thirty (30) feet of any property line of the same premises within any twenty-four (24) month period.

The Chief of Police or his designee, upon finding that a two (2) or more nuisance activities declared in subsection (a) hereinabove has occurred within the twenty-four (24) month period immediately preceding the second nuisance activity, at or within thirty (30) feet of any property line of the same premises, shall cause written notice and order to be sent via regular mail to the last known address of the property owner and the occupant(s) declaring that such property is a nuisance property. The notice and order shall set forth the nature of the nuisances, the estimated cost to abate any future nuisance, and state that the owner may avoid being charged the cost of the City abatement by taking steps to prevent any further nuisance activity as declared in subsection(a) hereinabove. The notice and order shall further state that if a third nuisance activity or subsequent nuisance activities as declared in subsection (a) hereinabove occurs within twenty-four (24) months of the dates of the second nuisance activity, the City may abate the nuisance by responding to the activities using administrative and law enforcement actions, and the costs of such abatement shall be assessed on the nuisance property. The notice and order shall be sent via regular mail to the last known address of the property owner and occupant(s).

(c) If within twenty-four (24) months after the first of the two (2) nuisances referred to in subsection (a) and (b) hereinabove occurred, a third nuisance activity occurs, the City may abate the nuisance by responding to the activity using administrative and law enforcement actions, and the costs of such abatement may be assessed on the nuisance property, and the costs shall be calculated as set forth in subsection (d) of this section. The City shall provide notice to the owner of the nuisance property of the City's intent to assess the costs of abatement against the owner's property at least thirty (30) days before such costs are certified to the County for assessment against the property, and such notice shall contain a description of the nuisance activity that is the basis for the notice of intent to assess the property, and the cost to abate. Notice shall be sent via regular mail to the last known address of the property owner.

(d) Costs of the abatement shall be based upon the hourly wage of the police officer(s) or City employees or their agents involved in the abatement of the nuisance activity, plus seventy-five percent (75%) (to recoup the costs of fuel, materials, vehicle and equipment depreciation and other related expenses), multiplied by the number of hours required to abate the nuisance. The minimum cost of abatement shall be seven hundred fifty dollars (\$750.00) per incident. Any portion of time less than one hour shall be rounded up to the next whole hour.

(e) The owner of a nuisance property who receives a notice from the Chief of Police or his designee pursuant to this chapter may appeal such notice by submitting a written request for reconsideration to the Chief of Police within thirty (30) days of the date of the notice. If the Chief of Police finds that the facts presented do not support the declaration of a nuisance, the Chief shall rescind the notice. Otherwise, the Chief shall deny the request and advise the appellant in writing of the denial and of the appellant's right to file an appeal to the Planning Commission. The owner may appeal the denial of the request for reconsideration by submitting a written appeal letter to the Planning Commission within thirty (30) days of the date of the Chief's denial. Any such appeal shall not stay any actions by the City to abate the first or any subsequent nuisance activity.

- (j) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record, or tape, or other tangible thing capable of arousing interest through sight, sound, or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape or similar data storage device.
- (k) "Performance" means any motion picture, preview, trailer, play, show, skit, dance or other exhibition performed before an audience.
- (l) "Spouse" means 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 Ohio R.C. 3103.06;
 - (2) During the pendency of an action between the parties for annulment, divorce, dissolution of marriage or legal separation;
 - (3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.
- (m) "Minor" means a person under the age of eighteen years.
(ORC 2907.01)
- (n) "Sex offense" means any of the following:
 - (1) A violation of Section 933.06, 933.07, 933.04(a)(4) or 933.05(a) or (b).
 - (2) A violation of any former law of this or any other municipality of this State substantially equivalent to any offense listed in subsection (n)(1) hereof.
 - (3) An offense under an existing or former municipal ordinance or law of another state or the Federal Government, substantially equivalent to any offense listed in subsection (n)(1) hereof.
 - (4) A violation of any prohibition against conspiracy or attempt to commit, or complicity in committing, any offense listed in subsection (n)(1), (2) or (3) hereof.

(Ord. 1979-125. Passed 6-18-79.)
- (o) "Mental health client or patient" has the same meaning as in Ohio R.C. 2305.51.
- (p) "Mental health professional" has the same meaning as in Ohio R.C. 2305.115.
- (q) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.
- (r) "Place where a person has a reasonable expectation of privacy" means a place where a reasonable person would believe that the person could fully disrobe in private.
- (s) "Private area" means the genitals, pubic area, buttocks, or female breast below the top of the areola, where nude or covered by an under-garment.
(ORC 2907.01)

933.02 PRESUMPTION OF KNOWLEDGE; ACTUAL NOTICE AND DEFENSE.

- (a) An owner or manager, or agent or employee of an owner or manager, of a bookstore, newsstand, theater, or other commercial establishment engaged in selling materials or exhibiting performances, who, in the course of business does any of the acts prohibited by Section 933.11, is presumed to have knowledge of the character of the material or performance involved, if the owner, manager, or agent or employee of the owner or manager has actual notice of the nature of such material or performance, whether or not the owner, manager, or agent or employee of the owner or manager has precise knowledge of its contents.

(b) Without limitation on the manner in which such notice may be given, actual notice of the character of material or a performance may be given in writing by the chief legal officer of the jurisdiction in which the person to whom the notice is directed does business. Such notice, regardless of the manner in which it is given, shall identify the sender, identify the material or performance involved, state whether it is obscene or harmful to juveniles and bear the date of such notice.

(c) Section 933.11 does not apply to a motion picture operator or projectionist acting within the scope of employment as an employee of the owner or manager of a theater or other place for the showing of motion pictures to the general public, and having no managerial responsibility or financial interest in the operator's or projectionist's place of employment, other than wages.

(d) (1) Sections 933.11, 933.12(a) and 933.13 do not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection.

(2) Subsection (d)(1) of this section does not apply to a person who conspires with an entity actively involved in the creation or knowing distribution of material in violation of Section 933.11, 933.12 or 933.13, or who knowingly advertises the availability of material of that nature.

(3) Subsection (d)(1) of this section does not apply to a person who provides access or connection to an electronic method of remotely transferring information that is engaged in the violation of Section 933.11, 933.12 or 933.13, and that contains content that person has selected and introduced into the electronic method of remotely transferring information or content over which that person exercises editorial control.

(e) An employer is not guilty of a violation of Section 933.11, 933.12, or 933.13 based on the actions of an employee or agent of the employer unless the employee's or agent's conduct is within the scope of employee's or agent's employment or agency, and the employer does either of the following:

(1) With knowledge of the employee's or agent's conduct, the employer authorizes or ratifies the conduct.

(2) The employer recklessly disregards the employee's or agent's conduct.

(f) It is an affirmative defense to a charge under Section 933.11 or 933.13 as the section applies to an image transmitted through the internet or another electronic method of remotely transmitting information that the person charged with violating the section has taken, in good faith, reasonable, effective, and appropriate actions under the circumstances to restrict or prevent access by juveniles to material that is harmful to juveniles, including any method that is feasible under available technology.

(g) If any provision of this section, or the application of any provision of this section to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this section or related sections that can be given effect without the invalid provision or application. To this end, the provisions are severable.

(ORC 2907.35)

933.03 UNLAWFUL SEXUAL CONDUCT WITH A MINOR.

(a) No person, who is eighteen years of age or older, shall engage in sexual conduct with another, who is not the spouse of the offender, when the offender knows the other person is thirteen years of age or older but less than sixteen years of age, or the offender is reckless in that regard.

(b) Whoever violates this section is guilty of unlawful sexual conduct with a minor, a misdemeanor of the first degree. If the offender is four years older or more than the other person, or if the offender has previously been convicted of or pleaded guilty to a violation of Ohio R.C. 2907.02, 2907.03 or 2907.04, or former Ohio R.C. 2907.12, unlawful sexual conduct with a minor is a felony and shall be prosecuted under appropriate State law. (ORC 2907.04)

933.04 SEXUAL IMPOSITION.

(a) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more persons to have sexual contact when any of the following applies:

- (1) The offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard.
- (2) The offender knows that the other person's or one of the other person's ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired.
- (3) The offender knows that the other person or one of the other persons submits because of being unaware of the sexual contact.
- (4) The other person or one of the other persons is thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen years of age and four or more years older than such other person.
- (5) The offender is a mental health professional, the other person or one of the other persons is a mental health client or patient of the offender, and the offender induces the other person who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.

(b) No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.

(c) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06 or former Section 2907.12, or a substantially similar municipal ordinance, a violation of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 2907.02, 2907.03, 2907.04 or 2907.05, 2907.06 or former Section 2907.12 or of any combination of those sections, a violation of this section is a misdemeanor of the first degree and, notwithstanding the range of jail terms prescribed in Ohio R.C. 2929.24, the court may impose on the offender a definite jail term of not more than one year. (ORC 2907.06)

933.05 IMPORTUNING.

(EDITOR'S NOTE: Former Section 933.05 has been deleted from the Codified Ordinances. Section 933.05 was identical to Ohio R.C. 2907.07(B) which the Ohio Supreme Court held to be unconstitutional in *State v. Thompson*, 95 Ohio St. 3rd 264 (2002).)

933.06 VOYEURISM.

(a) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.

(b) No person shall knowingly commit trespass or otherwise secretly or surreptitiously videotape, film, photograph, broadcast, stream, or otherwise record another person, in a place where a person has a reasonable expectation of privacy, for the purpose of viewing the private areas of that person.

(c) No person shall secretly or surreptitiously videotape, film, photograph, or otherwise record another person above, under or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person.

(d) Whoever violates this section is guilty of voyeurism.

- (1) A violation of subsection (a) hereof is a misdemeanor of the third degree.
- (2) A violation of subsection (b) hereof is a misdemeanor of the second degree.
- (3) A violation of subsection (c) hereof is a misdemeanor of the first degree.
(ORC 2907.08)

933.07 PUBLIC INDECENCY.

(a) No person shall recklessly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront others, who are in the person's physical proximity and who are not members of the person's household:

- (1) Expose the person's private parts;
- (2) Engage in sexual conduct or masturbation;
- (3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation.

(b) No person shall knowingly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront another person who is in the person's physical proximity, who is a minor, and who is not the spouse of the offender:

- (1) Engage in masturbation;
- (2) Engage in sexual conduct;
- (3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation;
- (4) Expose the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity.

(c) (1) Whoever violates this section is guilty of public indecency and shall be punished as provided in subsections (c)(2), (3), (4) and (5) of this section.
(2) Except as otherwise provided in subsection (c)(2) of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the third degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to two violations of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously

has been convicted of or pleaded guilty to three or more violations of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony which shall be prosecuted under appropriate state law.

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

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

(5) A violation of subsection (b)(4) of this section is a misdemeanor of the first degree unless the offender previously has been convicted of or pleaded guilty to any violation of this section in which case the violation is a felony and shall be prosecuted under appropriate state law.

