

As Reported by the House Criminal Justice Committee

124th General Assembly

Regular Session

2001-2002

Sub. H. B. No. 411

REPRESENTATIVES White, Clancy, Husted, Setzer, Carmichael, Collier,
Faber, Grendell, Hughes, Latta, Metzger, McGregor, Olman, Reidelbach,
Roman, Salerno, Schmidt, Schaffer, G. Smith, Williams, Wolpert, Boccieri,
Britton, Carano, Cirelli, Distel, Ford, Otterman, Rhine, Seaver, Sferra, Wilson,
Womer Benjamin, Sulzer, Seitz, Brown

A B I L L

To amend sections 2917.31 and 2917.32 and to enact
section 2917.33 of the Revised Code to increase the
penalties for inducing panic and making false
alarms involving a purported, threatened, or actual
use of a weapon of mass destruction and to prohibit
unlawful possession or use of a hoax weapon of mass
destruction.

1
2
3
4
5
6
7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2917.31 and 2917.32 be amended and
section 2917.33 of the Revised Code be enacted to read as follows:

8
9

Sec. 2917.31. (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:

10
11
12

(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;

13
14
15

(2) Threatening to commit any offense of violence; 16

(3) Committing any offense, with reckless disregard of the 17
likelihood that its commission will cause serious public 18
inconvenience or alarm. 19

(B) Division (A)(1) of this section does not apply to any 20
person conducting an authorized fire or emergency drill. 21

(C)(1) Whoever violates this section is guilty of inducing 22
panic. 23

(2) Except as otherwise provided in division (C)(3), (4), ~~or~~ 24
(5), (6), (7), (8), or (9) of this section, inducing panic is a 25
misdemeanor of the first degree. 26

(3) Except as otherwise provided in division (C)(4) ~~or~~ (5), 27
(6), (7), (8), or (9) of this section, if a violation of this 28
section results in physical harm to any person, inducing panic is 29
a felony of the fourth degree. 30

(4) Except as otherwise provided in division (C)(5), (6), 31
(7), (8), or (9) of this section, if a violation of this section 32
results in economic harm, the penalty shall be determined as 33
follows: 34

(a) If the violation results in economic harm of five hundred 35
dollars or more but less than five thousand dollars and if 36
division (C)(3) of this section does not apply, inducing panic is 37
a felony of the fifth degree. 38

(b) If the violation results in economic harm of five 39
thousand dollars or more but less than one hundred thousand 40
dollars, inducing panic is a felony of the fourth degree. 41

(c) If the violation results in economic harm of one hundred 42
thousand dollars or more, inducing panic is a felony of the third 43
degree. 44

(5)~~(a)~~ Except as otherwise provided in division (C)~~(5)(b) or~~ 45
~~(c)(6), (7), (8), or (9)~~ of this section, if the public place 46
involved in a violation of division (A)(1) of this section is a 47
school, the penalty shall be determined as follows: 48

(a) Except as otherwise provided in division (C)(5)(b) or (c) 49
of this section, inducing panic is a felony of the fourth degree. 50

~~(b) If the public place involved in a violation of division~~ 51
~~(A)(1) of this section is a school and if the violation results in~~ 52
physical harm to any person and if division (C)(5)(c)(iii) of this 53
section does not apply, inducing panic is a felony of the third 54
degree. 55

~~(c) If the public place involved in a violation of division~~ 56
~~(A)(1) of this section is a school and if the violation results in~~ 57
economic harm, the penalty shall be determined as follows: 58

(i) If the violation results in economic harm of five hundred 59
dollars or more but less than five thousand dollars and if 60
division (C)(5)(b) of this section does not apply, inducing panic 61
is a felony of the fourth degree. 62

(ii) If the violation results in economic harm of five 63
thousand dollars or more but less than one hundred thousand 64
dollars, inducing panic is a felony of the third degree. 65

(iii) If the violation results in economic harm of one 66
hundred thousand dollars or more, inducing panic is a felony of 67
the second degree. 68

(6) If the violation pertains to a purported, threatened, or 69
actual use of a weapon of mass destruction, and except as 70
otherwise provided in division (C)(7), (8), or (9) of this 71
section, inducing panic is a felony of the fourth degree. 72

(7) If the violation pertains to a purported, threatened, or 73
actual use of a weapon of mass destruction, and except as 74

otherwise provided in division (C)(9)(a) or (c) of this section,
if a violation of this section results in physical harm to any
person, inducing panic is a felony of the third degree.

