

As Reported by the Senate Judiciary--Criminal Justice Committee

126th General Assembly

Regular Session

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Sub. S. B. No. 53

**Senators Carey, Zurz, Harris, Jacobson, Padgett, Clancy, Grendell, Fedor,
Miller, Austria, Goodman, Schuring**

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A B I L L

To amend sections 109.60, 2151.022, 2152.02, 2919.22, 1
2925.01, 2925.04, 2925.041, 2925.14, 2925.52, and 2
4301.61 and to enact sections 2927.30, 2927.31, 3
2927.32, 2927.33, 2933.33, 3715.05, and 3715.06 of
the Revised Code to govern pseudoephedrine sales 4
in Ohio. 5
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 109.60, 2151.022, 2152.02, 2919.22, 7
2925.01, 2925.04, 2925.041, 2925.14, 2925.52, and 4301.61 be 8
amended and sections 2927.30, 2927.31, 2927.32, 2927.33, 2933.33, 9
3715.05, and 3715.06 of the Revised Code be enacted to read as 10
follows: 11

Sec. 109.60. (A)(1) The sheriffs of the several counties and 12
the chiefs of police of cities, immediately upon the arrest of any 13
person for any felony, on suspicion of any felony, for a crime 14
constituting a misdemeanor on the first offense and a felony on 15
subsequent offenses, or for any misdemeanor described in division 16
(A)(1)(a) of section 109.572 of the Revised Code, and immediately 17
upon the arrest or taking into custody of any child under eighteen 18
years of age for committing an act that would be a felony or an 19

offense of violence if committed by an adult or upon probable 20
cause to believe that a child of that age may have committed an 21
act that would be a felony or an offense of violence if committed 22
by an adult, shall take the person's or child's fingerprints, or 23
cause the same to be taken, according to the fingerprint system of 24
identification on the forms furnished by the superintendent of the 25
bureau of criminal identification and investigation, and 26
immediately shall forward copies of the completed forms, any other 27
description that may be required, and the history of the offense 28
committed to the bureau to be classified and filed and to the 29
clerk of the court having jurisdiction over the prosecution of the 30
offense or over the adjudication relative to the act. 31

(2) If a sheriff or chief of police has not taken, or caused 32
to be taken, a person's or child's fingerprints in accordance with 33
division (A)(1) of this section by the time of the arraignment or 34
first appearance of the person or child, the court shall order the 35
person or child to appear before the sheriff or chief of police 36
within twenty-four hours to have the person's or child's 37
fingerprints taken. The sheriff or chief of police shall take the 38
person's or child's fingerprints, or cause the fingerprints to be 39
taken, according to the fingerprint system of identification on 40
the forms furnished by the superintendent of the bureau of 41
criminal identification and investigation and, immediately after 42
the person's or child's arraignment or first appearance, forward 43
copies of the completed forms, any other description that may be 44
required, and the history of the offense committed to the bureau 45
to be classified and filed and to the clerk of the court. 46

(3) Every court with jurisdiction over a case involving a 47
person or child with respect to whom division (A)(1) of this 48
section requires a sheriff or chief of police to take the person's 49
or child's fingerprints shall inquire at the time of the person's 50
or child's sentencing or adjudication whether or not the person or 51

child has been fingerprinted pursuant to division (A)(1) or (2) of
this section for the original arrest upon which the sentence or
adjudication is based. If the person or child was not
fingerprinted for the original arrest upon which the sentence or
adjudication is based, the court shall order the person or child
to appear before the sheriff or chief of police within twenty-four
hours to have the person's or child's fingerprints taken. The
sheriff or chief of police shall take the person's or child's
fingerprints, or cause the fingerprints to be taken, according to
the fingerprint system of identification on the forms furnished by
the superintendent of the bureau of criminal identification and
investigation and immediately forward copies of the completed
forms, any other description that may be required, and the history
of the offense committed to the bureau to be classified and filed
and to the clerk of the court.

(4) If a person or child is in the custody of a law
enforcement agency or a detention facility, as defined in section
2921.01 of the Revised Code, and the chief law enforcement officer
or chief administrative officer of the detention facility
discovers that a warrant has been issued or a bill of information
has been filed alleging the person or child to have committed an
offense or act other than the offense or act for which the person
or child is in custody, and the other alleged offense or act is
one for which fingerprints are to be taken pursuant to division
(A)(1) of this section, the law enforcement agency or detention
facility shall take the fingerprints of the person or child, or
cause the fingerprints to be taken, according to the fingerprint
system of identification on the forms furnished by the
superintendent of the bureau of criminal identification and
investigation and immediately forward copies of the completed
forms, any other description that may be required, and the history
of the offense committed to the bureau to be classified and filed

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and to the clerk of the court that issued the warrant or with
which the bill of information was filed.

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(5) If an accused is found not guilty of the offense charged
or a nolle prosequi is entered in any case, or if any accused
child under eighteen years of age is found not to be a delinquent
child for committing an act that would be a felony or an offense
of violence if committed by an adult or not guilty of the felony
or offense of violence charged or a nolle prosequi is entered in
that case, the fingerprints and description shall be given to the
accused upon the accused's request.

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(6) The superintendent shall compare the description received
with those already on file in the bureau, and, if the
superintendent finds that the person arrested or taken into
custody has a criminal record or a record as a delinquent child
for having committed an act that would be a felony or an offense
of violence if committed by an adult or is a fugitive from justice
or wanted by any jurisdiction in this or another state, the United
States, or a foreign country for any offense, the superintendent
at once shall inform the arresting officer, the officer taking the
person into custody, or the chief administrative officer of the
county, multicounty, municipal, municipal-county, or
multicounty-municipal jail or workhouse, community-based
correctional facility, halfway house, alternative residential
facility, or state correctional institution in which the person or
child is in custody of that fact and give appropriate notice to
the proper authorities in the jurisdiction in which the person is
wanted, or, if that jurisdiction is a foreign country, give
appropriate notice to federal authorities for transmission to the
foreign country. The names, under which each person whose
identification is filed is known, shall be alphabetically indexed
by the superintendent.

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(B) ~~This~~ Division (A) of this section does not apply to a

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violator of a city ordinance unless the officers have reason to 116
believe that the violator is a past offender or the crime is one 117
constituting a misdemeanor on the first offense and a felony on 118
subsequent offenses, or unless it is advisable for the purpose of 119
subsequent identification. This section does not apply to any 120
child under eighteen years of age who was not arrested or 121
otherwise taken into custody for committing an act that would be a 122
felony or an offense of violence if committed by an adult or upon 123
probable cause to believe that a child of that age may have 124
committed an act that would be a felony or an offense of violence 125
if committed by an adult, except as provided in section 2151.313 126
of the Revised Code. 127

(C)(1) For purposes of division (C) of this section, a law 128
enforcement agency shall be considered to have arrested a person 129
if any law enforcement officer who is employed by, appointed by, 130
or serves that agency arrests the person. As used in division (C) 131
of this section: 132

(a) "Illegal methamphetamine manufacturing laboratory" has 133
the same meaning as in section 3745.13 of the Revised Code. 134

(b) "Methamphetamine or a methamphetamine product" means 135
methamphetamine, any salt, isomer, or salt of an isomer of 136
methamphetamine, or any compound, mixture, preparation, or 137
substance containing methamphetamine or any salt, isomer, or salt 138
of an isomer of methamphetamine. 139

(2) Each law enforcement agency that, in any calendar year, 140
arrests any person for a violation of section 2925.04 of the 141
Revised Code that is based on the manufacture of methamphetamine 142
or a methamphetamine product, a violation of section 2925.041 of 143
the Revised Code that is based on the possession of chemicals 144
sufficient to produce methamphetamine or a methamphetamine 145
product, or a violation of any other provision of Chapter 2925. or 146
3719. of the Revised Code that is based on the possession of 147

chemicals sufficient to produce methamphetamine or a 148
methamphetamine product shall prepare an annual report covering 149
the calendar year that contains the information specified in 150
division (C)(3) of this section relative to all arrests for 151
violations of those sections committed under those circumstances 152
during that calendar year and relative to illegal methamphetamine 153
manufacturing laboratories, dump sites, and chemical caches as 154
specified in that division and shall send the annual report, not 155
later than the first day of March in the calendar year following 156
the calendar year covered by the report, to the bureau of criminal 157
identification and investigation. 158

The law enforcement agency shall write any annual report 159
prepared and filed under this division on the standard forms 160
furnished by the superintendent of the bureau of criminal 161
identification and investigation pursuant to division (C)(4) of 162
this section. The annual report shall be a statistical report, and 163
nothing in the report or in the information it contains shall 164
identify, or enable the identification of, any person who was 165
arrested and whose arrest is included in the information contained 166
in the report. The annual report in the possession of the bureau 167
and the information it contains are public records for the purpose 168
of section 149.43 of the Revised Code. 169

(3) The annual report prepared and filed by a law enforcement 170
agency under division (C)(2) of this section shall contain all of 171
the following information for the calendar year covered by the 172
report: 173

(a) The total number of arrests made by the agency in that 174
calendar year for a violation of section 2925.04 of the Revised 175
Code that is based on the manufacture of methamphetamine or a 176
methamphetamine product, a violation of section 2925.041 of the 177
Revised Code that is based on the possession of chemicals 178
sufficient to produce methamphetamine or a methamphetamine 179

product, or a violation of any other provision of Chapter 2925. or 180
3719. of the Revised Code that is based on the possession of 181
chemicals sufficient to produce methamphetamine or a 182
methamphetamine product; 183

(b) The total number of illegal methamphetamine manufacturing 184
laboratories at which one or more of the arrests reported under 185
division (C)(3)(a) of this section occurred, or that were 186
discovered in that calendar year within the territory served by 187
the agency but at which none of the arrests reported under 188
division (C)(3)(a) of this section occurred; 189

(c) The total number of dump sites and chemical caches that 190
are, or that are reasonably believed to be, related to illegal 191
methamphetamine manufacturing and that were discovered in that 192
calendar year within the territory served by the agency. 193