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

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

(2) If the offender is convicted of or pleads guilty to a violation of subsection (b)(4) of this section, is ten or more years older than the other person, and previously has been convicted of or pleaded guilty to any violation of this section, the court shall issue an order at the time of sentencing that classifies the offender as a tier I sex offender/child-victim offender subject to registration under Ohio R.C. 2950.04, 2950.041, 2950.05 and 2950.06. (ORC 2907.09)

933.08 PROCURING; ENGAGEMENT IN SEXUAL ACTIVITY FOR HIRE.

(a) **Procuring.** No person, knowingly and for gain, shall do either of the following:

- Entice or solicit another to patronize a prostitute or brothel;
- 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.

(2) No person, having authority or responsibility over the use of premises, shall knowingly permit such premises to be used for the purpose of engaging in sexual activity for hire.

(3) Whoever violates subsection (a)(1)A. or B. of this section is guilty of procuring. Except as otherwise provided in this subsection (c), procuring is a misdemeanor of the first degree. If the prostitute who is procured, patronized or otherwise involved in a violation of subsection (a)(1)B. of this section is under eighteen years of age at the time of the violation, regardless of whether the offender who violates subsection (a)(1)B. of this section knows the prostitute's age, or if a prostitute who engages in sexual activity for hire in premises used in violation of subsection (a)(2) of this section is under eighteen years of age at the time of the violation, regardless of whether the offender who violates subsection (a)(2) of this section knows the prostitute's age, procuring is a felony and shall be prosecuted under appropriate state law.

(b) Engagement in Sexual Activity for Hire.

(1) As used in this subsection (b) of this section:

A. "Person with a developmental disability" has the same meaning as in Ohio R.C. 2905.32.

B. "Sexual activity for hire" means an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person.

(2) No person shall recklessly induce, entice, or procure another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person.

(3) No person shall recklessly induce, entice, or procure another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person if the other person is a person with a developmental disability and the offender knows or has reasonable cause to believe that the other person is a person with a developmental disability.

(4) Whoever violates subsection (b)(2) of this section is guilty of engaging in prostitution, a misdemeanor of the first degree. Whoever violates subsection (b)(3) of this section is guilty of engaging in prostitution with a person with a developmental disability, a felony to be prosecuted under appropriate state law. In sentencing the offender under this division, the court shall require the offender to attend an education or treatment program aimed at preventing persons from inducing, enticing, or procuring another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person and, notwithstanding the fine specified in Ohio R.C. 2929.28(A)(2)(a) for a misdemeanor of the first degree, the court may impose upon the offender a fine of not more than one thousand five hundred dollars (\$1,500).
(ORC 2907.231)

933.09 SOLICITING.

(a) No person shall knowingly solicit another to engage in sexual activity for hire in exchange for the person receiving anything of value from the other person.

(b) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in conduct in violation of subsection (a) of this section.

(c) As used in subsection (a) of this section, "Sexual Activity for Hire" means an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person.

(d) (1) Whoever violates subsection (a) of this section is guilty of soliciting. Soliciting is a misdemeanor of the third degree.
(2) Whoever violates subsection (b) of this section is guilty of engaging in solicitation after a positive HIV test, a felony to be prosecuted under appropriate state law. (ORC 2907.24)

933.091 LOITERING TO ENGAGE IN SOLICITATION.

(a) No person, with purpose to solicit another to engage in sexual activity for hire and while in or near a public place, shall do any of the following:

- (1) Beckon to, stop or attempt to stop another;
- (2) Engage or attempt to engage another in conversation;
- (3) Stop or attempt to stop the operator of a vehicle or approach a stationary vehicle;
- (4) If the offender is the operator of or a passenger in a vehicle, stop, attempt to stop, beckon to, attempt to beckon to, or entice another to approach or enter the vehicle of which the offender is the operator or in which the offender is the passenger;
- (5) Interfere with the free passage of another.

(b) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in conduct in violation of subsection (a) of this section.

(c) As used in subsection (a) of this section:

- (1) "Public Place". Means any of the following:
 - A. A street, road, highway, thoroughfare, bikeway, walkway, sidewalk, bridge, alley, alleyway, plaza, park, driveway, parking lot or transportation facility.
 - B. A doorway or entrance way to a building that fronts on a place described in subsection (c)(1)A. of this definition.
 - C. A place not described in subsection (c)(1)A. or B. of this definition that is open to the public.
- (2) "Vehicle". Has the same meaning as in Ohio R.C. 4501.01.

(d) (1) Whoever violates subsection (a) of this section is guilty of loitering to engage in solicitation, a misdemeanor of the third degree.
(2) Whoever violates subsection (b) of this section is guilty of loitering to engage in solicitation after a positive HIV test, a felony to be prosecuted under appropriate state law.
(ORC 2907.241)

533.10 PROSTITUTION.

(a) No person shall engage in sexual activity for hire.

(b) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in sexual activity for hire.

(c) (1) Whoever violates subsection (a) of this section is guilty of prostitution, a misdemeanor of the third degree.
(2) Whoever violates subsection (b) of this section is guilty of engaging in prostitution after a positive HIV test, a felony to be prosecuted under appropriate state law.
(ORC 2907.25)

933.11 DISSEMINATING MATTER HARMFUL TO JUVENILES.

(a) No person, with knowledge of its character or content, shall recklessly do any of the following:

(1) Directly sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;
(2) Directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;
(3) While in the physical proximity of the juvenile or law enforcement officer posing as a juvenile, allow any juvenile or law enforcement officer posing as a juvenile to review or peruse any material or view any live performance that is harmful to juveniles.

(b) The following are affirmative defenses to a charge under this section, that involves material or a performance that is harmful to juveniles but not obscene:

(1) The defendant is the parent, guardian or spouse of the juvenile involved.
(2) The juvenile involved, at the time of the conduct in question, was accompanied by the juvenile's 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 the defendant's agent or employee a draft card, driver's license, birth certificate, marriage license, or other official or apparently official document purporting to show that the juvenile was eighteen years of age or over or married, and the person to whom that document was exhibited did not otherwise have reasonable cause to believe that the juvenile was under the age of eighteen 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 subsection (b)(3) hereof, mistake of age is not a defense to a charge under this section.

(d) (1) A person directly sells, delivers, furnishes, disseminates, provides, exhibits, rents, or presents or directly offers or agrees to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present material or a performance to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section by means of an electronic method of

remotely transmitting information if the person knows or has reason to believe that the person receiving the information is a juvenile or the group of persons receiving the information are juveniles.

(2) A person remotely transmitting information by means of a method of mass distribution does not directly sell, deliver, furnish, disseminate, provide, exhibit, rent, or present or directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present the material or performance in question to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section if either of the following applies:

- A. The person has inadequate information to know or have reason to believe that a particular recipient of the information or offer is a juvenile.
- B. The method of mass distribution does not provide the person the ability to prevent a particular recipient from receiving the information.

(e) If any provision of this section, or the application of any provision of this section to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this section or related sections that can be given effect without the invalid provision or application. To this end, the provisions are severable.

(f) Whoever violates this section is guilty of disseminating matter harmful to juveniles. If the material or performance involved is harmful to juveniles, except as otherwise provided in this subsection, a violation of this section is a misdemeanor of the first degree. If the material or performance involved is obscene, a violation of this section is a felony and shall be prosecuted under appropriate State law. (ORC 2907.31)

933.12 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 such juvenile;
- (2) Furnish such juvenile with any identification or document purporting to show that such juvenile is eighteen 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 eighteen years of age or over or married;
- (2) Exhibit any identification or document purporting to show that he is eighteen 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 subsection (b) hereof shall be adjudged an unruly child, with such disposition of the case as may be appropriate under Ohio R.C. Chapter 2151. (ORC 2907.33)

933.13 DISPLAYING MATTER HARMFUL TO JUVENILES.

(a) No person who has custody, control or supervision of a commercial establishment, with knowledge of the character or content of the material involved, shall display at the establishment any material that is harmful to juveniles and that is open to view by juveniles as part of the invited general public.

(b) It is not a violation of subsection (a) hereof if the material in question is displayed by placing it behind "blinder racks" or similar devices that cover at least the lower two-thirds of the material, if the material in question is wrapped or placed behind the counter, or if the material in question otherwise is covered or located so that the portion that is harmful to juveniles is not open to the view of juveniles.

(c) Whoever violates this section is guilty of displaying matter harmful to juveniles, a misdemeanor of the first degree. Each day during which the offender is in violation of this section constitutes a separate offense. (ORC 2907.311)

933.14 RESIDING WITHIN 1,000 FEET OF CERTAIN INSTITUTIONS PROHIBITED.

(a) No person who, after the passage of this ordinance, is convicted of, is found guilty or pleads guilty to a sexually oriented offense, as defined in Ohio R.C. 2950.01(A) or a child-victim oriented offense, as defined in Ohio R.C. 2950.01(C) shall establish residency, shall occupy residential premises, or shall loiter within one thousand feet of any school premises, public playground, public park, child recreation facility, preschool or child day-care center premises.

(b) Each day the sexually oriented offender violates subsection (a) shall be considered a separate offense.

(c) Whoever violates subsection (a) hereof is guilty of Prohibited Sexually Oriented Acts, a misdemeanor of the fourth degree.

(d) As used in this section:

- (1) "Child day-care center" has the same meaning as in section 5104.01 of the Ohio Revised Code.
- (2) "Preschool" means any public or private institution or center that provides early childhood instructional or educational services to children who are at least three years of age but less than six years of age and who are not enrolled in or are not eligible to be enrolled in kindergarten, whether or not those services are provided in a child day-care setting. "Preschool" does not include any place that is the permanent residence of the person who is providing the early childhood instructional or educational services to the children described in this division.
- (3) "Preschool or child day-care center premises" means all of the following:
 - A. Any building in which any preschool or child day-care center activities are conducted if the building has signage that indicates that the building houses a preschool or child day-care center, is clearly visible and discernable without obstruction, and meets any local zoning ordinances which may apply;
 - B. The parcel of real property on which a preschool or child day-care center is situated if the parcel of real property has signage that indicates that a preschool or child day-care center is situated on the parcel, is clearly visible and discernable without obstruction, and meets any local zoning ordinances which may apply;
 - C. Any grounds, play areas, and other facilities of a preschool or child day-care center that are regularly used by the children served by the preschool or child day-care center if the grounds, play areas, or other facilities have signage that indicates that they are regularly used by children served by the preschool or child day-care center, is clearly visible and discernable without obstruction, and meets any local zoning ordinances which may apply.

- (4) "Loiter" means to remain idle in essentially one place and includes the concepts of spending time idly, loafing or walking about aimlessly.
- (5) "Public playground" means a playground established by the state or a political subdivision of the state including a county, township, municipal corporation, or park district.
- (6) "Public park" means a park established by the state or a political subdivision of the state including a county, township, municipal corporation, or park district.
- (7) "Child recreation facility" means any grounds, play areas, or other recreation facilities established by the state or a political subdivision of the state including a county, township, municipal corporation, or park district that is regularly used by children if the grounds, play areas, or other recreation facilities have signage that indicates that they are regularly used by children and is clearly visible and discernable without obstruction, and meets any local zoning ordinances which may apply.