(8) If the violation pertains to a purported, threatened, or
actual use of a weapon of mass destruction, and except as
otherwise provided in division (C)(9)(a) or (c) of this section,
if a violation of this section results in economic harm of one
hundred thousand dollars or more, inducing panic is a felony of
the third degree.

(9)(a) If the public place involved in a violation of
division (A)(1) of this section is a school, if the violation
pertains to a purported, threatened, or actual use of a weapon of
mass destruction, and if the violation results in physical harm to
any person, inducing panic is a felony of the second degree.

(b) If the public place involved in a violation of division
(A)(1) of this section is a school, if the violation pertains to a
purported, threatened, or actual use of a weapon of mass
destruction, and if the violation results in economic harm of five
thousand dollars or more but less than one hundred thousand
dollars, and if division (C)(9)(a) of this section does not apply,
inducing panic is a felony of the third degree.

(c) If the public place involved in a violation of division
(A)(1) of this section is a school, if the violation pertains to a
purported, threatened, or actual use of a weapon of mass
destruction, and if the violation results in economic harm of one
hundred thousand dollars or more, inducing panic is a felony of
the second degree.

(D)(1) It is not a defense to a charge under this section
that pertains to a purported or threatened use of a weapon of mass
destruction that the offender did not possess or have the ability
to use a weapon of mass destruction or that what was represented

to be a weapon of mass destruction was not a weapon of mass 106
destruction. 107

(2) Any act that is a violation of this section and any other 108
section of the Revised Code may be prosecuted under this section, 109
the other section, or both sections. 110

(E) As used in this section: 111

(1) "Economic harm" means all direct, incidental, and 112
consequential pecuniary harm suffered by a victim as a result of 113
criminal conduct. "Economic harm" includes, but is not limited to, 114
all of the following: 115

(a) All wages, salaries, or other compensation lost as a 116
result of the criminal conduct; 117

(b) The cost of all wages, salaries, or other compensation 118
paid to employees for time those employees are prevented from 119
working as a result of the criminal conduct; 120

(c) The overhead costs incurred for the time that a business 121
is shut down as a result of the criminal conduct; 122

(d) The loss of value to tangible or intangible property that 123
was damaged as a result of the criminal conduct. 124

(2) "School" means any school operated by a board of 125
education or any school for which the state board of education 126
prescribes minimum standards under section 3301.07 of the Revised 127
Code, whether or not any instruction, extracurricular activities, 128
or training provided by the school is being conducted at the time 129
a violation of this section is committed. 130

(3) "Weapon of mass destruction" means any of the following: 131

(a) Any weapon that is designed or intended to cause death or 132
serious physical harm through the release, dissemination, or 133
impact of toxic or poisonous chemicals, or their precursors; 134

<u>(b) Any weapon involving a disease organism or biological agent;</u>	135 136
<u>(c) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life;</u>	137 138
<u>(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:</u>	139 140 141 142
<u>(i) Any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device;</u>	143 144 145 146
<u>(ii) Any combination of parts either designed or intended for use in converting any item or device into any item or device described in division (E)(3)(d)(i) of this section and from which an item or device described in that division may be readily assembled.</u>	147 148 149 150 151
<u>(4) "Biological agent" has the same meaning as in section 2917.33 of the Revised Code.</u>	152 153
 Sec. 2917.32. (A) No person shall do any of the following:	 154
(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;	155 156 157 158
(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;	159 160 161 162
(3) Report to any law enforcement agency an alleged offense	163

or other incident within its concern, knowing that such offense
did not occur.

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

(C)(1) Whoever violates this section is guilty of making
false alarms. ~~Except~~

(2) Except as otherwise provided in this division (C)(3),
(4), (5), or (6) of this section, making false alarms is a
misdemeanor of the first degree. If

(3) Except as otherwise provided in division (C)(4) of this
section, if a violation of this section results in economic harm
of five hundred dollars or more but less than five thousand
dollars, making false alarms is a felony of the fifth degree. If

(4) 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 of the third degree.

(5) If a violation of this section results in economic harm
of five thousand dollars or more but less than one hundred
thousand dollars and if division (C)(4) of this section does not
apply, making false alarms is a felony of the fourth degree. If

(6) If a violation of this section results in economic harm
of one hundred thousand dollars or more, making false alarms is a
felony of the third degree.