(4) The superintendent of the bureau of criminal 194
identification and investigation shall prepare and furnish to each 195
law enforcement agency in this state standard forms for making the 196
annual reports required by division (C)(2) of this section. The 197
standard forms that the superintendent prepares pursuant to this 198
division may be in a tangible format, in an electronic format, or 199
in both a tangible format and an electronic format. 200

(5) The annual report required by division (C)(2) of this 201
section is separate from, and in addition to, any report, 202
materials, or information required under division (A) of this 203
section or under any other provision of sections 109.57 to 109.62 204
of the Revised Code. 205

Sec. 2151.022. As used in this chapter, "unruly child" 206
includes any of the following: 207

(A) Any child who does not submit to the reasonable control 208
of the child's parents, teachers, guardian, or custodian, by 209

reason of being wayward or habitually disobedient;	210
(B) Any child who is an habitual truant from school and who previously has not been adjudicated an unruly child for being an habitual truant;	211 212 213
(C) Any child who behaves in a manner as to injure or endanger the child's own health or morals or the health or morals of others;	214 215 216
(D) Any child who violates a law, other than division (A) of section 2923.211, <u>division (C)(1) or (D) of section 2927.30,</u> <u>division (C) of section 2927.31,</u> or section 2151.87 of the Revised Code, that is applicable only to a child.	217 218 219 220
Sec. 2152.02. As used in this chapter:	221
(A) "Act charged" means the act that is identified in a complaint, indictment, or information alleging that a child is a delinquent child.	222 223 224
(B) "Admitted to a department of youth services facility" includes admission to a facility operated, or contracted for, by the department and admission to a comparable facility outside this state by another state or the United States.	225 226 227 228
(C)(1) "Child" means a person who is under eighteen years of age, except as otherwise provided in divisions (C)(2) to (6) of this section.	229 230 231
(2) Subject to division (C)(3) of this section, any person who violates a federal or state law or a municipal ordinance prior to attaining eighteen years of age shall be deemed a "child" irrespective of that person's age at the time the complaint with respect to that violation is filed or the hearing on the complaint is held.	232 233 234 235 236 237
(3) Any person who, while under eighteen years of age,	238

commits an act that would be a felony if committed by an adult and 239
who is not taken into custody or apprehended for that act until 240
after the person attains twenty-one years of age is not a child in 241
relation to that act. 242

(4) Any person whose case is transferred for criminal 243
prosecution pursuant to section 2152.12 of the Revised Code shall 244
be deemed after the transfer not to be a child in the transferred 245
case. 246

(5) Any person whose case is transferred for criminal 247
prosecution pursuant to section 2152.12 of the Revised Code and 248
who subsequently is convicted of or pleads guilty to a felony in 249
that case, and any person who is adjudicated a delinquent child 250
for the commission of an act, who has a serious youthful offender 251
dispositional sentence imposed for the act pursuant to section 252
2152.13 of the Revised Code, and whose adult portion of the 253
dispositional sentence is invoked pursuant to section 2152.14 of 254
the Revised Code, shall be deemed after the transfer or invocation 255
not to be a child in any case in which a complaint is filed 256
against the person. 257

(6) The juvenile court has jurisdiction over a person who is 258
adjudicated a delinquent child or juvenile traffic offender prior 259
to attaining eighteen years of age until the person attains 260
twenty-one years of age, and, for purposes of that jurisdiction 261
related to that adjudication, except as otherwise provided in this 262
division, a person who is so adjudicated a delinquent child or 263
juvenile traffic offender shall be deemed a "child" until the 264
person attains twenty-one years of age. If a person is so 265
adjudicated a delinquent child or juvenile traffic offender and 266
the court makes a disposition of the person under this chapter, at 267
any time after the person attains eighteen years of age, the 268
places at which the person may be held under that disposition are 269
not limited to places authorized under this chapter solely for 270

confinement of children, and the person may be confined under that disposition, in accordance with division (F)(2) of section 2152.26 of the Revised Code, in places other than those authorized under this chapter solely for confinement of children.

(D) "Chronic truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for seven or more consecutive school days, ten or more school days in one school month, or fifteen or more school days in a school year.

(E) "Community corrections facility," "public safety beds," "release authority," and "supervised release" have the same meanings as in section 5139.01 of the Revised Code.

(F) "Delinquent child" includes any of the following:

(1) Any child, except a juvenile traffic offender, who violates any law of this state or the United States, or any ordinance of a political subdivision of the state, that would be an offense if committed by an adult;

(2) Any child who violates any lawful order of the court made under this chapter or under Chapter 2151. of the Revised Code other than an order issued under section 2151.87 of the Revised Code;

(3) Any child who violates division (A) of section 2923.211, division (C)(1) or (D) of section 2927.30, or division (C) of section 2927.31 of the Revised Code;

(4) Any child who is a habitual truant and who previously has been adjudicated an unruly child for being a habitual truant;

(5) Any child who is a chronic truant.

(G) "Discretionary serious youthful offender" means a person who is eligible for a discretionary SYO and who is not transferred to adult court under a mandatory or discretionary transfer.

(H) "Discretionary SYO" means a case in which the juvenile court, in the juvenile court's discretion, may impose a serious youthful offender disposition under section 2152.13 of the Revised Code.

(I) "Discretionary transfer" means that the juvenile court has discretion to transfer a case for criminal prosecution under division (B) of section 2152.12 of the Revised Code.

(J) "Drug abuse offense," "felony drug abuse offense," and "minor drug possession offense" have the same meanings as in section 2925.01 of the Revised Code.

(K) "Electronic monitoring" and "electronic monitoring device" have the same meanings as in section 2929.01 of the Revised Code.

(L) "Economic loss" means any economic detriment suffered by a victim of a delinquent act or juvenile traffic offense as a direct and proximate result of the delinquent act or juvenile traffic offense and includes any loss of income due to lost time at work because of any injury caused to the victim and any property loss, medical cost, or funeral expense incurred as a result of the delinquent act or juvenile traffic offense. "Economic loss" does not include non-economic loss or any punitive or exemplary damages.

(M) "Firearm" has the same meaning as in section 2923.11 of the Revised Code.

(N) "Juvenile traffic offender" means any child who violates any traffic law, traffic ordinance, or traffic regulation of this state, the United States, or any political subdivision of this state, other than a resolution, ordinance, or regulation of a political subdivision of this state the violation of which is required to be handled by a parking violations bureau or a joint parking violations bureau pursuant to Chapter 4521. of the Revised

Code.	332
(O) A "legitimate excuse for absence from the public school the child is supposed to attend" has the same meaning as in section 2151.011 of the Revised Code.	333 334 335
(P) "Mandatory serious youthful offender" means a person who is eligible for a mandatory SYO and who is not transferred to adult court under a mandatory or discretionary transfer.	336 337 338
(Q) "Mandatory SYO" means a case in which the juvenile court is required to impose a mandatory serious youthful offender disposition under section 2152.13 of the Revised Code.	339 340 341
(R) "Mandatory transfer" means that a case is required to be transferred for criminal prosecution under division (A) of section 2152.12 of the Revised Code.	342 343 344
(S) "Mental illness" has the same meaning as in section 5122.01 of the Revised Code.	345 346
(T) "Mentally retarded person" has the same meaning as in section 5123.01 of the Revised Code.	347 348
(U) "Monitored time" and "repeat violent offender" have the same meanings as in section 2929.01 of the Revised Code.	349 350
(V) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.	351 352
(W) "Public record" has the same meaning as in section 149.43 of the Revised Code.	353 354
(X) "Serious youthful offender" means a person who is eligible for a mandatory SYO or discretionary SYO but who is not transferred to adult court under a mandatory or discretionary transfer.	355 356 357 358
(Y) "Sexually oriented offense," "habitual sex offender," "juvenile offender registrant," "sexual predator," "presumptive	359 360

registration-exempt sexually oriented offense," 361
"registration-exempt sexually oriented offense," "child-victim 362
oriented offense," "habitual child-victim offender," and 363
"child-victim predator" have the same meanings as in section 364
2950.01 of the Revised Code. 365

(Z) "Traditional juvenile" means a case that is not 366
transferred to adult court under a mandatory or discretionary 367
transfer, that is eligible for a disposition under sections 368
2152.16, 2152.17, 2152.19, and 2152.20 of the Revised Code, and 369
that is not eligible for a disposition under section 2152.13 of 370
the Revised Code. 371

(AA) "Transfer" means the transfer for criminal prosecution 372
of a case involving the alleged commission by a child of an act 373
that would be an offense if committed by an adult from the 374
juvenile court to the appropriate court that has jurisdiction of 375
the offense. 376

(BB) "Category one offense" means any of the following: 377

(1) A violation of section 2903.01 or 2903.02 of the Revised 378
Code; 379

(2) A violation of section 2923.02 of the Revised Code 380
involving an attempt to commit aggravated murder or murder. 381

(CC) "Category two offense" means any of the following: 382

(1) A violation of section 2903.03, 2905.01, 2907.02, 383
2909.02, 2911.01, or 2911.11 of the Revised Code; 384

(2) A violation of section 2903.04 of the Revised Code that 385
is a felony of the first degree; 386

(3) A violation of section 2907.12 of the Revised Code as it 387
existed prior to September 3, 1996. 388

(DD) "Non-economic loss" means nonpecuniary harm suffered by 389
a victim of a delinquent act or juvenile traffic offense as a 390

result of or related to the delinquent act or juvenile traffic 391
offense, including, but not limited to, pain and suffering; loss 392
of society, consortium, companionship, care, assistance, 393
attention, protection, advice, guidance, counsel, instruction, 394
training, or education; mental anguish; and any other intangible 395
loss. 396

Sec. 2919.22. (A) No person, who is the parent, guardian, 397
custodian, person having custody or control, or person in loco 398
parentis of a child under eighteen years of age or a mentally or 399
physically handicapped child under twenty-one years of age, shall 400
create a substantial risk to the health or safety of the child, by 401
violating a duty of care, protection, or support. It is not a 402
violation of a duty of care, protection, or support under this 403
division when the parent, guardian, custodian, or person having 404
custody or control of a child treats the physical or mental 405
illness or defect of the child by spiritual means through prayer 406
alone, in accordance with the tenets of a recognized religious 407
body. 408