(e) This section does not prohibit a sexually oriented offender from, to the extent necessary, attending meetings of public bodies as defined in Ohio R.C. 121.22.

(f) Nothing provided in this section shall be constituted to limit, abrogate or diminish any other lawful remedy or action as set forth in Ohio R.C. 2950.034 or any other remedies provided by law. (Ord. 2019-49. Passed 5-20-19.)

933.15 UNLAWFUL ADVERTISING OF MASSAGE.

(a) No person, by means of a statement, solicitation, or offer in a print or electronic publication, sign, placard, storefront display, or other medium, shall advertise massage, relaxation massage, any other massage technique or method, or any related service, with the suggestion or promise of sexual activity.

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

(c) Nothing in this section prevents the legislative authority of a municipal corporation or township from enacting any regulation of the advertising of massage further than and in addition to the provisions of subsections (a) and (b) of this section.

(ORC 2927.17)

933.16 DISSEMINATION OF PRIVATE SEXUAL IMAGES.

(a) As used in this section:

- (1) "Disseminate" means to post, distribute, or publish on a computer device, computer network, web site, or other electronic device or medium of communication.
- (2) "Image" means a photograph, film, videotape, digital recording or other depiction or portrayal of a person.
- (3) "Interactive computer service" has the meaning defined in the "Telecommunications Act of 1996", 47 U.S.C. 230, as amended.
- (4) "Internet provider" means a provider of internet service, including all of the following:
 - A. Broadband service, however defined or classified by the federal communications commission;
 - B. Information service or telecommunication service, both as defined in the "Telecommunications Act of 1996" 47 U.S.C. 153, as amended.

C. Internet protocol-enabled services, as defined in Ohio R.C. 4927.01.

(5) "Mobile service" and "telecommunications carrier" have the meanings defined in 47 U.S.C. 153, as amended.

(6) "Cable service provider" has the same meaning as in Ohio R.C. 1332.01.

(7) "Direct-to-home satellite service" has the meaning defined in 47 U.S.C. 303, as amended.

(8) "Video service provider" has the same meaning as in Ohio R.C. 1332.21.

(9) "Sexual act" means any of the following:

- A. Sexual activity;
- B. Masturbation;
- C. An act involving a bodily substance that is performed for the purpose of sexual arousal or gratification;
- D. Sado-masochistic abuse.

(b) No person shall knowingly disseminate an image of another person if all of the following apply:

- (1) The person in the image is eighteen years of age or older;
- (2) The person in the image can be identified from the image itself or from information displayed in connection with the image and the offender supplied the identifying information.
- (3) The person in the image is in a state of nudity or is engaged in a sexual act;
- (4) The image is disseminated without consent from the person in the image;
- (5) The image is disseminated with intent to harm the person in the image.

(c) This section does not prohibit the dissemination of an image if any of the following apply:

- (1) The image is disseminated for the purpose of a criminal investigation that is otherwise lawful.
- (2) The image is disseminated for the purpose of, or in connection with, the reporting of unlawful conduct.
- (3) The image is part of a news report or commentary or an artistic or expressive work, such as a performance, work of art, literary work, theatrical work, musical work, motion picture, film, or audiovisual work.
- (4) The image is disseminated by a law enforcement officer, or a corrections officer or guard in a detention facility, acting within the scope of the person's official duties.
- (5) The image is disseminated for another lawful public purpose;
- (6) The person in the image is knowingly and willingly in a state of nudity or engaged in a sexual act and is knowingly and willingly in a location in which the person does not have a reasonable expectation of privacy.
- (7) The image is disseminated for the purpose of medical treatment or examination.

(d) The following entities are not liable for a violation of this section solely as a result of an image or other information provided by another person:

- (1) A provider of interactive computer service;
- (2) A mobile service;
- (3) A telecommunications carrier;
- (4) An internet provider;
- (5) A cable service provider;
- (6) A direct-to-home satellite service;
- (7) A video service provider.

(e) Any conduct that is a violation of this section and any other section of the General Offenses Code, or the Revised Code may be prosecuted under this section, the other section, or both sections.

(f) (1) A. Except as otherwise provided in subsection (f)(1)B., C., or D. of this section, whoever violates this section is guilty of nonconsensual dissemination of private sexual images, a misdemeanor of the third degree.
B. If the offender previously has been convicted of or pleaded guilty to a violation of this section, nonconsensual dissemination of private sexual images is a misdemeanor of the second degree.
C. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, nonconsensual dissemination of private sexual images is a misdemeanor of the first degree.
D. If the offender is under eighteen years of age and the person in the image is not more than five years older than the offender, the offender shall not be prosecuted under this section.

(2) In addition to any other penalty or disposition authorized or required by law, the court may order any person who is convicted of a violation of this section or who is adjudicated delinquent by reason of a violation of this section to criminally forfeit all of the following property to the state under Ohio R.C. Chapter 2981.

- A. Any profits or proceeds and any property the person has acquired or maintained in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation;
- B. Any interest in, securities of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise that the person has established, operated, controlled or conducted in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation.

(g) A victim of a violation of this section may commence a civil cause of action against the offender, as described in Ohio R.C. 2307.66.

(ORC 2917.211)

933.99 PENALTY.

(EDITOR'S NOTE: See Section 901.99 for penalties applicable to any misdemeanor classification.)

(f) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this State, or current or former law of another state or the United States. (ORC 2903.08)

937.03 ASSAULT.

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

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

(c) (1) Whoever violates this section is guilty of assault, a misdemeanor of the first degree, and the court shall sentence the offender as provided in subsection (c) hereof. If the assault was committed under the circumstances provided in subsection (c)(2), (3), (4), (5), (6), (7), (8) or (9) hereof, assault is a felony and shall be prosecuted under appropriate State law.

(2) Except as otherwise provided in this subsection, if the offense is committed by a caretaker against a functionally impaired person under the caretaker's care, the assault is a felony and shall be prosecuted under appropriate State law.

(3) If the offense occurs in or on the grounds of a State correctional institution or an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction or the Department of Youth Services, and the offense is committed by a person incarcerated in the State correctional institution or by a person institutionalized in the Department of Youth Services Institution pursuant to a commitment to the Department of Youth Services.

(4) If the offense is committed in any of the following circumstances:

A. The offense occurs in or on the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department or is on the premises of the facility for business purposes or as a visitor, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person's being charged with or convicted of any crime, or subsequent to the person's being alleged to be or adjudicated a delinquent child.

B. The offense occurs off the grounds of a State correctional institution and off the grounds of an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction, the Department of Youth Services, or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person incarcerated in a State correctional institution or institutionalized in the Department of Youth Services who temporarily is outside of the institution for any purpose, by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.

C. The offense occurs off the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person being charged with or convicted of any crime, or subsequent to the person being alleged to be or adjudicated a delinquent child and who temporarily is outside of the facility for any purpose or by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.

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

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

(6) If the victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation and if the victim suffered serious physical harm as a result of the commission of the offense.

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

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

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

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

(9) If the victim of the offense is a judge, magistrate, prosecutor or court official or employee whom the offender knows or has reasonable cause to know is a judge, magistrate, prosecutor or court official or employee, and if the victim is engaged in the performance of the victim's duties, assault is one of the following:

A. Except as otherwise provided in subsection (c)(9)B. of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. In sentencing the offender under this subsection, if the court decides to impose a fine, notwithstanding the fine specified in division (A)(2)(b) of Ohio R.C. 2929.28 for a misdemeanor of the first degree, the court may impose upon the offender a fine of not more than five thousand dollars (\$5,000).

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

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

(11) A prosecution for a violation of subsections (a) or (b) of this section does not preclude a prosecution for a violation of any other section of the Ohio Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under subsections (a) or (b) of this section or any other section of the Ohio Revised Code may be prosecuted under subsections (a) or (b) of this section, the other sections of the Ohio Revised Code, or both sections. However, if an offender is convicted of or pleads guilty to a violation of subsections (a) or (b) of this section and also is convicted of or pleads guilty to a violation of Ohio R.C. 2903.22, or any substantially equivalent municipal ordinance, based on the same conduct involving the same victim that was the basis of the violation of subsections (a) or (b) of this section, the offenses are allied offenses of similar import under Ohio R.C. 2941.25.

(d) As used in this section:

(1) "Peace officer" has the same meaning as in Ohio R.C. 2935.01.

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

(3) "Emergency medical service" has the same meaning as in Ohio R.C. 4765.01.

(4) "Local correctional facility" means a county, multicounty, municipal, municipal-county or multicounty-municipal jail or workhouse. A minimum security jail established under Ohio R.C. 341.23 or 753.21, or another county, multicounty, municipal, municipal-county, or multicounty-municipal facility used for the custody of persons arrested for any crime or delinquent act, persons charged with or convicted of any crime, or persons alleged to be or adjudicated a delinquent child.

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

(16) "Judge" means a judge of a court created under the constitution or statutes of this State or of a United States court located in this State.

(17) "Magistrate" means an individual who is appointed by a court of record of this State and who has the powers and may perform the functions specified in Civil Rule 53, Criminal Rule 19, or Juvenile Rule 40, or an individual who is appointed by a United States court located in this State who has similar powers and functions.

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

(19) A. "Hospital" means, subject to subsection (d)(19)B. of this section, an institution classified as a hospital under Ohio R.C. 3701.01 in which are provided to patients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care or a hospital operated by a health maintenance organization.

B. "Hospital" does not include any of the following:

1. A facility licensed under Ohio R.C. Chapter 3721, a health care facility operated by the Department of Mental Health or the Department of Developmental Disabilities, a health maintenance organization that does not operate a hospital, or the office of any private, licensed health care professional, whether organized for individual or group practice;
2. An institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under Section 501 of the "Internal Revenue Code of 1986", 100 Stat. 2085, 26 U.S.C. 1, as amended, and providing twenty-four-hour nursing care pursuant to the exemption in division (E) of Ohio R.C. 4723.32 from the licensing requirements of Ohio R.C. Chapter 4723.

(20) "Health maintenance organization" has the same meaning as in Ohio R.C. 3727.01.

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

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

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

1. A spouse, a person living as a spouse, or a former spouse of a person who is employed as an emergency service responder;
2. A parent, a foster parent, or a child of a person who is employed as an emergency service responder, or another person related by consanguinity or affinity to a person who is employed as an emergency service responder;
3. A parent or a child of a spouse, person living as a spouse, or former spouse of a person who is employed as an emergency service responder, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of a person who is employed as an emergency service responder.

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

(23) "First responder", "emergency medical technician-basic", "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.

(24) "Volunteer firefighter" has the same meaning as in Ohio R.C. 146.01.

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

(26) "Co-worker" means a person who is employed by the organization or entity that is served by a person who is employed as an emergency service responder. (ORC 2903.13)

937.04 NEGLIGENT ASSAULT.

(a) No person shall negligently, by means of a deadly weapon or dangerous ordnance as defined in Section 949.01 cause physical harm to another or to another's unborn.