(D)(1) It is not a defense to a charge under this section
that pertains to a purported or threatened use of a weapon of mass
destruction that the offender did not possess or have the ability
to use a weapon of mass destruction or that what was represented
to be a weapon of mass destruction was not a weapon of mass
destruction.

(2) Any act that is a violation of this section and any other

section of the Revised Code may be prosecuted under this section,
the other section, or both sections.

(E) As used in this section, "economic harm" means all
direct, incidental, and consequential pecuniary harm suffered by a
victim as a result of criminal conduct. "Economic harm" includes,
but is not limited to, all of the following:

(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 and "weapon of
mass destruction" have the same meanings as in section 2917.31 of
the Revised Code.

Sec. 2917.33. (A) No person, without privilege to do so,
shall manufacture, possess, sell, deliver, display, use, threaten
to use, attempt to use, conspire to use, or make readily
accessible to others a hoax weapon of mass destruction with the
intent to deceive or otherwise mislead one or more persons into
believing that the hoax weapon of mass destruction will cause
terror, bodily harm, or property damage.

(B) This section does not apply to any member or employee of
the armed forces of the United States, a governmental agency of
this state, another state, or the United States, or a private
entity, to whom all of the following apply:

(1) The member or employee otherwise is engaged in lawful
activity within the scope of the member's or employee's duties or

employment.

224

(2) The member or employee otherwise is duly authorized or
licensed to manufacture, possess, sell, deliver, display, or
otherwise engage in activity as described in division (A) of this
section.

225

226

227

228

(3) The member or employee is in compliance with applicable
federal and state law.

229

230

(C) Whoever violates this section is guilty of unlawful
possession or use of a hoax weapon of mass destruction, a felony
of the fourth degree.

231

232

233

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

234

235

236

(E) As used in this section:

237

(1) "Hoax weapon of mass destruction" means any device or
object that by its design, construction, content, or
characteristics appears to be, appears to constitute, or appears
to contain, or is represented as being, constituting, or
containing, a weapon of mass destruction and to which either of
the following applies:

238

239

240

241

242

243

(a) It is, in fact, an inoperative facsimile, imitation,
counterfeit, or representation of a weapon of mass destruction
that does not meet the definition of a weapon of mass destruction.

244

245

246

(b) It does not actually contain or constitute a weapon,
biological agent, toxin, vector, or delivery system.

247

248

(2) "Biological agent" means any microorganism, virus,
infectious substance, or biological product that may be engineered
through biotechnology, or any naturally occurring or bioengineered
component of any microorganism, virus, infectious substance, or
biological product that may be engineered through biotechnology,

249

250

251

252

253

<u>capable of causing any of the following:</u>	254
<u>(a) Death, disease, or other biological malfunction in a</u>	255
<u>human, an animal, a plant, or another living organism;</u>	256
<u>(b) Deterioration of food, water, equipment, supplies, or</u>	257
<u>material of any kind;</u>	258
<u>(c) Deleterious alteration of the environment.</u>	259
<u>(3) "Toxin" means the toxic material of plants, animals,</u>	260
<u>microorganisms, viruses, fungi, or infectious substances or a</u>	261
<u>recombinant molecule, whatever its origin or method of</u>	262
<u>reproduction, including, but not limited to, any of the following:</u>	263
<u>(a) Any poisonous substance or biological product that may be</u>	264
<u>engineered through biotechnology and that is produced by a living</u>	265
<u>organism;</u>	266
<u>(b) Any poisonous isomer or biological product, homolog, or</u>	267
<u>derivative of any substance or product described in division</u>	268
<u>(D)(3)(a) of this section.</u>	269
<u>(4) "Delivery system" means any of the following:</u>	270
<u>(a) Any apparatus, equipment, device, or means of delivery</u>	271
<u>specifically designed to deliver or disseminate a biological</u>	272
<u>agent, toxin, or vector;</u>	273
<u>(b) Any vector.</u>	274
<u>(5) "Vector" means a living organism or molecule, including a</u>	275
<u>recombinant molecule or biological product that may be engineered</u>	276
<u>through biotechnology, capable of carrying a biological agent or</u>	277
<u>toxin to a host.</u>	278
<u>(6) "Weapon of mass destruction" has the same meaning as in</u>	279
<u>section 2917.31 of the Revised Code.</u>	280

Section 2. That existing sections 2917.31 and 2917.32 of the	281
---	-----

Revised Code are hereby repealed.

282