(B) No person shall do any of the following to a child under 409
eighteen years of age or a mentally or physically handicapped 410
child under twenty-one years of age: 411

(1) Abuse the child; 412

(2) Torture or cruelly abuse the child; 413

(3) Administer corporal punishment or other physical 414
disciplinary measure, or physically restrain the child in a cruel 415
manner or for a prolonged period, which punishment, discipline, or 416
restraint is excessive under the circumstances and creates a 417
substantial risk of serious physical harm to the child; 418

(4) Repeatedly administer unwarranted disciplinary measures 419
to the child, when there is a substantial risk that such conduct, 420

if continued, will seriously impair or retard the child's mental 421
health or development; 422

(5) Entice, coerce, permit, encourage, compel, hire, employ, 423
use, or allow the child to act, model, or in any other way 424
participate in, or be photographed for, the production, 425
presentation, dissemination, or advertisement of any material or 426
performance that the offender knows or reasonably should know is 427
obscene, is sexually oriented matter, or is nudity-oriented 428
matter; 429

(6) Allow the child to be on the same parcel of real property 430
and within one hundred feet of, or, in the case of more than one 431
housing unit on the same parcel of real property, in the same 432
housing unit and within one hundred feet of, any act in violation 433
of section 2925.04 or 2925.041 of the Revised Code when the person 434
knows that the act is occurring, whether or not any person is 435
prosecuted for or convicted of the violation of section 2925.04 or 436
2925.041 of the Revised Code that is the basis of the violation of 437
this division. 438

(C)(1) No person shall operate a vehicle, streetcar, or 439
trackless trolley within this state in violation of division (A) 440
of section 4511.19 of the Revised Code when one or more children 441
under eighteen years of age are in the vehicle, streetcar, or 442
trackless trolley. Notwithstanding any other provision of law, a 443
person may be convicted at the same trial or proceeding of a 444
violation of this division and a violation of division (A) of 445
section 4511.19 of the Revised Code that constitutes the basis of 446
the charge of the violation of this division. For purposes of 447
sections 4511.191 to 4511.197 of the Revised Code and all related 448
provisions of law, a person arrested for a violation of this 449
division shall be considered to be under arrest for operating a 450
vehicle while under the influence of alcohol, a drug of abuse, or 451
a combination of them or for operating a vehicle with a prohibited 452

concentration of alcohol in the whole blood, blood serum or 453
plasma, breath, or urine. 454

(2) As used in division (C)(1) of this section, "vehicle," 455
"streetcar," and "trackless trolley" have the same meanings as in 456
section 4511.01 of the Revised Code. 457

(D)(1) Division (B)(5) of this section does not apply to any 458
material or performance that is produced, presented, or 459
disseminated for a bona fide medical, scientific, educational, 460
religious, governmental, judicial, or other proper purpose, by or 461
to a physician, psychologist, sociologist, scientist, teacher, 462
person pursuing bona fide studies or research, librarian, member 463
of the clergy, prosecutor, judge, or other person having a proper 464
interest in the material or performance. 465

(2) Mistake of age is not a defense to a charge under 466
division (B)(5) of this section. 467

(3) In a prosecution under division (B)(5) of this section, 468
the trier of fact may infer that an actor, model, or participant 469
in the material or performance involved is a juvenile if the 470
material or performance, through its title, text, visual 471
representation, or otherwise, represents or depicts the actor, 472
model, or participant as a juvenile. 473

(4) As used in this division and division (B)(5) of this 474
section: 475

(a) "Material," "performance," "obscene," and "sexual 476
activity" have the same meanings as in section 2907.01 of the 477
Revised Code. 478

(b) "Nudity-oriented matter" means any material or 479
performance that shows a minor in a state of nudity and that, 480
taken as a whole by the average person applying contemporary 481
community standards, appeals to prurient interest. 482

(c) "Sexually oriented matter" means any material or performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality.

(E)(1) Whoever violates this section is guilty of endangering children.

(2) If the offender violates division (A) or (B)(1) of this section, endangering children is one of the following:

(a) Except as otherwise provided in division (E)(2)(b), (c), or (d) of this section, a misdemeanor of the first degree;

(b) If the offender previously has been convicted of an offense under this section or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, except as otherwise provided in division (E)(2)(c) or (d) of this section, a felony of the fourth degree;

(c) If the violation is a violation of division (A) of this section and results in serious physical harm to the child involved, a felony of the third degree;

(d) If the violation is a violation of division (B)(1) of this section and results in serious physical harm to the child involved, a felony of the second degree.

(3) If the offender violates division (B)(2), (3), (4), or (6) of this section, except as otherwise provided in this division, endangering children is a felony of the third degree. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, endangering children is a felony of the second degree. If the offender violates division (B)(6) of this section and the drug involved is methamphetamine, the court shall impose a

mandatory prison term on the offender as follows: 513

(a) If the violation is a violation of division (B)(6) of 514
this section that is a felony of the third degree under division 515
(E)(3) of this section and the drug involved is methamphetamine, 516
except as otherwise provided in this division, the court shall 517
impose as a mandatory prison term one of the prison terms 518
prescribed for a felony of the third degree that is not less than 519
two years. If the violation is a violation of division (B)(6) of 520
this section that is a felony of the third degree under division 521
(E)(3) of this section, if the drug involved is methamphetamine, 522
and if the offender previously has been convicted of or pleaded 523
guilty to a violation of division (B)(6) of this section, a 524
violation of division (A) of section 2925.04 of the Revised Code, 525
or a violation of division (A) of section 2925.041 of the Revised 526
Code, the court shall impose as a mandatory prison term one of the 527
prison terms prescribed for a felony of the third degree that is 528
not less than five years. 529

(b) If the violation is a violation of division (B)(6) of 530
this section that is a felony of the second degree under division 531
(E)(3) of this section and the drug involved is methamphetamine, 532
except as otherwise provided in this division, the court shall 533
impose as a mandatory prison term one of the prison terms 534
prescribed for a felony of the second degree that is not less than 535
three years. If the violation is a violation of division (B)(6) of 536
this section that is a felony of the second degree under division 537
(E)(3) of this section, if the drug involved is methamphetamine, 538
and if the offender previously has been convicted of or pleaded 539
guilty to a violation of division (B)(6) of this section, a 540
violation of division (A) of section 2925.04 of the Revised Code, 541
or a violation of division (A) of section 2925.041 of the Revised 542
Code, the court shall impose as a mandatory prison term one of the 543
prison terms prescribed for a felony of the second degree that is 544

not less than five years.

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(4) If the offender violates division (B)(5) of this section,
endangering children is a felony of the second degree.

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(5) If the offender violates division (C) of this section,
the offender shall be punished as follows:

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(a) Except as otherwise provided in division (E)(5)(b) or (c)
of this section, endangering children in violation of division (C)
of this section is a misdemeanor of the first degree.

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(b) If the violation results in serious physical harm to the
child involved or the offender previously has been convicted of an
offense under this section or any offense involving neglect,
abandonment, contributing to the delinquency of, or physical abuse
of a child, except as otherwise provided in division (E)(5)(c) of
this section, endangering children in violation of division (C) of
this section is a felony of the fifth degree.

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(c) If the violation results in serious physical harm to the
child involved and if the offender previously has been convicted
of a violation of division (C) of this section, section 2903.06 or
2903.08 of the Revised Code, section 2903.07 of the Revised Code
as it existed prior to March 23, 2000, or section 2903.04 of the
Revised Code in a case in which the offender was subject to the
sanctions described in division (D) of that section, endangering
children in violation of division (C) of this section is a felony
of the fourth degree.

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(d) In addition to any term of imprisonment, fine, or other
sentence, penalty, or sanction it imposes upon the offender
pursuant to division (E)(5)(a), (b), or (c) of this section or
pursuant to any other provision of law and in addition to any
suspension of the offender's driver's or commercial driver's
license or permit or nonresident operating privilege under Chapter
4506., 4509., 4510., or 4511. of the Revised Code or under any

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other provision of law, the court also may impose upon the 576
offender a class seven suspension of the offender's driver's or 577
commercial driver's license or permit or nonresident operating 578
privilege from the range specified in division (A)(7) of section 579
4510.02 of the Revised Code. 580

(e) In addition to any term of imprisonment, fine, or other 581
sentence, penalty, or sanction imposed upon the offender pursuant 582
to division (E)(5)(a), (b), (c), or (d) of this section or 583
pursuant to any other provision of law for the violation of 584
division (C) of this section, if as part of the same trial or 585
proceeding the offender also is convicted of or pleads guilty to a 586
separate charge charging the violation of division (A) of section 587
4511.19 of the Revised Code that was the basis of the charge of 588
the violation of division (C) of this section, the offender also 589
shall be sentenced in accordance with section 4511.19 of the 590
Revised Code for that violation of division (A) of section 4511.19 591
of the Revised Code. 592

(F)(1)(a) A court may require an offender to perform not more 593
than two hundred hours of supervised community service work under 594
the authority of an agency, subdivision, or charitable 595
organization. The requirement shall be part of the community 596
control sanction or sentence of the offender, and the court shall 597
impose the community service in accordance with and subject to 598
divisions (F)(1)(a) and (b) of this section. The court may require 599
an offender whom it requires to perform supervised community 600
service work as part of the offender's community control sanction 601
or sentence to pay the court a reasonable fee to cover the costs 602
of the offender's participation in the work, including, but not 603
limited to, the costs of procuring a policy or policies of 604
liability insurance to cover the period during which the offender 605
will perform the work. If the court requires the offender to 606
perform supervised community service work as part of the 607

offender's community control sanction or sentence, the court shall
do so in accordance with the following limitations and criteria:

(i) The court shall require that the community service work
be performed after completion of the term of imprisonment or jail
term imposed upon the offender for the violation of division (C)
of this section, if applicable.