(b) Whoever violates this section is guilty of negligent assault, a misdemeanor of the third degree. (ORC 2903.14)

937.05 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, the other person's unborn, or a member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause serious physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.

(b) Whoever violates this section is guilty of aggravated menacing. Except as otherwise provided in this subsection (b), aggravated menacing is a misdemeanor of the first degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, aggravated menacing is a felony and shall be prosecuted under appropriate State law.

(c) As used in this section, "organization" includes an entity that is a governmental employer. (ORC 2903.21)

937.051 MENACING BY STALKING.

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

(2) No person, through the use of any form of written communication or any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, computer system or telecommunication device shall post a message or use any intentionally written or verbal graphic gesture with purpose to do either of the following:

- A. Violate subsection (a)(1) of this section;
- B. Urge or incite another to commit a violation of subsection (a)(1) of this section.

(3) No person, with sexual motivation, shall violate subsection (a)(1) or (2) of this section.

(b) Whoever violates this section is guilty of menacing by stalking.

(1) Except as otherwise provided in subsections (b)(2) and (3) of this section, menacing by stalking is a misdemeanor of the first degree.

(2) Menacing by stalking is a felony and shall be prosecuted under appropriate State law if any of the following applies:

- A. The offender previously has been convicted of or pleaded guilty to a violation of this section or a violation of Section 941.051.
- B. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender made a threat of physical harm to or against the victim, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message made a threat of physical harm to or against the victim.
- C. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender trespassed on the land or premises where the victim lives, is employed, or attends school, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message trespassed on the land or premises where the victim lives, is employed, or attends school.
- D. The victim of the offense is a minor.
- E. The offender has a history of violence toward the victim or any other person or a history of other violent acts toward the victim or any other person.

- F. While committing the offense under subsection (a)(1) of this section or a violation of subsection (a)(3) of this section is based on conduct in violation of subsection (a)(1) of this section, the offender had a deadly weapon on or about the offender's person or under the offender's control. Subsection (b)(2)F. of this section does not apply in determining the penalty for a violation of subsection (a)(2) of this section or a violation of subsection (a)(3) of this section based on conduct in violation of subsection (a)(1) of this section.
- G. At the time of the commission of the offense, the offender was the subject of a protection order issued under Ohio R.C. 2903.213 or 2903.214, regardless of whether the person to be protected under the order is the victim of the offense or another person.
- H. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender caused serious physical harm to the premises at which the victim resides, to the real property on which that premises is located, or to any personal property located on that premises, or as a result of an offense committed under subsection (a)(2) of this section, or an offense committed under subsection (a)(3) of this section based on a violation of subsection (a)(2) of this section, a third person induced by the offender's posted message caused serious physical harm to that premises, that real property, or any personal property on that premises.
- I. Prior to committing the offense, the offender had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious physical harm, or other evidence of then-present dangerousness.

(3) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities, or duties, menacing by stalking is a felony and shall be prosecuted under appropriate State law.

(c) Ohio R.C. 2919.271 applies in relation to a defendant charged with a violation of this section.

(d) 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, or two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, directed at one or more persons employed by or belonging to the same corporation, association, or other organization. Actions or incidents that prevent, obstruct, or delay the performance by a public official, firefighter, rescuer, emergency medical services person, or emergency facility person of any authorized act within the public official's, firefighter's, rescuer's, emergency medical services person's, or emergency

facility person's official capacity, or the posting of messages, use of intentionally written or verbal graphic gestures, or receipt of information or data through the use of any form of written communication or an electronic method of remotely transferring information, including, but not limited to, a computer, computer network, computer program, computer system, or telecommunications device, may constitute a "pattern of conduct".

(2) "Mental distress" means any of the following:

- A. Any mental illness or condition that involves some temporary substantial incapacity;
- B. Any mental illness or condition that would normally require psychiatric treatment, psychological treatment, or other mental health services, whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services.

(3) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.

(4) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.

(5) "Public official" has the same meaning as in Ohio R.C. 2921.01.

(6) "Computer", "computer network", "computer program", "computer system" and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.

(7) "Post a message" means transferring, sending, posting, publishing, disseminating or otherwise communicating, or attempting to transfer, send, post, publish, disseminate or otherwise communicate, any message or information, whether truthful or untruthful, about an individual, and whether done under one's own name, under the name of another, or while impersonating another.

(8) "Third person" means, in relation to conduct as described in subsection (a)(2) of this section, an individual who is neither the offender nor the victim of the conduct.

(9) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.

(10) "Organization" includes an entity that is a governmental employer.

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

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

(12) "Person living as a spouse" means a person who is living or has lived with the person against whom the act prohibited in subsection (a)(1) of this section is committed in a common law marital relationship, who otherwise is cohabiting with that person, or who otherwise has cohabited with the person within five years prior to the date of the alleged commission of the act in question.

(e) The Municipality does not need to prove in a prosecution under this section that a person requested or received psychiatric treatment, psychological treatment, or other mental health services in order to show that the person was caused mental distress as described in subsection (d)(2)B. of this section.

(f) (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section.

(2) Subsection (f)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.

(3) Subsection (f)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature. (ORC 2903.211)

937.06 MENACING.

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

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

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

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

- (1) Except as otherwise provided in subsection (a)(2)B. of this section, a misdemeanor of the first degree;
- (2) If the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency or an emergency service responder, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties or to the responder's performance of the responder's official duties, a felony to be prosecuted under appropriate state law.

(c) A prosecution for a violation of subsection (a) of this section does not preclude a prosecution of a violation of any other section of the Ohio Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under subsection (a) of this section or any other section of the Ohio Revised Code may be prosecuted under subsection (a) of this section, the other section of the Ohio Revised Code, or both sections. However, if an offender is convicted of or pleads guilty to a violation of subsection (a) of this section and also is convicted of or pleads guilty to a violation of Ohio R.C. 2903.13, or any substantially similar municipal ordinance, based on the same conduct involving the same victim that was the basis of the violation of subsection (a) of this section, the offenses are allied offenses of similar import under Ohio R.C. 2941.25.

(d) As used in this section:

- (1) "Co-worker" has the same meaning as in Ohio R.C. 2903.13.
- (2) "Emergency service responder" has the same meaning as in Ohio R.C. 2903.13.
- (3) "Family or household member" have the same meanings as in Ohio R.C. 2903.13.
- (4) "Organization" includes an entity that is a governmental employer.
(ORC 2903.22)

937.07 ENDANGERING CHILDREN.

(a) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age or a child with a mental or physical disability under twenty-one years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection or support. It is not a violation of a duty of care, protection or support under this subsection when the parent, guardian, custodian or person having custody or control of a child treats the physical or mental illness or disability 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 eighteen years of age or a child with a mental or physical disability under twenty-one years of age.

(c) (1) No person shall operate a vehicle in violation of Section 733.01(a) of the Traffic Code when one or more children under eighteen years of age are in the vehicle. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of subsection (c) hereof and a violation of Section 333.01(a) of the Traffic Code that constitutes the basis of the charge of the violation of subsection (c) hereof.

1. A spouse, a person living as a spouse or a former spouse of the offender;
2. A parent, a foster parent or a child of the offender, or another person related by consanguinity or affinity to the offender;
3. A parent, or a child of a spouse, person living as a spouse, or former spouse of the offender; or another person related by consanguinity or affinity to a spouse, person living as a spouse or former spouse of the offender.

B. The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.

(2) "Person living as a spouse" means a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question. (ORC 2919.25)

(g) The same relief available under the Ohio Revised Code for filing a complaint for violation of Ohio R.C. 2919.25 shall be available for filing a complaint for violation of this section.

937.15 TEMPORARY PROTECTION ORDER.

(a) No person shall recklessly violate the terms of any of the following:

- (1) A protection order issued or consent agreement approved pursuant to Ohio R.C. 2919.26 or 3113.31;
- (2) A protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or 2903.214;
- (3) A protection order issued by a court of another state.

(b) (1) Whoever violates this section is guilty of violating a protection order.

(2) Except as otherwise provided in subsection (b)(3) of this section, violating a protection order is a misdemeanor of the first degree.

(3) Violating a protection order is a felony and shall be prosecuted under State law if the offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for any of the following:

- A. A violation of a protection order issued or consent agreement approved pursuant to Ohio R.C. 2151.34, 2903.213, 2903.214, 2919.26, or 3113.31;
- B. Two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.211 or any combination of those offenses that involved the same person who is the subject of the protection order or consent agreement;
- C. One or more violations of this section.

(4) If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony and shall be prosecuted under appropriate state law.

(5) If the protection order violated by the offender was an order issued pursuant to Ohio R.C. 2151.34 or 2903.214 that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires under this subsection that the offender be electronically monitored, unless the court determines that the offender is indigent, the court shall order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device.

(c) It is an affirmative defense to a charge under subsection (a)(3) of this section that the protection order issued by a court of another state does not comply with the requirements specified in 18 U.S.C. 2265(b) for a protection order that must be accorded full faith and credit by a court of this State or that it is not entitled to full faith and credit under 18 U.S.C. 2265(c).

(d) In a prosecution for a violation of this section, it is not necessary for the prosecution to prove that the protection order or consent agreement was served on the defendant if the prosecution proves that the defendant was shown the protection order or consent agreement or a copy of either or a judge, magistrate, or law enforcement officer informed the defendant that a protection order or consent agreement had been issued, and proves that the defendant recklessly violated the terms of the order or agreement.

(e) As used in this section, "protection order issued by a court of another state" means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a pendente lite order in a proceeding for other relief, if the court issued it in response to a complaint, petition or motion filed by or on behalf of a person seeking protection. "Protection order issued by a court of another state" does not include an order for support or for custody of a child. (ORC 2919.27)

**937.16 ILLEGAL DISTRIBUTION OF CIGARETTES, OTHER
TOBACCO PRODUCTS, OR ALTERNATE NICOTINE PRODUCTS.
(REPEALED)**

(EDITOR'S NOTE: Former Section 937.16 was repealed by Ordinance 2019-48, passed May 20, 2019. See Chapter 957 for relevant provisions.)