(ii) The supervised community service work shall be subject
to the limitations set forth in divisions (B)(1), (2), and (3) of
section 2951.02 of the Revised Code.

(iii) The community service work shall be supervised in the
manner described in division (B)(4) of section 2951.02 of the
Revised Code by an official or person with the qualifications
described in that division. The official or person periodically
shall report in writing to the court concerning the conduct of the
offender in performing the work.

(iv) The court shall inform the offender in writing that if
the offender does not adequately perform, as determined by the
court, all of the required community service work, the court may
order that the offender be committed to a jail or workhouse for a
period of time that does not exceed the term of imprisonment that
the court could have imposed upon the offender for the violation
of division (C) of this section, reduced by the total amount of
time that the offender actually was imprisoned under the sentence
or term that was imposed upon the offender for that violation and
by the total amount of time that the offender was confined for any
reason arising out of the offense for which the offender was
convicted and sentenced as described in sections 2949.08 and
2967.191 of the Revised Code, and that, if the court orders that
the offender be so committed, the court is authorized, but not
required, to grant the offender credit upon the period of the
commitment for the community service work that the offender

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adequately performed. 639

(b) If a court, pursuant to division (F)(1)(a) of this 640
section, orders an offender to perform community service work as 641
part of the offender's community control sanction or sentence and 642
if the offender does not adequately perform all of the required 643
community service work, as determined by the court, the court may 644
order that the offender be committed to a jail or workhouse for a 645
period of time that does not exceed the term of imprisonment that 646
the court could have imposed upon the offender for the violation 647
of division (C) of this section, reduced by the total amount of 648
time that the offender actually was imprisoned under the sentence 649
or term that was imposed upon the offender for that violation and 650
by the total amount of time that the offender was confined for any 651
reason arising out of the offense for which the offender was 652
convicted and sentenced as described in sections 2949.08 and 653
2967.191 of the Revised Code. The court may order that a person 654
committed pursuant to this division shall receive hour-for-hour 655
credit upon the period of the commitment for the community service 656
work that the offender adequately performed. No commitment 657
pursuant to this division shall exceed the period of the term of 658
imprisonment that the sentencing court could have imposed upon the 659
offender for the violation of division (C) of this section, 660
reduced by the total amount of time that the offender actually was 661
imprisoned under that sentence or term and by the total amount of 662
time that the offender was confined for any reason arising out of 663
the offense for which the offender was convicted and sentenced as 664
described in sections 2949.08 and 2967.191 of the Revised Code. 665

(2) Division (F)(1) of this section does not limit or affect 666
the authority of the court to suspend the sentence imposed upon a 667
misdemeanor offender and place the offender under a community 668
control sanction pursuant to section 2929.25 of the Revised Code, 669
to require a misdemeanor or felony offender to perform supervised 670

community service work in accordance with division (B) of section 671
2951.02 of the Revised Code, or to place a felony offender under a 672
community control sanction. 673

(G)(1) If a court suspends an offender's driver's or 674
commercial driver's license or permit or nonresident operating 675
privilege under division (E)(5)(d) of this section, the period of 676
the suspension shall be consecutive to, and commence after, the 677
period of suspension of the offender's driver's or commercial 678
driver's license or permit or nonresident operating privilege that 679
is imposed under Chapter 4506., 4509., 4510., or 4511. of the 680
Revised Code or under any other provision of law in relation to 681
the violation of division (C) of this section that is the basis of 682
the suspension under division (E)(5)(d) of this section or in 683
relation to the violation of division (A) of section 4511.19 of 684
the Revised Code that is the basis for that violation of division 685
(C) of this section. 686

(2) An offender is not entitled to request, and the court 687
shall not grant to the offender, limited driving privileges if the 688
offender's license, permit, or privilege has been suspended under 689
division (E)(5)(d) of this section and the offender, within the 690
preceding six years, has been convicted of or pleaded guilty to 691
three or more violations of one or more of the following: 692

(a) Division (C) of this section; 693

(b) Any equivalent offense, as defined in section 4511.181 of 694
the Revised Code. 695

(H)(1) If a person violates division (C) of this section and 696
if, at the time of the violation, there were two or more children 697
under eighteen years of age in the motor vehicle involved in the 698
violation, the offender may be convicted of a violation of 699
division (C) of this section for each of the children, but the 700
court may sentence the offender for only one of the violations. 701

(2)(a) If a person is convicted of or pleads guilty to a violation of division (C) of this section but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the violation of division (C) of this section, both of the following apply:

(i) For purposes of the provisions of section 4511.19 of the Revised Code that set forth the penalties and sanctions for a violation of division (A) of section 4511.19 of the Revised Code, the conviction of or plea of guilty to the violation of division (C) of this section shall not constitute a violation of division (A) of section 4511.19 of the Revised Code;

(ii) For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code and that is not described in division (H)(2)(a)(i) of this section, the conviction of or plea of guilty to the violation of division (C) of this section shall constitute a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code.

(b) If a person is convicted of or pleads guilty to a violation of division (C) of this section and the person also is convicted of or pleads guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the violation of division (C) of this section, the conviction of or plea of guilty to the violation of division (C) of this section shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code, a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code.

(I) As used in this section:	734
(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code;	735 736
(2) "Limited driving privileges" has the same meaning as in section 4501.01 of the Revised Code;	737 738
<u>(3) "Methamphetamine" has the same meaning as in section 2925.01 of the Revised Code.</u>	739 740
Sec. 2925.01. As used in this chapter:	741
(A) "Administer," "controlled substance," "dispense," "distribute," "hypodermic," "manufacturer," "official written order," "person," "pharmacist," "pharmacy," "sale," "schedule I," "schedule II," "schedule III," "schedule IV," "schedule V," and "wholesaler" have the same meanings as in section 3719.01 of the Revised Code.	742 743 744 745 746 747
(B) "Drug dependent person" and "drug of abuse" have the same meanings as in section 3719.011 of the Revised Code.	748 749
(C) "Drug," "dangerous drug," "licensed health professional authorized to prescribe drugs," and "prescription" have the same meanings as in section 4729.01 of the Revised Code.	750 751 752
(D) "Bulk amount" of a controlled substance means any of the following:	753 754
(1) For any compound, mixture, preparation, or substance included in schedule I, schedule II, or schedule III, with the exception of marihuana, cocaine, L.S.D., heroin, and hashish and except as provided in division (D)(2) or (5) of this section, whichever of the following is applicable:	755 756 757 758 759
(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	760 761 762

derivative;	763
(b) An amount equal to or exceeding ten grams of a compound,	764
mixture, preparation, or substance that is or contains any amount	765
of raw or gum opium;	766
(c) An amount equal to or exceeding thirty grams or ten unit	767
doses of a compound, mixture, preparation, or substance that is or	768
contains any amount of a schedule I hallucinogen other than	769
tetrahydrocannabinol or lysergic acid amide, or a schedule I	770
stimulant or depressant;	771
(d) An amount equal to or exceeding twenty grams or five	772
times the maximum daily dose in the usual dose range specified in	773
a standard pharmaceutical reference manual of a compound, mixture,	774
preparation, or substance that is or contains any amount of a	775
schedule II opiate or opium derivative;	776
(e) An amount equal to or exceeding five grams or ten unit	777
doses of a compound, mixture, preparation, or substance that is or	778
contains any amount of phencyclidine;	779
(f) An amount equal to or exceeding one hundred twenty grams	780
or thirty times the maximum daily dose in the usual dose range	781
specified in a standard pharmaceutical reference manual of a	782
compound, mixture, preparation, or substance that is or contains	783
any amount of a schedule II stimulant that is in a final dosage	784
form manufactured by a person authorized by the "Federal Food,	785
Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as	786
amended, and the federal drug abuse control laws, as defined in	787
section 3719.01 of the Revised Code, that is or contains any	788
amount of a schedule II depressant substance or a schedule II	789
hallucinogenic substance;	790
(g) An amount equal to or exceeding three grams of a	791
compound, mixture, preparation, or substance that is or contains	792
any amount of a schedule II stimulant, or any of its salts or	793

isomers, that is not in a final dosage form manufactured by a
person authorized by the Federal Food, Drug, and Cosmetic Act and
the federal drug abuse control laws.

(2) An amount equal to or exceeding one hundred twenty 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 two hundred fifty
milliliters or two hundred fifty 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 two hundred 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.

(E) "Unit dose" means an amount or unit of a compound,
mixture, or preparation containing a controlled substance that is
separately identifiable and in a form that indicates that it is
the amount or unit by which the controlled substance is separately
administered to or taken by an individual.

(F) "Cultivate" includes planting, watering, fertilizing, or
tilling.

(G) "Drug abuse offense" means any of the following:

(1) A violation of division (A) of section 2913.02 that 824
constitutes theft of drugs, or a violation of section 2925.02, 825
2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 826
2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36, or 827
2925.37 of the Revised Code; 828

(2) A violation of an existing or former law of this or any 829
other state or of the United States that is substantially 830
equivalent to any section listed in division (G)(1) of this 831
section; 832

(3) An offense under an existing or former law of this or any 833
other state, or of the United States, of which planting, 834
cultivating, harvesting, processing, making, manufacturing, 835
producing, shipping, transporting, delivering, acquiring, 836
possessing, storing, distributing, dispensing, selling, inducing 837
another to use, administering to another, using, or otherwise 838
dealing with a controlled substance is an element; 839

(4) A conspiracy to commit, attempt to commit, or complicity 840
in committing or attempting to commit any offense under division 841
(G)(1), (2), or (3) of this section. 842

(H) "Felony drug abuse offense" means any drug abuse offense 843
that would constitute a felony under the laws of this state, any 844
other state, or the United States. 845

(I) "Harmful intoxicant" does not include beer or 846
intoxicating liquor but means any of the following: 847

(1) Any compound, mixture, preparation, or substance the gas, 848
fumes, or vapor of which when inhaled can induce intoxication, 849
excitement, giddiness, irrational behavior, depression, 850
stupefaction, paralysis, unconsciousness, asphyxiation, or other 851
harmful physiological effects, and includes, but is not limited 852
to, any of the following: 853

(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;	854 855 856 857
(b) Any aerosol propellant;	858
(c) Any fluorocarbon refrigerant;	859
(d) Any anesthetic gas.	860
(2) Gamma Butyrolactone;	861
(3) 1,4 Butanediol.	862
(J) "Manufacture" means to plant, cultivate, harvest, process, make, prepare, or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical synthesis, or compounding, or any combination of the same, and includes packaging, repackaging, labeling, and other activities incident to production.	863 864 865 866 867 868
(K) "Possess" or "possession" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.	869 870 871 872
(L) "Sample drug" means a drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.	873 874 875 876 877 878
(M) "Standard pharmaceutical reference manual" means the current edition, with cumulative changes if any, of any of the following reference works:	879 880 881
(1) "The National Formulary";	882

(2) "The United States Pharmacopeia," prepared by authority	883
of the United States Pharmacopeial Convention, Inc.;	884
(3) Other standard references that are approved by the state	885
board of pharmacy.	886
(N) "Juvenile" means a person under eighteen years of age.	887
(O) "Counterfeit controlled substance" means any of the	888
following:	889
(1) Any drug that bears, or whose container or label bears, a	890
trademark, trade name, or other identifying mark used without	891
authorization of the owner of rights to that trademark, trade	892
name, or identifying mark;	893
(2) Any unmarked or unlabeled substance that is represented	894
to be a controlled substance manufactured, processed, packed, or	895
distributed by a person other than the person that manufactured,	896
processed, packed, or distributed it;	897
(3) Any substance that is represented to be a controlled	898
substance but is not a controlled substance or is a different	899
controlled substance;	900
(4) Any substance other than a controlled substance that a	901
reasonable person would believe to be a controlled substance	902
because of its similarity in shape, size, and color, or its	903
markings, labeling, packaging, distribution, or the price for	904
which it is sold or offered for sale.	905
(P) An offense is "committed in the vicinity of a school" if	906
the offender commits the offense on school premises, in a school	907
building, or within one thousand feet of the boundaries of any	908
school premises, regardless of whether the offender knows the	909
offense is being committed on school premises, in a school	910
building, or within one thousand feet of the boundaries of any	911
school premises.	912

(Q) "School" means any school operated by a board of education, any community school established under Chapter 3314. of the Revised Code, or any nonpublic school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a criminal offense is committed.

(R) "School premises" means either of the following:

(1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed;

(2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under Chapter 3314. of the Revised Code, or the governing body of a nonpublic school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code 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.

(S) "School building" means any building in which any of the instruction, extracurricular activities, or training provided by a school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted in the school building at the time a criminal offense is committed.

(T) "Disciplinary counsel" means the disciplinary counsel appointed by the board of commissioners on grievances and

discipline of the supreme court under the Rules for the Government
of the Bar of Ohio. 944
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(U) "Certified grievance committee" means a duly constituted 946
and organized committee of the Ohio state bar association or of 947
one or more local bar associations of the state of Ohio that 948
complies with the criteria set forth in Rule V, section 6 of the 949
Rules for the Government of the Bar of Ohio. 950

(V) "Professional license" means any license, permit, 951
certificate, registration, qualification, admission, temporary 952
license, temporary permit, temporary certificate, or temporary 953
registration that is described in divisions (W)(1) to (36) of this 954
section and that qualifies a person as a professionally licensed 955
person. 956

(W) "Professionally licensed person" means any of the 957
following: 958

(1) A person who has obtained a license as a manufacturer of 959
controlled substances or a wholesaler of controlled substances 960
under Chapter 3719. of the Revised Code; 961

(2) A person who has received a certificate or temporary 962
certificate as a certified public accountant or who has registered 963
as a public accountant under Chapter 4701. of the Revised Code and 964
who holds an Ohio permit issued under that chapter; 965

(3) A person who holds a certificate of qualification to 966
practice architecture issued or renewed and registered under 967
Chapter 4703. of the Revised Code; 968

(4) A person who is registered as a landscape architect under 969
Chapter 4703. of the Revised Code or who holds a permit as a 970
landscape architect issued under that chapter; 971

(5) A person licensed under Chapter 4707. of the Revised 972
Code; 973

(6) A person who has been issued a certificate of registration as a registered barber under Chapter 4709. of the Revised Code;	974 975 976
(7) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Chapter 4710. of the Revised Code;	977 978 979
(8) 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, managing cosmetologist's license, managing hair designer's license, managing manicurist's license, managing esthetician's license, managing 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 Chapter 4713. of the Revised Code;	980 981 982 983 984 985 986 987 988 989
(9) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious intravenous 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 Chapter 4715. of the Revised Code;	990 991 992 993 994
(10) 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 Chapter 4717. of the Revised Code;	995 996 997 998
(11) 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 Chapter 4723. of the Revised Code;	999 1000 1001 1002
(12) A person who has been licensed to practice optometry or to engage in optical dispensing under Chapter 4725. of the Revised	1003 1004

Code;	1005
(13) A person licensed to act as a pawnbroker under Chapter 4727. of the Revised Code;	1006 1007
(14) A person licensed to act as a precious metals dealer under Chapter 4728. of the Revised Code;	1008 1009
(15) A person licensed as a pharmacist, a pharmacy intern, a wholesale distributor of dangerous drugs, or a terminal distributor of dangerous drugs under Chapter 4729. of the Revised Code;	1010 1011 1012 1013
(16) A person who is authorized to practice as a physician assistant under Chapter 4730. of the Revised Code;	1014 1015
(17) A person who has been issued a certificate to practice medicine and surgery, osteopathic medicine and surgery, a limited branch of medicine, or podiatry under Chapter 4731. of the Revised Code;	1016 1017 1018 1019
(18) A person licensed as a psychologist or school psychologist under Chapter 4732. of the Revised Code;	1020 1021
(19) A person registered to practice the profession of engineering or surveying under Chapter 4733. of the Revised Code;	1022 1023
(20) A person who has been issued a license to practice chiropractic under Chapter 4734. of the Revised Code;	1024 1025
(21) A person licensed to act as a real estate broker or real estate salesperson under Chapter 4735. of the Revised Code;	1026 1027
(22) A person registered as a registered sanitarian under Chapter 4736. of the Revised Code;	1028 1029
(23) A person licensed to operate or maintain a junkyard under Chapter 4737. of the Revised Code;	1030 1031
(24) A person who has been issued a motor vehicle salvage dealer's license under Chapter 4738. of the Revised Code;	1032 1033

(25) A person who has been licensed to act as a steam engineer under Chapter 4739. of the Revised Code;	1034 1035
(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 Chapter 4741. of the Revised Code;	1036 1037 1038 1039
(27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Chapter 4747. of the Revised Code;	1040 1041 1042
(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 Chapter 4749. of the Revised Code;	1043 1044 1045
(29) A person licensed and registered to practice as a nursing home administrator under Chapter 4751. of the Revised Code;	1046 1047 1048
(30) A person licensed to practice as a speech-language pathologist or audiologist under Chapter 4753. of the Revised Code;	1049 1050 1051
(31) A person issued a license as an occupational therapist or physical therapist under Chapter 4755. of the Revised Code;	1052 1053
(32) A person who is licensed as a professional clinical counselor or professional counselor, licensed as a social worker or independent social worker, or registered as a social work assistant under Chapter 4757. of the Revised Code;	1054 1055 1056 1057
(33) A person issued a license to practice dietetics under Chapter 4759. of the Revised Code;	1058 1059
(34) A person who has been issued a license or limited permit to practice respiratory therapy under Chapter 4761. of the Revised Code;	1060 1061 1062
(35) A person who has been issued a real estate appraiser	1063

certificate under Chapter 4763. of the Revised Code; 1064

(36) A person who has been admitted to the bar by order of 1065
the supreme court in compliance with its prescribed and published 1066
rules. 1067

(X) "Cocaine" means any of the following: 1068

(1) A cocaine salt, isomer, or derivative, a salt of a 1069
cocaine isomer or derivative, or the base form of cocaine; 1070

(2) Coca leaves or a salt, compound, derivative, or 1071
preparation of coca leaves, including ecgonine, a salt, isomer, or 1072
derivative of ecgonine, or a salt of an isomer or derivative of 1073
ecgonine; 1074

(3) A salt, compound, derivative, or preparation of a 1075
substance identified in division (X)(1) or (2) of this section 1076
that is chemically equivalent to or identical with any of those 1077
substances, except that the substances shall not include 1078
decocainized coca leaves or extraction of coca leaves if the 1079
extractions do not contain cocaine or ecgonine. 1080

(Y) "L.S.D." means lysergic acid diethylamide. 1081

(Z) "Hashish" means the resin or a preparation of the resin 1082
contained in marihuana, whether in solid form or in a liquid 1083
concentrate, liquid extract, or liquid distillate form. 1084

(AA) "Marihuana" has the same meaning as in section 3719.01 1085
of the Revised Code, except that it does not include hashish. 1086

(BB) An offense is "committed in the vicinity of a juvenile" 1087
if the offender commits the offense within one hundred feet of a 1088
juvenile or within the view of a juvenile, regardless of whether 1089
the offender knows the age of the juvenile, whether the offender 1090
knows the offense is being committed within one hundred feet of or 1091
within view of the juvenile, or whether the juvenile actually 1092
views the commission of the offense. 1093

(CC) "Presumption for a prison term" or "presumption that a prison term shall be imposed" means a presumption, as described in division (D) of section 2929.13 of the Revised Code, that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code.

(DD) "Major drug offender" has the same meaning as in section 2929.01 of the Revised Code.

(EE) "Minor drug possession offense" means either of the following:

(1) A violation of section 2925.11 of the Revised Code as it existed prior to July 1, 1996;

(2) A violation of section 2925.11 of the Revised Code as it exists on and after July 1, 1996, that is a misdemeanor or a felony of the fifth degree.

(FF) "Mandatory prison term" has the same meaning as in section 2929.01 of the Revised Code.