CHAPTER 945

Theft and Fraud

945.01	Definitions.	945.11	Making or using slugs.
945.02	Determining property value in theft offense.	945.12	Tampering with coin machines.
945.03	Property exceptions as felony offense.	945.13	Criminal simulation.
945.04	Detention of shoplifters; rights of museums and libraries.	945.14	Tampering with records.
945.05	Misdemeanor theft.	945.15	Securing writings by deception.
945.06	Unauthorized use of a vehicle; vehicle trespass.	945.16	Personating an officer.
945.07	Insurance fraud.	945.17	Defrauding creditors.
945.08	Unauthorized use of property.	945.18	Receiving stolen property.
945.09	Passing bad checks.	945.19	Possession of criminal tools.
945.10	Misuse of credit cards.	945.20	Forgery of identification cards.
		945.21	Identity fraud.
		945.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
 Property defined - see GEN. OFF. 901.01(j)
 Cheating - see GEN. OFF. 917.05
 Falsification - see GEN. OFF. 925.02
 Impersonating a public servant - see GEN. OFF. 925.03

945.01 DEFINITIONS.

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

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

- (b) "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.
- (c) "Deprive" means to do any of the following:
 - (1) Withhold property of another permanently, or for such period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;
 - (2) Dispose of property so as to make it unlikely that the owner will recover it;
 - (3) Accept, use or appropriate money, property or services, with purpose not to give proper consideration in return for the money, property or services, and without reasonable justification or excuse for not giving proper consideration.
- (d) "Owner" means, unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license or interest is unlawful.
- (e) "Services" include labor, personal services, professional services, rental services, public utility services, including wireless service as defined in Ohio R.C. 5507.01(F)(1), common carrier services, and food, drink, transportation, entertainment and cable television services.
- (f) "Writing" means any computer software, document, letter, memorandum, note, paper, plate, data, film or other thing having in or upon it any written, typewritten or printed matter, and any token, stamp, seal, credit card, badge, trademark, label or other symbol of value, right, privilege, license or identification.
- (g) "Forge" means to fabricate or create, in whole or in part and by any means any spurious writing, or to make, execute, alter, complete, reproduce or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.
- (h) "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver or display.
- (i) "Coin machine" means any mechanical or electronic device designed to do both of the following:
 - (1) Receive a coin, bill, or token made for that purpose;
 - (2) In return for the insertion or deposit of a coin, bill or token, automatically dispense property, provide a service or grant a license.
- (j) "Slug" means an object that, by virtue of its size, shape, composition or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill or token made for that purpose.
- (k) "Theft offense" means any of the following:
 - (1) A violation of Ohio R.C. 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42 to 2913.45, 2913.47, 2913.48, 2913.51, 2915.05, 2915.06 or 2921.41.

945.05 MISDEMEANOR THEFT.

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

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

(b) Whoever violates this section is guilty of misdemeanor theft, a misdemeanor of the first degree. If any of the following criteria are met, then a violation of this section is a felony to be prosecuted under appropriate state law:

- (1) The value of the property or services stolen is one thousand dollars (\$1,000) or more; or
- (2) If the property stolen is any of the property listed in Ohio R.C. 2913.71;
- (3) The victim of the offense is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member, or
- (4) The property stolen is a firearm or dangerous ordnance, or
- (5) The property stolen is a motor vehicle, or
- (6) The property stolen is any dangerous drug, or
- (7) The property stolen is a police dog or horse or an assistance dog and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog, or
- (8) The property stolen is anhydrous ammonia, or
- (9) The property stolen is a special purpose article as defined in Ohio R.C. 4737.04 or a bulk merchandise container as defined in Ohio R.C. 4737.012.

(c) In addition to the penalties described in subsection (b) of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:

- (1) Unless subsection (c)(2) of this section applies, suspend for not more than six months the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;
- (2) If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to subsection (c)(1) of this section, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in Ohio R.C. 4510.02(A)(7), provided that the suspension shall be for at least six months.
- (3) The court, in lieu of suspending the offender's driver's or commercial driver's license, probationary driver's license, temporary instruction permit, or nonresident operating privilege pursuant to subsections (c)(1) or (2) of this section, instead may require the offender to perform community service for a number of hours determined by the court.

(d) In addition to the penalties described in subsection (b) hereof, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to Ohio R.C. 2929.18 or 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of Ohio R.C. 2913.72.

(e) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under subsection (c) of this section may grant the offender limited driving privileges during the period of the suspension in accordance with Ohio R.C. Chapter 4510. (ORC 2913.02)

945.06 UNAUTHORIZED USE OF A VEHICLE; VEHICLE TRESPASS.

(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) This section does not apply to property removed from the State or if possession is kept for more than forty-eight 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 the actor was authorized to use or operate the property.
- (2) At the time of the alleged offense, the actor reasonably believed that the owner or person empowered to give consent would authorize the actor to use or operate the property.

(d) No person shall knowingly enter into or upon a motor vehicle, motorcycle or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(e) Whoever violates subsection (a) hereof is guilty of unauthorized use of a vehicle, a misdemeanor of the first degree. If the victim of the offense is an elderly person or disabled adult and if the victim incurs a loss as a result of the violation, a violation of subsection (a) hereof is a felony and shall be prosecuted under appropriate State law. (ORC 2913.03)

(f) Whoever violates subsection (d) hereof is guilty of vehicle trespass, a misdemeanor of the fourth degree.

945.07 INSURANCE FRAUD.

(a) As used in this section:

- (1) "Data" has the same meaning as in Section 945.01 and additionally includes any other representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner.
- (2) "Deceptive" means that a statement, in whole or in part, would cause another to be deceived because it contains a misleading representation, withholds information, prevents the acquisition of information or by any other conduct, act or omission creates, confirms or perpetuates a false impression, including, but not limited to, a false impression as to law, value, state of mind or other objective or subjective fact.

CHAPTER 949

Weapons and Explosives

949.01	Definitions.	949.09	Throwing or shooting missiles.
949.02	Carrying concealed weapons.	949.10	Possessing replica firearms in school.
949.03	Using weapons while intoxicated.	949.11	Defacing identification marks of a firearm; possessing a defaced firearm.
949.04	Improperly handling firearms in a motor vehicle.	949.12	Concealed handgun licenses; possession of revoked or suspended license; additional restrictions; posting signs prohibiting possession.
949.05	Failure to secure dangerous ordnance.		
949.06	Unlawful transactions in weapons.	949.99	Penalty.
949.07	Underage purchase of firearm.		
949.08	Discharging firearms.		

CROSS REFERENCES

See sectional histories for similar State law
 License or permit to possess dangerous ordnance - see
 Ohio R.C. 2923.18
 Hunting prohibited - see GEN. OFF. 905.11
 Reporting gunshot and stab wounds - see GEN. OFF. 925.05(b)
 Property destruction by tear gas device, etc. - see GEN.
 OFF. 941.04

949.01 DEFINITIONS.

As used in this chapter:

- (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.
- (b) (1) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm 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.
- (c) "Handgun" means any of the following:
 (1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;
 (2) Any combination of parts from which a firearm of a type described in subsection (c)(1) of this section can be assembled.

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

(l) "Dangerous ordnance" does not include any of the following:

- (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 subsection (l)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
- (5) Dangerous ordnance 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.
- (7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives under the "Gun Control Act of 1968", 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the "National Firearms Act", 68A Stat. 725 (1934), 26 U.S.C. 5845(a).

(m) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks", as defined in Ohio R.C. 3743.01, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored or used in any activity described in Ohio R.C. 3743.80, provided the activity is conducted in accordance with all applicable laws, rules and regulations, including, but not limited to, the provisions of Ohio R.C. 3743.80, and the rules of the Fire Marshal adopted pursuant to Ohio R.C. 3737.82.

(n) (1) "Concealed handgun license" or "license to carry a concealed handgun" means, subject to subsection (n)(2) of this section, a license or temporary emergency license to carry a concealed handgun issued under Ohio R.C. 2923.125 or 2923.1213 or a license to carry a concealed handgun issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.

(2) A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.125 or a license to carry a concealed handgun issued under Ohio R.C. 2923.125 means only a license of the type that is specified in that section. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.1213, a licence to carry a concealed handgun issued under Ohio R.C. 2923.1213, or a license to carry a concealed handgun on a temporary emergency basis means only a license of the type that is specified in Ohio R.C. 2923.1213. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued by another state or a license to carry a concealed handgun issued by another state means only a license issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.

(o) "Valid concealed handgun license" or "valid license to carry a concealed handgun" means a concealed handgun license that is currently valid, that is not under a suspension under division (A)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213, or under a suspension provision of the state other than this State in which the license was issued, and that has not been revoked under division (B)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213 or under a revocation provision of the state other than this State in which the license was issued.

(p) "Misdemeanor punishable by imprisonment for a term exceeding one year" does not include any of the following:

- (1) Any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulation of business practices;
- (2) Any misdemeanor offense punishable by a term of imprisonment of two years or less.

(q) "Alien registration number" means the number issued by the United States Citizenship and Immigration Services Agency that is located on the alien's permanent resident card and may also be commonly referred to as the "USCIS number" or the "alien number".

(r) "Active duty" has the same meaning as defined in 10 U.S.C. 101.
(ORC 2923.11)

949.02 CARRYING CONCEALED WEAPONS.

(a) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:

- (1) A deadly weapon other than a handgun;
- (2) A handgun other than a dangerous ordnance;
- (3) A dangerous ordnance.

(b) No person who has been issued a concealed handgun license, shall do any of the following:

- (1) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then is carrying a concealed handgun, provided that it is not a violation of this section if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop;

(2) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;

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

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

- A. An officer, agent or employee or this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance, or is authorized to carry handguns and is acting within the scope of the officer's, agent's or employee's duties;
- B. Any person who is employed in this State, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801 unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. hereof does not apply to the person.
- C. A person's transportation or storage of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in a motor vehicle for any lawful purpose if the firearm is not on the actor's person;
- D. A person's storage or possession of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in the actor's own home for any lawful purpose.

(2) Subsection (a)(2) of this section does not apply to any person who has been issued a concealed handgun license that is valid at the time of the alleged carrying or possession of a handgun or who, at the time of the alleged carrying or possession of a handgun, is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), unless the person knowingly is in a place described in Ohio R.C. 2923.126(B).

(d) It is an affirmative defense to a charge under subsection (a)(1) of this section of carrying or having control of a weapon other than a handgun and other than a dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following applies:

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

- (2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.
- (3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.

(e) (1) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

(2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (b)(1) of this section as it existed prior to June 13, 2022, the person may file an application under Ohio R.C. 2953.35 requesting the expungement of the record of conviction.

(f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, carrying concealed weapons in violation of subsection (a) of this section is a misdemeanor of the first degree. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, if the offender previously has been convicted of a violation of this section or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law. Except as otherwise provided in subsections (f)(2), (5) and (6) of this section, if the weapon involved is a firearm and the violation of this section is committed at premises for which a D permit has been issued under Chapter 4303, of the Revised Code or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law.

(2) A person shall not be arrested for a violation of subsection (a)(2) of this section solely because the person does not promptly produce a valid concealed handgun license. If a person is arrested for a violation of subsection (a)(2) of this section and is convicted of or pleads guilty to the violation, the offender shall be punished as follows:

A. The offender shall be guilty of a minor misdemeanor if both of the following apply:

- 1. Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.
- 2. At the time of the arrest, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

B. The offender shall be guilty of a misdemeanor and shall be fined five hundred dollars (\$500.00) if all of the following apply:

- 1. The offender previously had been issued a concealed handgun license and that license expired within the two years immediately preceding the arrest.

2. Within forty-five days after the arrest, the offender presents any type of concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in Ohio R.C. 2945.71.
3. At the time of the commission of the offense, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- C. If subsections (f)(2)A. and B. and (f)(5) of this section do not apply, the offender shall be punished under subsection (f)(1) or (6) of this section.