(GG) "Crack cocaine" means a compound, mixture, preparation, or substance that is or contains any amount of cocaine that is analytically identified as the base form of cocaine or that is in a form that resembles rocks or pebbles generally intended for individual use.

(HH) "Adulterate" means to cause a drug to be adulterated as described in section 3715.63 of the Revised Code.

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

(JJ) "Methamphetamine" means methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or

any salt, isomer, or salt of an isomer of methamphetamine.

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Sec. 2925.04. (A) No person shall knowingly cultivate marihuana or knowingly manufacture or otherwise engage in any part of the production of a controlled substance.

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(B) This section does not apply to any person listed in division (B)(1), (2), or (3) of section 2925.03 of the Revised Code to the extent and under the circumstances described in those divisions.

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(C)(1) Whoever commits a violation of division (A) of this section that involves any drug other than marihuana is guilty of illegal manufacture of drugs, and whoever commits a violation of division (A) of this section that involves marihuana is guilty of illegal cultivation of marihuana.

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(2) Except as otherwise provided in this division, if the drug involved in the violation of division (A) of this section is any compound, mixture, preparation, or substance included in schedule I or II, with the exception of methamphetamine or marihuana, illegal manufacture of drugs is a felony of the second degree, and, subject to division (E) of this section, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. ~~¶~~

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If the drug involved in the violation is any compound, mixture, preparation, or substance included in schedule I or II, with the exception of methamphetamine or marihuana, and if the offense was committed in the vicinity of a juvenile or in the vicinity of a school, illegal manufacture of drugs is a felony of the first degree, and, subject to division (E) of this section, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree. ~~¶~~

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(3) If the drug involved in the violation of division (A) of

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~~this section is 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 and if the penalty for the violation shall be determined as follows:~~

(a) Except as otherwise provided in division (C)(3)(b) of this section, if the drug involved in the violation is methamphetamine, illegal manufacture of drugs is a felony of the second degree, and, subject to division (E) of this section, the court shall impose a mandatory prison term on the offender determined in accordance with this division. Except as otherwise provided in this division, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree that is not less than three years. If the offender previously has been convicted of or pleaded guilty to a violation of division (A) of this section, a violation of division (B)(6) of section 2919.22 of the Revised Code, or a violation of division (A) of section 2925.041 of the Revised Code, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree that is not less than five years.

(b) If the drug involved in the violation is methamphetamine and if the offense was committed in the vicinity of a juvenile, in the vicinity of a school, or on public premises, illegal manufacture of drugs is a felony of the first degree, and, subject to division (E) of this section, the court shall impose a mandatory prison term on the offender determined in accordance with this division. Except as otherwise provided in this division, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree that is not less than four years. If the offender previously has been convicted of or pleaded guilty to a violation of division (A) of

this section, a violation of division (B)(6) of section 2919.22 of 1186
the Revised Code, or a violation of division (A) of section 1187
2925.041 of the Revised Code, the court shall impose as a 1188
mandatory prison term one of the prison terms prescribed for a 1189
felony of the first degree that is not less than five years. 1190

~~(3)~~(4) If the drug involved in the violation of division (A) 1191
of this section is any compound, mixture, preparation, or 1192
substance included in schedule III, IV, or V, illegal manufacture 1193
of drugs is a felony of the third degree or, if the offense was 1194
committed in the vicinity of a school or in the vicinity of a 1195
juvenile, a felony of the second degree, and there is a 1196
presumption for a prison term for the offense. 1197

~~(4)~~(5) If the drug involved in the violation is marihuana, 1198
the penalty for the offense shall be determined as follows: 1199

(a) Except as otherwise provided in division (C)~~(4)~~(5)(b), 1200
(c), (d), (e), or (f) of this section, illegal cultivation of 1201
marihuana is a minor misdemeanor or, if the offense was committed 1202
in the vicinity of a school or in the vicinity of a juvenile, a 1203
misdemeanor of the fourth degree. 1204

(b) If the amount of marihuana involved equals or exceeds one 1205
hundred grams but is less than two hundred grams, illegal 1206
cultivation of marihuana is a misdemeanor of the fourth degree or, 1207
if the offense was committed in the vicinity of a school or in the 1208
vicinity of a juvenile, a misdemeanor of the third degree. 1209

(c) If the amount of marihuana involved equals or exceeds two 1210
hundred grams but is less than one thousand grams, illegal 1211
cultivation of marihuana is a felony of the fifth degree or, if 1212
the offense was committed in the vicinity of a school or in the 1213
vicinity of a juvenile, a felony of the fourth degree, and 1214
division (B) of section 2929.13 of the Revised Code applies in 1215
determining whether to impose a prison term on the offender. 1216

(d) If the amount of marihuana involved equals or exceeds one thousand grams but is less than five thousand grams, illegal cultivation of marihuana is a felony of the third degree or, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a felony of the second degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(e) If the amount of marihuana involved equals or exceeds five thousand grams but is less than twenty thousand grams, illegal cultivation of marihuana is a felony of the third degree or, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a felony of the second degree, and there is a presumption for a prison term for the offense.

(f) Except as otherwise provided in this division, if the amount of marihuana involved equals or exceeds twenty thousand grams, illegal cultivation of marihuana is a felony of the second degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the second degree. If the amount of the drug involved equals or exceeds twenty thousand grams and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal cultivation of marihuana is a felony of the first degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(D) In addition to any prison term authorized or required by division (C) or (E) of this section and sections 2929.13 and 2929.14 of the Revised Code and in addition to any other sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section shall do all of the following that are applicable regarding the offender:

(1) If the violation of division (A) of this section is a 1249
felony of the first, second, or third degree, the court shall 1250
impose upon the offender the mandatory fine specified for the 1251
offense under division (B)(1) of section 2929.18 of the Revised 1252
Code unless, as specified in that division, the court determines 1253
that the offender is indigent. The clerk of the court shall pay a 1254
mandatory fine or other fine imposed for a violation of this 1255
section pursuant to division (A) of section 2929.18 of the Revised 1256
Code in accordance with and subject to the requirements of 1257
division (F) of section 2925.03 of the Revised Code. The agency 1258
that receives the fine shall use the fine as specified in division 1259
(F) of section 2925.03 of the Revised Code. If a person is charged 1260
with a violation of this section that is a felony of the first, 1261
second, or third degree, posts bail, and forfeits the bail, the 1262
clerk shall pay the forfeited bail as if the forfeited bail were a 1263
fine imposed for a violation of this section. 1264

(2) The court shall suspend the offender's driver's or 1265
commercial driver's license or permit in accordance with division 1266
(G) of section 2925.03 of the Revised Code. If an offender's 1267
driver's or commercial driver's license or permit is suspended in 1268
accordance with that division, the offender may request 1269
termination of, and the court may terminate, the suspension in 1270
accordance with that division. 1271

(3) If the offender is a professionally licensed person, the 1272
court immediately shall comply with section 2925.38 of the Revised 1273
Code. 1274

(E) Notwithstanding the prison term otherwise authorized or 1275
required for the offense under division (C) of this section and 1276
sections 2929.13 and 2929.14 of the Revised Code, if the violation 1277
of division (A) of this section involves the sale, offer to sell, 1278
or possession of a schedule I or II controlled substance, with the 1279
exception of marihuana, and if the court imposing sentence upon 1280

the offender finds that the offender as a result of the violation 1281
is a major drug offender and is guilty of a specification of the 1282
type described in section 2941.1410 of the Revised Code, the 1283
court, in lieu of the prison term otherwise authorized or 1284
required, shall impose upon the offender the mandatory prison term 1285
specified in division (D)(3)(a) of section 2929.14 of the Revised 1286
Code and may impose an additional prison term under division 1287
(D)(3)(b) of that section. 1288

(F) It is an affirmative defense, as provided in section 1289
2901.05 of the Revised Code, to a charge under this section for a 1290
fifth degree felony violation of illegal cultivation of marihuana 1291
that the marihuana that gave rise to the charge is in an amount, 1292
is in a form, is prepared, compounded, or mixed with substances 1293
that are not controlled substances in a manner, or is possessed or 1294
cultivated under any other circumstances that indicate that the 1295
marihuana was solely for personal use. 1296

Notwithstanding any contrary provision of division (F) of 1297
this section, if, in accordance with section 2901.05 of the 1298
Revised Code, a person who is charged with a violation of illegal 1299
cultivation of marihuana that is a felony of the fifth degree 1300
sustains the burden of going forward with evidence of and 1301
establishes by a preponderance of the evidence the affirmative 1302
defense described in this division, the person may be prosecuted 1303
for and may be convicted of or plead guilty to a misdemeanor 1304
violation of illegal cultivation of marihuana. 1305

(G) Arrest or conviction for a minor misdemeanor violation of 1306
this section does not constitute a criminal record and need not be 1307
reported by the person so arrested or convicted in response to any 1308
inquiries about the person's criminal record, including any 1309
inquiries contained in an application for employment, a license, 1310
or any other right or privilege or made in connection with the 1311
person's appearance as a witness. 1312

Sec. 2925.041. (A) No person shall knowingly assemble or 1313
possess one or more chemicals that may be used to manufacture a 1314
controlled substance in schedule I or II with the intent to 1315
manufacture a controlled substance in schedule I or II in 1316
violation of section 2925.04 of the Revised Code. 1317

(B) In a prosecution under this section, it is not necessary 1318
to allege or prove that the offender assembled or possessed all 1319
chemicals necessary to manufacture a controlled substance in 1320
schedule I or II. The assembly or possession of a single chemical 1321
that may be used in the manufacture of a controlled substance in 1322
schedule I or II, with the intent to manufacture a controlled 1323
substance in either schedule, is sufficient to violate this 1324
section. 1325