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

(4) Carrying concealed weapons in violation of subsection (b)(2) or (b)(3) hereof is a misdemeanor of the first degree. If the offender has previously been convicted or pleaded guilty to a violation of subsection (b)(2) or (b)(3) hereof or a substantially equivalent municipal ordinance, carrying concealed weapons is a felony and shall be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a violation of subsection (b)(2) or (b)(3) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

(5) If a person being arrested for a violation of subsection (a)(2) of this section is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, and if at the time of the violation the person was not knowingly in a place described in division (B) of Ohio R.C. 2923.126, the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125 and if the person is not in a place described in division (B) of Ohio R.C. 2923.126, the officer shall issue a citation and the offender shall be assessed a civil penalty of not more than five hundred dollars (\$500.00). The citation shall be automatically dismissed and the civil penalty shall not be assessed if both of the following apply:

- A. Within ten days after the issuance of the citation, the offender presents a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, which were both valid at the time of the issuance of the citation to the law enforcement agency that employs the citing officer.
- B. At the time of the citation, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

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

- A. Except as otherwise provided in this subsection, if the person produces a valid concealed handgun license within ten days after the arrest and has not previously been convicted or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a minor misdemeanor;
- B. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the fourth degree;
- C. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to two violations of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the third degree;
- D. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to three or more violations of subsection (a)(2) of this section, or convicted of or pleaded guilty to any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is a dangerous ordnance, the person is guilty of a misdemeanor of the second degree.

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

(h) For purposes of this section, "deadly weapon" or "weapon" does not include any knife, razor, or cutting instrument if the instrument was not used as a weapon.
(ORC 2923.12)

949.03 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. (ORC 2923.15)

949.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.

(a) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:

- (1) In a closed package, box or case;
- (2) In a compartment which can be reached only by leaving the vehicle;
- (3) In plain sight and secured in a rack or holder made for the purpose;

(4) If the firearm is at least twenty-four inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least eighteen inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

(b) No person who has been issued a concealed handgun license, or who is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in Ohio R.C. 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:

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

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

- A. An officer, agent or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's or employee's duties;
- B. Any person who is employed in this State, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. does not apply to the person.

(2) Subsection (a) of this section does not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:

- A. The person transporting or possessing the handgun has been issued a concealed handgun license that is valid at the time in question or the person is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1).
- B. The person transporting or possessing the handgun is not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

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

- A. The person possesses a valid all-purpose vehicle permit issued under Ohio R.C. 1533.103 by the Chief of the Division of Wildlife.
- B. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 on private or publicly owned lands or on or in a motor vehicle during the open hunting season for a wild quadruped or game bird.
- C. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife.

(d) (1) The affirmative defenses authorized in Section 949.02(d)(1) and (2) are affirmative defenses to a charge under subsection (a) that involves a firearm other than a handgun.

(2) It is an affirmative defense to a charge under subsection (a) of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that the affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by subsection (a) while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.

(e) (1) No person who is charged with a violation of subsection (a) shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

(2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (b) of this section as it existed prior to September 30, 2011, and the conduct that was the basis of the violation no longer would be a violation of subsection (b) of this section on or after September 30, 2011, or if a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (a) of this section as the subsection existed prior to June 13, 2022, the person may file an application under Ohio R.C. 2953.35 requesting the expungement of the record of conviction.

(f) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of subsection (a) of this section is a misdemeanor of the fourth degree. A violation of subsection (b)(1) or (b)(2) of this section is a misdemeanor of the second degree. A violation of subsection (b)(3) or (4) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(3) or (4) of this section, a felony and shall be prosecuted under appropriate State law. In addition to any other penalty or sanction imposed for a misdemeanor violation of subsection (b)(3) or (4) of this section, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

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

(h) As used in this section:

- (1) "Commercial motor vehicle" has the same meaning as in Ohio R.C. 4506.25(A).
- (2) "Motor carrier enforcement unit" means the motor carrier enforcement unit in the Department of Public Safety, Division of State Highway Patrol, that is created by Ohio R.C. 5503.34.
- (3) "Motor vehicle", "street" and "highway" have the same meanings as in Ohio R.C. 4511.01.
- (4) A. "Unloaded" means:
 1. With respect to a firearm other than a firearm described in subsection (h)(4)B. of this section, that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm in question and one of the following applies:
 - a. There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.
 - b. Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.

2. For the purposes of subsection (h)(4)A.1.b. of this section, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:
 - a. A package, box or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;
 - b. A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.
3. For the purposes of subsection (h)(4)A. of this section, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.

B. "Unloaded" means, with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.

(i) Subsection (h)(4) of this section does not affect the authority of a person who has been issued a concealed handgun license that is valid at the time in question to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in those divisions, so long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter. A person who has been issued a concealed handgun license that is valid at the time in question may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter.

(ORC 2923.16)

949.05 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. (ORC 2923.19)

949.06 UNLAWFUL TRANSACTIONS IN WEAPONS.

(a) No person shall do any of the following:

- (1) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing the transferee to be authorized to acquire dangerous ordnance pursuant to Ohio R.C. 2923.17, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;
- (2) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.

(b) Whoever violates this section is guilty of unlawful transactions in weapons. A violation of subsection (a)(1) hereof is a misdemeanor of the second degree. A violation of subsection (a)(2) hereof is a misdemeanor of the fourth degree. (ORC 2923.20)

949.07 UNDERAGE PURCHASE OF FIREARM.

(a) No person under eighteen years of age shall purchase or attempt to purchase a firearm.

(b) No person under twenty-one years of age shall purchase or attempt to purchase a handgun, provided that this subsection does not apply to the purchase or attempted purchase of a handgun by a person eighteen years of age or older and under twenty-one years of age if either of the following apply:

- (1) The person is a law enforcement officer who is properly appointed or employed as a law enforcement officer and has received firearms training approved by the Ohio Peace Officer Training Council or equivalent firearms training.
- (2) The person is an active or reserve member of the armed services of the United States or the Ohio national guard, or was honorably discharged from military service in the active or reserve armed services of the United States or the Ohio national guard, and the person has received firearms training from the armed services or the national guard or equivalent firearms training.

(c) Whoever violates subsection (a) hereof is guilty of underage purchase of a firearm, a delinquent act that would be a felony of the fourth degree if it could be committed by an adult. Whoever violates subsection (b) hereof is guilty of underage purchase of a handgun, a misdemeanor of the second degree. (ORC 2923.211)

949.08 DISCHARGING FIREARMS.

(a) No person shall discharge any air gun, rifle, shotgun, revolver, pistol or other firearm within the corporate limits of the Municipality.

(b) This section does not apply when firearms are used in self defense, in the discharge of official duty or when otherwise lawfully authorized.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

949.09 THROWING OR SHOOTING MISSILES.

(a) No person shall throw, shoot or propel an arrow, missile, pellet, stone, metal or other similar substance capable of causing physical harm to persons or property, in or on any public place, in or on the property of another, or from any private property into or onto any public place or the property of another. This section does not apply to supervised archery ranges or instruction nor when otherwise lawfully authorized.

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

949.10 POSSESSING REPLICA FIREARM IN SCHOOL.

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

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

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

- A. An officer, agent, or employee of this or any other state or the United States who is authorized to carry deadly weapons or dangerous ordnance and is acting within the scope of the officer's, agent's, or employee's duties;
- B. A law enforcement officer who is authorized to carry deadly weapons or dangerous ordnance;
- C. A security officer employed by a board of education or governing body of a school during the time that the security officer is on duty pursuant to that contract of employment;
- D. 1. Any person not described in subsections (b)(1)A. to (b)(1)C. of this section who has written authorization from the board of education or governing body of a school to convey deadly weapons or dangerous ordnance into a school safety zone or to possess a deadly weapon or dangerous ordnance in a school safety zone and who conveys or possesses the deadly weapon or dangerous ordnance in accordance with that authorization, provided both of the following apply:
 - a. Either the person has successfully completed the curriculum, instruction, and training established under Ohio R.C. 5502.703, or the person has received a certificate of having satisfactorily completed an approved basic peace officer training program or is a law enforcement officer;

- b. The board or governing body has notified the public, by whatever means the affected school regularly communicates with the public, that the board or governing body has authorized one or more persons to go armed within a school operated by the board or governing authority;
 - 2. A district board or school governing body that authorizes a person under subsection (b)(1)D. of this section shall require that person to submit to an annual criminal records check conducted in the same manner as Ohio R.C. 3319.39 or Ohio R.C. 3319.391.
- E. Any person who is employed in this state, who is authorized to carry deadly weapons or dangerous ordnance, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subsection (b)(1)E. of this section does not apply to the person.

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

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

- A. The person does not enter into a school building or onto school premises and is not at a school activity.
- B. The person has been issued a concealed handgun license that is valid at the time of the conveyance, attempted conveyance, or possession or the person is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1).
- C. The person is in the school safety zone in accordance with 18 U.S.C. § 922(q)(2)(B).
- D. The person is not knowingly in a place described in Ohio R.C. 2923.126(B)(1) or (B)(3) to (8).

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

- A. The person has been issued a concealed handgun license that is valid at the time of the conveyance, attempted conveyance or possession or the person is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1).
- B. The person leaves the handgun in a motor vehicle.
- C. The handgun does not leave the motor vehicle.
- D. If the person exits the motor vehicle, the person locks the motor vehicle.

(c) Whoever violates this section is guilty of illegal possession of an object indistinguishable from a firearm in a school safety zone. Except as otherwise provided in this division, illegal possession of an object indistinguishable from a firearm in a school safety zone is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, illegal possession of an object indistinguishable from a firearm in a school safety zone is a felony to be prosecuted under appropriate state law.

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

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

(ORC 2923.122(C) - (G))

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

- (a) No person shall do either of the following:
 - (1) Change, alter, remove, or obliterate the name of the manufacturer, model, manufacturer's serial number, or other mark or identification on a firearm.
 - (2) Possess a firearm knowing or having reasonable cause to believe that the name of the manufacturer, model, manufacturer's serial number, or other mark of identification on the firearm has been changed, altered, removed, or obliterated.

(b) (1) Whoever violates subsection (a)(1) of this section is guilty of defacing identification marks of a firearm. Except as otherwise provided in this subsection, defacing identification marks of a firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(1) of this section, defacing identification marks of a firearm is a felony and shall be prosecuted under appropriate State law.

(2) Whoever violates subsection (a)(2) of this section is guilty of possessing a defaced firearm. Except as otherwise provided in this subsection, possessing a defaced firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, possessing a defaced firearm is a felony and shall be prosecuted under appropriate State law.
(ORC 2923.201)

949.12 CONCEALED HANDGUN LICENSES; POSSESSION OF REVOKED OR SUSPENDED LICENSE; ADDITIONAL RESTRICTIONS; POSTING SIGNS PROHIBITING POSSESSION.

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

(1) No person, except in the performance of official duties, shall possess a concealed handgun license that was issued and that has been revoked or suspended.