(C) Whoever violates this section is guilty of illegal 1326
assembly or possession of chemicals for the manufacture of drugs. 1327
Except as otherwise provided in this division, illegal assembly or 1328
possession of chemicals for the manufacture of drugs is a felony 1329
of the third degree, and, except as otherwise provided in division 1330
(C)(1) or (2) of this section, division (C) of section 2929.13 of 1331
the Revised Code applies in determining whether to impose a prison 1332
term on the offender. If the offense was committed in the vicinity 1333
of a juvenile or in the vicinity of a school, illegal assembly or 1334
possession of chemicals for the manufacture of drugs is a felony 1335
of the second degree, and, except as otherwise provided in 1336
division (C)(1) or (2) of this section, division (C) of section 1337
2929.13 of the Revised Code applies in determining whether to 1338
impose a prison term on the offender. If the chemical or chemicals 1339
assembled or possessed in violation of division (A) of this 1340
section may be used to manufacture methamphetamine, the court 1341
shall impose a mandatory prison term on the offender as follows: 1342

(1) If the violation of division (A) of this section is a 1343

felony of the third degree under division (C) of this section and 1344
the chemical or chemicals assembled or possessed in committing the 1345
violation may be used to manufacture methamphetamine, except as 1346
otherwise provided in this division, the court shall impose as a 1347
mandatory prison term one of the prison terms prescribed for a 1348
felony of the third degree that is not less than two years. If the 1349
violation of division (A) of this section is a felony of the third 1350
degree under division (C) of this section, if the chemical or 1351
chemicals assembled or possessed in committing the violation may 1352
be used to manufacture methamphetamine, and if the offender 1353
previously has been convicted of or pleaded guilty to a violation 1354
of division (A) of this section, a violation of division (B)(6) of 1355
section 2919.22 of the Revised Code, or a violation of division 1356
(A) of section 2925.04 of the Revised Code, the court shall impose 1357
as a mandatory prison term one of the prison terms prescribed for 1358
a felony of the third degree that is not less than five years. 1359

(2) If the violation of division (A) of this section is a 1360
felony of the second degree under division (C) of this section and 1361
the chemical or chemicals assembled or possessed in committing the 1362
violation may be used to manufacture methamphetamine, the court 1363
shall impose as a mandatory prison term one of the prison terms 1364
prescribed for a felony of the second degree that is not less than 1365
three years. If the violation of division (A) of this section is a 1366
felony of the second degree under division (C) of this section, if 1367
the chemical or chemicals assembled or possessed in committing the 1368
violation may be used to manufacture methamphetamine, and if the 1369
offender previously has been convicted of or pleaded guilty to a 1370
violation of division (A) of this section, a violation of division 1371
(B)(6) of section 2919.22 of the Revised Code, or a violation of 1372
division (A) of section 2925.04 of the Revised Code, the court 1373
shall impose as a mandatory prison term one of the prison terms 1374
prescribed for a felony of the second degree that is not less than 1375

five years.

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(D) In addition to any prison term authorized by division (C) of this section and sections 2929.13 and 2929.14 of the Revised Code and in addition to any other sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section shall do all of the following that are applicable regarding the offender:

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(1) The court shall impose upon the offender the mandatory fine specified for the offense under division (B)(1) of section 2929.18 of the Revised Code unless, as specified in that division, the court determines that the offender is indigent. The clerk of the court shall pay a mandatory fine or other fine imposed for a violation of this section under division (A) of section 2929.18 of the Revised Code in accordance with and subject to the requirements of division (F) of section 2925.03 of the Revised Code. The agency that receives the fine shall use the fine as specified in division (F) of section 2925.03 of the Revised Code. If a person charged with a violation of this section posts bail and forfeits the bail, the clerk shall pay the forfeited bail as if the forfeited bail were a fine imposed for a violation of this section.

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(2) The court shall revoke or suspend the offender's driver's or commercial driver's license or permit in accordance with division (G) of section 2925.03 of the Revised Code. If an offender's driver's or commercial driver's license or permit is revoked in accordance with that division, the offender may request termination of, and the court may terminate, the revocation in accordance with that division.

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(3) If the offender is a professionally licensed person or a person who has been admitted to the bar by order of the supreme

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court in compliance with its prescribed and published rules, the 1407
court shall comply with section 2925.38 of the Revised Code. 1408

Sec. 2925.14. (A) As used in this section, "drug 1409
paraphernalia" means any equipment, product, or material of any 1410
kind that is used by the offender, intended by the offender for 1411
use, or designed for use, in propagating, cultivating, growing, 1412
harvesting, manufacturing, compounding, converting, producing, 1413
processing, preparing, testing, analyzing, packaging, repackaging, 1414
storing, containing, concealing, injecting, ingesting, inhaling, 1415
or otherwise introducing into the human body, a controlled 1416
substance in violation of this chapter. "Drug paraphernalia" 1417
includes, but is not limited to, any of the following equipment, 1418
products, or materials that are used by the offender, intended by 1419
the offender for use, or designed by the offender for use, in any 1420
of the following manners: 1421

(1) A kit for propagating, cultivating, growing, or 1422
harvesting any species of a plant that is a controlled substance 1423
or from which a controlled substance can be derived; 1424

(2) A kit for manufacturing, compounding, converting, 1425
producing, processing, or preparing a controlled substance; 1426

(3) Any object, instrument, or device for manufacturing, 1427
compounding, converting, producing, processing, or preparing 1428
~~methamphetamine or any salt, isomer, or salt of an isomer of~~ 1429
~~methamphetamine;~~ 1430

(4) An isomerization device for increasing the potency of any 1431
species of a plant that is a controlled substance; 1432

(5) Testing equipment for identifying, or analyzing the 1433
strength, effectiveness, or purity of, a controlled substance; 1434

(6) A scale or balance for weighing or measuring a controlled 1435
substance; 1436

- (7) A diluent or adulterant, such as quinine hydrochloride, 1437
mannitol, mannite, dextrose, or lactose, for cutting a controlled 1438
substance; 1439
- (8) A separation gin or sifter for removing twigs and seeds 1440
from, or otherwise cleaning or refining, marihuana; 1441
- (9) A blender, bowl, container, spoon, or mixing device for 1442
compounding a controlled substance; 1443
- (10) A capsule, balloon, envelope, or container for packaging 1444
small quantities of a controlled substance; 1445
- (11) A container or device for storing or concealing a 1446
controlled substance; 1447
- (12) A hypodermic syringe, needle, or instrument for 1448
parenterally injecting a controlled substance into the human body; 1449
- (13) An object, instrument, or device for ingesting, 1450
inhaling, or otherwise introducing into the human body, marihuana, 1451
cocaine, hashish, or hashish oil, such as a metal, wooden, 1452
acrylic, glass, stone, plastic, or ceramic pipe, with or without a 1453
screen, permanent screen, hashish head, or punctured metal bowl; 1454
water pipe; carburetion tube or device; smoking or carburetion 1455
mask; roach clip or similar object used to hold burning material, 1456
such as a marihuana cigarette, that has become too small or too 1457
short to be held in the hand; miniature cocaine spoon, or cocaine 1458
vial; chamber pipe; carburetor pipe; electric pipe; air driver 1459
pipe; chillum; bong; or ice pipe or chiller. 1460
- (B) In determining if any equipment, product, or material is 1461
drug paraphernalia, a court or law enforcement officer shall 1462
consider, in addition to other relevant factors, the following: 1463
- (1) Any statement by the owner, or by anyone in control, of 1464
the equipment, product, or material, concerning its use; 1465
- (2) The proximity in time or space of the equipment, product, 1466

or material, or of the act relating to the equipment, product, or material, to a violation of any provision of this chapter;	1467 1468
(3) The proximity of the equipment, product, or material to any controlled substance;	1469 1470
(4) The existence of any residue of a controlled substance on the equipment, product, or material;	1471 1472
(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. 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 does not prevent a finding that the equipment, product, or material was intended or designed by the offender for use as drug paraphernalia.	1473 1474 1475 1476 1477 1478 1479 1480 1481 1482
(6) Any oral or written instruction provided with the equipment, product, or material concerning its use;	1483 1484
(7) Any descriptive material accompanying the equipment, product, or material and explaining or depicting its use;	1485 1486
(8) National or local advertising concerning the use of the equipment, product, or material;	1487 1488
(9) The manner and circumstances in which the equipment, product, or material is displayed for sale;	1489 1490
(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;	1491 1492 1493
(11) The existence and scope of legitimate uses of the equipment, product, or material in the community;	1494 1495
(12) Expert testimony concerning the use of the equipment,	1496

product, or material. 1497

(C)(1) No person shall knowingly use, or possess with purpose 1498
to use, drug paraphernalia. 1499

(2) No person shall knowingly sell, or possess or manufacture 1500
with purpose to sell, drug paraphernalia, if the person knows or 1501
reasonably should know that the equipment, product, or material 1502
will be used as drug paraphernalia. 1503

(3) No person shall place an advertisement in any newspaper, 1504
magazine, handbill, or other publication that is published and 1505
printed and circulates primarily within this state, if the person 1506
knows that the purpose of the advertisement is to promote the 1507
illegal sale in this state of the equipment, product, or material 1508
that the offender intended or designed for use as drug 1509
paraphernalia. 1510

(D) This section does not apply to manufacturers, licensed 1511
health professionals authorized to prescribe drugs, pharmacists, 1512
owners of pharmacies, and other persons whose conduct is in 1513
accordance with Chapters 3719., 4715., 4723., 4729., 4731., and 1514
4741. of the Revised Code. This section shall not be construed to 1515
prohibit the possession or use of a hypodermic as authorized by 1516
section 3719.172 of the Revised Code. 1517

(E) Notwithstanding sections 2933.42 and 2933.43 of the 1518
Revised Code, any drug paraphernalia that was used, possessed, 1519
sold, or manufactured in a violation of this section shall be 1520
seized, after a conviction for that violation shall be forfeited, 1521
and upon forfeiture shall be disposed of pursuant to division 1522
(D)(8) of section 2933.41 of the Revised Code. 1523

(F)(1) Whoever violates division (C)(1) of this section is 1524
guilty of illegal use or possession of drug paraphernalia, a 1525
misdemeanor of the fourth degree. 1526

(2) Except as provided in division (F)(3) of this section, 1527
whoever violates division (C)(2) of this section is guilty of 1528
dealing in drug paraphernalia, a misdemeanor of the second degree. 1529