(2) Whoever violates this subsection (a) is guilty of possessing a revoked or suspended concealed handgun license, a misdemeanor of the third degree.
(ORC 2923.1211(B), (C))

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

(1) A concealed handgun license that is issued under Ohio R.C. 2923.125 shall expire five years after the date of issuance. A licensee who has been issued a license under that section shall be granted a grace period of thirty days after the licensee's license expires during which the licensee's license remains valid. Except as provided in subsection (b)(2) and (b)(3) of this section, a licensee who has been issued a concealed handgun license under Ohio R.C. 2923.125 or 2923.1213 may carry a concealed handgun anywhere in this state if the license is valid when the licensee is in actual possession of a concealed handgun. The licensee shall give notice of any change in the licensee's residence address to the sheriff who issued the license within forty-five days after that change.

(2) A valid concealed handgun license does not authorize the licensee to carry a concealed handgun in any manner prohibited under Ohio R.C. 2923.12(B) or in any manner prohibited under Ohio R.C. 2923.16. A valid license does not authorize the licensee to carry a concealed handgun into any of the following places:

A. A police station, sheriff's office, or state highway patrol station, premises controlled by the bureau of criminal identification and investigation; a state correctional institution, jail, workhouse, or other detention facility; any area of an airport passenger terminal that is beyond a passenger or property screening checkpoint or to which access is restricted through security measures by the airport authority or a public agency; or an institution that is maintained, operated, managed, and governed pursuant to Ohio R.C. 5119.14(A) or Ohio R.C. 5123.03(A)(1);

- B. A school safety zone if the licensee's carrying the concealed handgun is in violation of Ohio R.C. 2923.122;
- C. A courthouse or another building or structure in which a courtroom is located if the licensee's carrying the concealed handgun is in violation of Ohio R.C. 2923.123;
- D. Any premises or open air arena for which a D permit has been issued under Ohio R.C. Chapter 4303 if the licensee's carrying the concealed handgun is in violation of Ohio R.C. 2923.121;
- E. Any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle or unless the licensee is carrying the concealed handgun pursuant to a written policy, rule, or other authorization that is adopted by the institution's board of trustees or other governing body and that authorizes specific individuals or classes of individuals to carry a concealed handgun on the premises;
- F. Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;
- G. Any building that is a government facility of this state or a political subdivision of this state and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located that is subject to subsection (b)(2)C. of this section, unless the governing body with authority over the building has enacted a statute, ordinance, or policy that permits a licensee to carry a concealed handgun into the building;
- H. A place in which federal law prohibits the carrying of handguns.

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

B. 1. A private employer shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises or property of the private employer, including motor vehicles owned by the private employer, unless the private employer acted with malicious purpose. A private employer is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the private employer's decision to permit a licensee to bring, or prohibit a licensee from bringing, a handgun onto the premises or property of the private employer.

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

C. 1. a. Except as provided in subsection (b)(3)C.2. of this section and Ohio R.C. 2923.1214, the owner or person in control of private land or premises, and a private person or entity leasing land or premises owned by the state, the United States, or a political subdivision of the state or the United States, may post a sign in a conspicuous location on that land or on those premises prohibiting persons from carrying firearms or concealed firearms on or onto that land or those premises. Except as otherwise provided in this division, a person who knowingly violates a posted prohibition of that nature is guilty of criminal trespass in violation of Ohio R.C. 2911.21(A)(4) and is guilty of a misdemeanor of the fourth degree. If a person knowingly violates a posted prohibition of that nature and the posted land or premises primarily was a parking lot or other parking facility, the person is not guilty of criminal trespass under Ohio R.C. 2911.21 or under any other criminal law of this State or criminal law, ordinance, or resolution of a political subdivision of this State, and instead is subject only to a civil cause of action for trespass based on the violation.

- b. If a person knowingly violates a posted prohibition of the nature described in this division and the posted land or premises is a child day-care center, type A family day-care home, or type B family day-care home, unless the person is a licensee who resides in a type A family day-care home or type B family day-care home, the person is guilty of aggravated trespass in violation of Ohio R.C. 2911.211. Except as otherwise provided in this division, the offender is guilty of a misdemeanor of the first degree. If the person previously has been convicted of a violation of this division or any substantially equivalent state law or municipal ordinance, or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, the offender is guilty of a felony to be prosecuted under appropriate state law.
 2. A landlord may not prohibit or restrict a tenant who is a licensee and who on or after September 9, 2008 enters into a rental agreement with the landlord for the use of residential premises, and the tenant's guest while the tenant is present, from lawfully carrying or possessing a handgun on those residential premises.
 3. As used in subsection (b)(3)C. of this section:
 - a. "Residential premises" has the same meaning as in Ohio R.C. 5321.01, except "residential premises" does not include a dwelling unit that is owned or operated by a college or university.
 - b. "Landlord", "tenant", and "rental agreement" have the same meanings as in Ohio R.C. 5321.01.

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

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

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

C. A tactical medical professional who is qualified to carry firearms while on duty under Ohio R.C. 109.771 has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under Ohio R.C. 2923.125.

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

B. 1. Each public agency of this State or of a political subdivision of this State that is served by one or more peace officers shall issue a retired peace officer identification card to any person who retired from service as a peace officer with that agency, if the issuance is in accordance with the agency's policies and procedures and if the person, with respect to the person's service with that agency, satisfies all of the following:

- a. The person retired in good standing from service as a peace officer with the public agency, and the retirement was not for reasons of mental instability.
- b. Before retiring from service as a peace officer with that agency, the person was authorized to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and the person had statutory powers of arrest.
- c. At the time of the person's retirement as a peace officer with that agency, the person was trained and qualified to carry firearms in the performance of the peace officer's duties.

- d. Before retiring from service as a peace officer with that agency, the person was regularly employed as a peace officer for an aggregate of 15 years or more, or, in the alternative, the person retired from service as a peace officer with that agency, after completing any applicable probationary period of that service, due to a service-connected disability, as determined by the agency.
2. A retired peace officer identification card issued to a person under subsection (b)(6)B.1. of this section shall identify the person by name, contain a photograph of the person, identify the public agency of this state or of the political subdivision of this State from which the person retired as a peace officer and that is issuing the identification card, and specify that the person retired in good standing from service as a peace officer with the issuing public agency and satisfies the criteria set forth in subsections (b)(6)B.1.a. to (b)(6)B.1.d. of this section. In addition to the required content specified in this subsection, a retired peace officer identification card issued to a person under subsection (b)(6)B.1. of this section may include the firearms requalification certification described in subsection (b)(6)C. of this section, and if the identification card includes that certification, the identification card shall serve as the firearms requalification certification for the retired peace officer. If the issuing public agency issues credentials to active law enforcement officers who serve the agency, the agency may comply with subsection (b)(6)B.1. of this section by issuing the same credentials to persons who retired from service as a peace officer with the agency and who satisfy the criteria set forth in subsection (b)(6)B.1.a. to (b)(6)B.1.d. of this section, provided that the credentials so issued to retired peace officers are stamped with the word "RETIRED".
3. A public agency of this state or of a political subdivision of this State may charge persons who retired from service as a peace officer with the agency a reasonable fee for issuing to the person a retired peace officer identification card pursuant to subsection (b)(6)B.1. of this section.

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

2. If a retired peace officer who satisfies the criteria set forth in subsections (b)(6)B.1.a. to (b)(6)B.1.d. of this section attends a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801, the retired peace officer's successful completion of the firearms requalification program requalifies the retired peace officer for purposes of subsection (b)(6) of this section for five years from the date on which the program was successfully completed, and the requalification is valid during that five-year period. If a retired peace officer who satisfies the criteria set forth in subsections (b)(6)B.1.a. to (b)(6)B.1.d. of this section satisfactorily completes such a firearms requalification program, the retired peace officer shall be issued a firearms requalification certification that identifies the retired peace officer by name, identifies the entity that taught the program, specifies that the retired peace officer successfully completed the program, specifies the date on which the course was successfully completed, and specifies that the requalification is valid for five years from that date of successful completion. The firearms requalification certification for a retired peace officer may be included in the retired peace officer identification card issued to the retired peace officer under subsection (b)(6)B. of this section.
3. A retired peace officer who attends a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801 may be required to pay the cost of the program.

(7) As used in subsection (b)(6) of this section:

- A. "Governing body." Has the same meaning as in Ohio R.C. 154.01.
- B. "Government facility of this State or a political subdivision of this State" means any of the following:
 1. A building or part of a building that is owned or leased by the government of this State or a political subdivision of this State and where employees of the government of this State or the political subdivision regularly are present for the purpose of performing their official duties as employees of the State or political subdivision;
 2. The office of a deputy registrar serving pursuant to Ohio R.C. Chapter 4503 that is used to perform deputy registrar functions.
- C. "Qualified retired peace officer" means a person who satisfies all of the following:
 1. The person satisfies the criteria set forth in subsections (b)(6)B.1.a. to (b)(6)B.1.d. of this section.
 2. The person is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
 3. The person is not prohibited by Federal law from receiving firearms.

- D. "Retired peace officer identification card" means an identification card that is issued pursuant to subsection (b)(6)B. of this section to a person who is a retired peace officer.
- E. "Tactical medical professional." Has the same meaning as in Ohio R.C. 109.71.
- F. "Validating identification." Means photographic identification issued by the agency for which an individual serves as a peace officer that identifies the individual as a peace officer of the agency. (ORC 2923.126)

(c) Posting of Signs Prohibiting Possession. Each person, board, or entity that owns or controls any place or premises identified in Ohio R.C. 2923.126(B) as a place into which a valid license does not authorize the licensee to carry a concealed handgun, or a designee of such a person, board, or entity, shall post in the following one or more conspicuous locations in the premises a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto these premises.
(ORC 2923.1212)

949.99 PENALTY.

(EDITOR'S NOTE: See Section 901.99 for penalties applicable to any misdemeanor classification.)

In making a determination, the City may rely on information provided by the applicant and in public records. The City shall conduct an exterior property maintenance inspection of the property at least once every other year.

(d) Fee. The fee charged for a Leasing Permit application shall be \$60 per year. The fee shall be paid at the time the Leasing Permit Application is filed.
(Ord. 2018-33. Passed 5-21-18.)

1331.04 DENIAL OR REVOCATION OF PERMIT - APPEAL.

(a) An applicant who has been denied a Leasing Permit for any of the reasons stated in subsection 1331.03 (c)(1) - (5) above, may within five (5) business days of receipt of notice of a denial, request that the Director of Public Safety or her designee reconsider the permit application. The Director of Public Safety or her designee shall review and reconsider the permit application and send a written decision, by regular mail, within seven (7) business days.

(b) If a Leasing Permit is denied due to subsection 1331.03(c)(6) or a leasing permit revoked due to a nuisance condition, the applicant may request an administrative hearing before a Nuisance Adjudication Hearing Officer, in accordance with 1331.05.

(c) A Leasing Permit may be revoked if any false statement is made by the applicant in connection with the issuance of such permit, for substantial noncompliance of any requirement set forth in Part 13 of the Codified Ordinances of the City of Berea. Except in cases involving a revocation due to a nuisance condition, an applicant may appeal a permit revocation to the Director of Public Safety or her designee within five (5) business days of receipt of notice of a permit revocation. The Director of Public Safety or her designee shall review and reconsider the circumstances leading to the revocation and send a written decision, by regular mail, within seven (7) business days.

(d) Any applicant who has been adversely affected by a decision of the Director of Public Safety or her designee, may seek further appeal to the Municipal Planning Commission in accordance with the procedure contained in Chapter 103 of the Zoning Code of the City of Berea.
(Ord. 2018-33. Passed 5-21-18.)

1331.05 NUISANCE CONDITIONS AT LEASED PROPERTIES PROHIBITED - PROCEDURES - NUISANCE HEARING OFFICER.

(a) The following activities occurring on any privately-owned lot that is subject to Chapter 1331, or within 30 feet from the property line of same, and engaged in by an owner, occupant, tenant, guest or invitee of one lawfully residing or occupying the premises or establishment on the subject lot, are hereby declared to be nuisances:

- (1) Any act that would constitute a violation of any section of Part Nine "General Offense" of the Codified Ordinances of the City of Berea, or any similar Ohio Revised Code provision, except any act that would constitute an offense against a family member in violation of a provision of Chapter 937 of the Codified Ordinances of the City of Berea or Chapter 2919 of the Ohio Revised Code or a person in a dating relationship, as defined in Section 3113.31 of the Revised Code;
- (2) Any act that would constitute a violation of Chapter 321 of the Codified Ordinances of the City of Berea, Garbage and Rubbish or similar Ohio Revised Code provision;

- (3) Any act that would constitute a violation of Chapter 327 of the Codified Ordinances of the City of Berea, Trees and Weeds or similar Ohio Revised Code provision;
- (4) Any act that would constitute a violation of Chapter 1329 of the Building Code of the City of Berea, Exterior Maintenance or similar Ohio Revised Code provision;
- (5) Any act that would constitute a felony under the Ohio Revised Code except any act that would constitute an offense against a family member in violation of any provision of Chapter 2919 of the Ohio Revised Code or a person in a dating relationship, as defined in Section 3113.31.
- (6) Any act that would constitute a violation of Chapter 1519 of the Codified Ordinances of the City of Berea, Fireworks.

(Ord. 2022-27. Passed 5-16-22.)

(b) The Director of Public Safety or a designee, upon finding that one or more nuisance activities declared in subsection (a) herein above have occurred within thirty (30) feet of any property line of the same premises, may cause a written warning letter to be sent via regular mail to the last known address of the property owner declaring that such property may be declared a nuisance property upon continued violations. A copy of the warning letter shall also be sent via regular mail to the subject property addressed to the occupant(s).

The Director of Public Safety or a designee, upon finding that two (2) or more nuisance activities declared in subsection (a) above have occurred within the twenty-four (24) month period immediately preceding the second nuisance activity, at or within thirty (30) feet of any property line of the subject premises, shall cause written notice and order to be sent via regular mail to the last known address of the property owner declaring that such property may be subject to the nuisance law upon a third or subsequent offense. A copy of the notice and order shall also be sent by regular mail to the subject property, addressed to the occupant(s).

The notice and order shall set forth the nature of the nuisance(s), the estimated cost to abate any future nuisance(s), and state that the owner may avoid being charged the cost of abatement by the City by taking steps to prevent any further nuisance activity. The notice and order shall also state that if a third or subsequent nuisance activities occurs within twenty-four (24) months of the date of the first nuisance activity, the City may abate the nuisance by responding to the activities using administrative and law enforcement actions, and the costs of such abatement shall be assessed to the nuisance property.

(c) If within twenty-four (24) months after the occurrence of the first of the two previous nuisance conditions, a third or subsequent nuisance activity occurs, the City may declare the property a criminal nuisance and abate the nuisance by responding to the activity using administrative and law enforcement actions, with the cost calculated as set forth in subsection (d) of this section. The cost of such abatement may be assessed on the nuisance property, and notice to the owner of the nuisance property of the City's intent to assess the costs of abatement against the owner's property at least thirty (30) days before such costs are certified to the County for assessment against the property, and such notice shall contain a description of the nuisance activity that is the basis for the notice of intent to assess the property, and the cost to abate. Notice shall be sent by regular mail to the last known address of the property owner and posted on the subject property. (Ord. 2021-29. Passed 6-21-21.)

(d) Costs of Abatement shall be based upon the hourly wage of each City employee involved in the enforcement and abatement of the nuisance activity, plus 75%, to recoup the costs of fuel, materials, vehicle and equipment depreciation and other related expenses, multiplied by the number of hours expended by City employees required to abate the nuisance plus the additional direct cost to the City if abatement activities were performed by an outside contractor. The minimum cost of abatement shall be seven hundred fifty dollars (\$750.00) per incident. Any portion of time less than one hour shall be rounded up to the next whole hour.

CHAPTER 1519

Fireworks

EDITOR'S NOTE: Pursuant to Ordinance 2022-18, passed May 2, 2022, the Council of the City of Berea expressly opts-out of the provisions set forth in H.B. 172, and reaffirms the ban on discharging, igniting, or exploding fireworks as set forth in Chapter 1519 of the Codified Ordinances of the City of Berea.

1519.01	Definitions.	1519.05	Application.
1519.02	Public exhibition permit required; fee; bond; records.	1519.06	Safety requirements for fireworks showroom structures.
1519.03	Unlawful conduct by exhibitor.	1519.99	Penalty.
1519.04	Possession, sale or discharge prohibited; exceptions.		

CROSS REFERENCES

Manufacturers to comply with building and zoning ordinances - see Ohio R.C. 3743.06(F)
 Wholesalers to comply with building and zoning ordinances - see Ohio R.C. 3743.19(G)
 Arrests, seizure of fireworks by certified fire safety inspector - see Ohio R.C. 3743.68
 Conflict of Fire Marshal's rules with rules of Ohio Board of Building Standards - see Ohio R.C. 3781.11(D)

1519.01 DEFINITIONS.

As used in this chapter:

- (a) "Beer" and "intoxicating liquor" have the same meanings as in section 4301.01 of the Ohio Revised Code.
- (b) "Booby trap" means a small tube that has a string protruding from both ends, that has a friction-sensitive composition, and that is ignited by pulling the ends of the string.
- (c) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.
- (d)
 - (1) "1.3G fireworks" means display fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.3" in Title 49, Code of Federal Regulations.
 - (2) "1.4G fireworks" means consumer fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.4" in Title 49, Code of Federal Regulations.
- (e) "Controlled substance" has the same meaning as in section 3719.01 of the Ohio Revised Code.

- (f) "Fireworks" means 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 section 3743.80 of the Ohio Revised Code.
- (g) "Fireworks plant" means all buildings and other structures in which the manufacturing of fireworks, or the storage or sale of manufactured fireworks by a manufacturer, takes place.
- (h) "Fountain device" means a specific type of 1.4G firework that meets all of the following criteria:
 - (1) It is nonaerial and nonreport producing.
 - (2) It is recognized and manufactured in accordance with sections 3.1.1 and 3.5 of APA standard 87-1 (2001 edition).
 - (3) It is a ground-based or hand-held sparkler with one or more tubes containing a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition, with or without additional effects that may include a colored flame, audible crackling effect, audible whistle effect, or smoke.
 - (4) It contains not more than seventy-five grams of the nonexplosive pyrotechnic mixture in any individual tube and not more than five hundred grams or less for multiple tubes.
- (i) "Highway" means any public street, road, alley, way, lane, or other public thoroughfare.
- (j) "Licensed exhibitor of fireworks" or "licensed exhibitor" means a person licensed pursuant to sections 3743.50 to 3743.55 of the Ohio Revised Code.
- (k) "Licensed fountain device retailer" or "licensed retailer" means a person licensed pursuant to section 3743.26 of the Ohio Revised Code.
- (l) "Licensed manufacturer of fireworks" or "licensed manufacturer" means a person licensed pursuant to sections 3743.02 to 3743.08 of the Ohio Revised Code.
- (m) "Licensed wholesaler of fireworks" or "licensed wholesaler" means a person licensed pursuant to sections 3743.15 to 3743.21 of the Ohio Revised Code.
- (n) "List of licensed exhibitors" means the list required by division (C) of section 3743.51 of the Ohio Revised Code.
- (o) "List of licensed manufacturers" means the list required by division (C) of section 3743.03 of the Ohio Revised Code.
- (p) "List of licensed wholesalers" means the list required by division (C) of section 3743.16 of the Ohio Revised Code.
- (q) "Manufacturing of fireworks" means the making of fireworks from raw materials, none of which in and of themselves constitute a fireworks, or the processing of fireworks.
- (r) "Navigable waters" means any body of water susceptible of being used in its ordinary condition as a highway of commerce over which trade and travel is or may be conducted in the customary modes, but does not include a body of water that is not capable of navigation by barges, tugboats, and other large vessels.
- (s) "Novelties and trick noisemakers" include the following items:
 - (1) Devices that produce a small report intended to surprise the user, including, but not limited to, booby traps, cigarette loads, party poppers, and snappers;
 - (2) Snakes or glow worms;
 - (3) Smoke devices;
 - (4) Trick matches.

3. Notwithstanding subsection (d) of this section, the State Fire Marshal may provide a variance to the requirements of subsection (c)(3)B.2. of this section pursuant to Ohio R.C. 3743.59 for a sprinkler system that matches or exceeds the degree of safety provided by a sprinkler system that meets the criteria for sprinkler systems in extra hazard (group 2) occupancies under "NFPA 13, Standard for the Installation of Sprinkler Systems (2019 Edition)".
- C. A newly constructed or an existing fireworks showroom structure that exists on September 23, 2008, but that, on or after September 23, 2008, is altered or added to in a manner requiring the submission of plans, drawings, specifications, or data pursuant to Ohio R.C. 3791.04, shall comply with a graphic floor plan layout that is approved by the State Fire Marshal and Superintendent of Industrial Compliance showing width of aisles, parallel arrangement of aisles to exits, number of exits per wall, maximum occupancy load, evacuation plan for occupants, height of storage or display of merchandise, and other information as may be required by the State Fire Marshal and Superintendent of Industrial Compliance.
- D. A fireworks showroom structure that exists on June 30, 1997, shall be in compliance on or after June 30, 1997, with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the State Fire Marshal and Superintendent of Industrial Compliance, and that are submitted under seal as required by Ohio R.C. 3791.04.

(d) The safety requirements established in subsection (c) of this section are not subject to any variance, waiver, or exclusion pursuant to this chapter or any applicable building code. (ORC 3743.25)

1519.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months or both.

In addition to any fine imposed above, whoever violates Section 1519.04(b) shall pay a mandatory additional sum of two hundred fifty dollars (\$250.00) for a first offense; an additional sum of five hundred dollars (\$500.00) for a second offense and an additional sum of seven hundred fifty dollars (\$750.00) for any subsequent offense, to be credited to the General Fund Account 100.045.4055, to be used for fire prevention education relating to fireworks, which sum shall not be subject to suspension.

(Ord. 2022-28. Passed 5-16-22.)