(3) Whoever violates division (C)(2) of this section by 1530
selling drug paraphernalia to a juvenile is guilty of selling drug 1531
paraphernalia to juveniles, a misdemeanor of the first degree. 1532

(4) Whoever violates division (C)(3) of this section is 1533
guilty of illegal advertising of drug paraphernalia, a misdemeanor 1534
of the second degree. 1535

(G) In addition to any other sanction imposed upon an 1536
offender for a violation of this section, the court shall suspend 1537
for not less than six months or more than five years the 1538
offender's driver's or commercial driver's license or permit. If 1539
the offender is a professionally licensed person, in addition to 1540
any other sanction imposed for a violation of this section, the 1541
court immediately shall comply with section 2925.38 of the Revised 1542
Code. 1543

Sec. 2925.52. (A) If a person is charged with a violation of 1544
section 2925.041 of the Revised Code or with any violation of this 1545
chapter or Chapter 3719. of the Revised Code that is based on the 1546
possession of chemicals sufficient to produce methamphetamine, ~~any~~ 1547
~~salt, isomer, or salt of an isomer of methamphetamine, or any~~ 1548
~~compound, mixture, preparation, or substance containing~~ 1549
~~methamphetamine or any salt, isomer, or salt of an isomer of~~ 1550
~~methamphetamine~~, the law enforcement agency that has custody of 1551
the chemicals may file a motion with the court in which the 1552
charges are pending requesting the court to order the chemicals 1553
destroyed in accordance with this division. If a law enforcement 1554
agency files a motion of that type with a court, the court may 1555
issue an order that requires the containers in which the chemicals 1556
are contained be photographed, orders the chemicals forfeited, and 1557

requires that the chemicals be destroyed. 1558

(B) If the court issues an order under division (A) of this 1559
section, the court may include in the order a requirement that the 1560
chemicals be sampled prior to their destruction and that the 1561
samples be preserved. 1562

Sec. 2927.30. (A) As used in sections 2927.30 to 2927.33 of 1563
the Revised Code: 1564

(1) "Consumer product" means any food or drink that is 1565
consumed or used by humans and any drug, including a drug that may 1566
be provided legally only pursuant to a prescription, that is 1567
intended to be consumed or used by humans. 1568

(2) "Drug," "licensed health professional authorized to 1569
prescribe drugs," "prescription," and "terminal distributor of 1570
dangerous drugs" have the same meanings as in section 4729.01 of 1571
the Revised Code. 1572

(3) "Pharmacist" means a person licensed under Chapter 4729. 1573
of the Revised Code to engage in the practice of pharmacy. 1574

(4) "Pseudoephedrine" means any material, compound, mixture, 1575
or preparation that contains any quantity of pseudoephedrine, any 1576
of its salts, optical isomers, or salts of optical isomers. 1577

(5) "Pseudoephedrine product" means a consumer product 1578
consisting of a single-ingredient preparation of pseudoephedrine 1579
in which pseudoephedrine is the active ingredient. 1580

"Pseudoephedrine product" does not include either of the 1581
following: 1582

(a) A consumer product containing pseudoephedrine that is in 1583
a liquid, liquid capsule, or gel capsule form; 1584

(b) A consumer product primarily intended for administration 1585
to children under twelve years of age, according to the label 1586
instructions, in solid dosage form, including chewable tablets, 1587

when individual dosage units do not exceed fifteen milligrams of 1588
pseudoephedrine. 1589

(6) "Retailer" means a place of business that offers consumer 1590
products for sale to the general public. 1591

(7) "Single-ingredient preparation" means a compound, 1592
mixture, preparation, or substance that contains a single active 1593
ingredient. 1594

(B)(1) No individual shall knowingly purchase, receive, or 1595
otherwise acquire more than nine grams of any pseudoephedrine 1596
product within a period of thirty consecutive days, unless 1597
dispensed by a pharmacist pursuant to a valid prescription issued 1598
by a licensed health care professional authorized to prescribe 1599
drugs. 1600

(2) It is not a violation of division (B)(1) of this section 1601
for an individual to receive or accept more than nine grams of any 1602
pseudoephedrine product within a period of thirty consecutive days 1603
if the individual is an employee of a retailer or terminal 1604
distributor of dangerous drugs, and the employee receives or 1605
accepts from the retailer or terminal distributor the 1606
pseudoephedrine product in a sealed container in connection with 1607
manufacturing, warehousing, placement, stocking, bagging, loading, 1608
or unloading of the product. 1609

(C)(1) No individual under eighteen years of age shall 1610
knowingly purchase, receive, or otherwise acquire a 1611
pseudoephedrine product, unless dispensed by a pharmacist pursuant 1612
to a valid prescription issued by a licensed health care 1613
professional authorized to prescribe drugs. 1614

(2) Division (C)(1) of this section does not apply under any 1615
of the following circumstances: 1616

(a) A licensed health professional authorized to prescribe 1617

drugs or a pharmacist dispenses, sells, or otherwise provides a 1618
pseudoephedrine product to an individual under eighteen years of 1619
age; 1620

(b) A parent or guardian of an individual under eighteen 1621
years of age provides a pseudoephedrine product to the individual; 1622

(c) A person, as authorized by the individual's parent or 1623
guardian, dispenses, sells, or otherwise provides a 1624
pseudoephedrine product to an individual under eighteen years of 1625
age; 1626

(d) An individual under eighteen years of age is an employee 1627
of a retailer or terminal distributor of dangerous drugs, and the 1628
employee receives or accepts from the retailer or terminal 1629
distributor a pseudoephedrine product in a sealed container in 1630
connection with manufacturing, warehousing, placement, stocking, 1631
bagging, loading, or unloading of the product. 1632

(D) No individual under eighteen years of age shall knowingly 1633
show or give false information concerning the individual's name, 1634
age, or other identification for the purpose of purchasing, 1635
receiving, or otherwise acquiring a pseudoephedrine product. 1636

(E) No individual shall knowingly fail to comply with the 1637
requirements of division (C)(3) of section 3715.05 of the Revised 1638
Code. 1639

(F) Whoever violates division (B) of this section is guilty 1640
of unlawful purchase of a pseudoephedrine product, a misdemeanor 1641
of the first degree. 1642

(G) Whoever violates division (C)(1) of this section is 1643
guilty of underage purchase of a pseudoephedrine product, a 1644
delinquent act that would be a misdemeanor of the fourth degree if 1645
it could be committed by an adult. 1646

(H) Whoever violates division (D) of this section is guilty 1647

of using false information to purchase a pseudoephedrine product, 1648
a delinquent act that would be a misdemeanor of the first degree 1649
if it could be committed by an adult. 1650

(I) Whoever violates division (E) of this section is guilty 1651
of improper purchase of a pseudoephedrine product, a misdemeanor 1652
of the fourth degree. 1653

Sec. 2927.31. (A)(1) Except as provided in division (A)(2) of 1654
this section, no retailer or terminal distributor of dangerous 1655
drugs or an employee of a retailer or terminal distributor of 1656
dangerous drugs shall knowingly sell, offer to sell, hold for 1657
sale, deliver, or otherwise provide to any individual within a 1658
period of thirty consecutive days an amount of pseudoephedrine 1659
product that is greater than nine grams. 1660

(2) Division (A)(1) of this section does not apply to any 1661
quantity of pseudoephedrine product dispensed by a pharmacist 1662
pursuant to a valid prescription issued by a licensed health 1663
professional authorized to prescribe drugs. 1664

It is not a violation of division (A)(1) of this section for 1665
a retailer, terminal distributor of dangerous drugs, or employee 1666
of either to provide to an individual more than nine grams of any 1667
pseudoephedrine product within a period of thirty consecutive days 1668
if the individual is an employee of the retailer or terminal 1669
distributor of dangerous drugs, and the employee receives or 1670
accepts from the retailer, terminal distributor, or employee the 1671
pseudoephedrine product in a sealed container in connection with 1672
manufacturing, warehousing, placement, stocking, bagging, loading, 1673
or unloading of the product. 1674

(B)(1) Except as provided in division (B)(2) of this section, 1675
no retailer or terminal distributor of dangerous drugs or an 1676
employee of a retailer or terminal distributor of dangerous drugs 1677

shall sell, offer to sell, hold for sale, deliver, or otherwise 1678
provide a pseudoephedrine product to an individual who is under 1679
eighteen years of age. 1680

(2) Division (B)(1) of this section does not apply to any of 1681
the following: 1682

(a) A licensed health professional authorized to prescribe 1683
drugs or a pharmacist who dispenses, sells, or otherwise provides 1684
a pseudoephedrine product to an individual under eighteen years of 1685
age; 1686

(b) A parent or guardian of an individual under eighteen 1687
years of age who provides a pseudoephedrine product to the 1688
individual; 1689

(c) A person who, as authorized by the individual's parent or 1690
guardian, dispenses, sells, or otherwise provides a 1691
pseudoephedrine product to an individual under eighteen years of 1692
age; 1693

(d) The provision by a retailer, terminal distributor of 1694
dangerous drugs, or employee of either of a pseudoephedrine 1695
product in a sealed container to an employee of the retailer or 1696
terminal distributor who is under eighteen years of age in 1697
connection with manufacturing, warehousing, placement, stocking, 1698
bagging, loading, or unloading of the product. 1699

(C)(1) Subject to division (C)(2) of this section, no 1700
employee of a retailer or terminal distributor of dangerous drugs 1701
who is under eighteen years of age shall sell, offer to sell, hold 1702
for sale, deliver, or otherwise provide any pseudoephedrine 1703
product to any individual. 1704

(2) It is not a violation of division (C)(1) of this section 1705
for an employee of a retailer or terminal distributor who is under 1706
eighteen years of age to handle a pseudoephedrine product in a 1707

sealed container if the handling of the product is in connection 1708
with manufacturing, warehousing, placement, stocking, bagging, 1709
loading, or unloading of the product. 1710

(D) No retailer or terminal distributor of dangerous drugs 1711
shall fail to comply with the requirements of division (C)(2) of 1712
section 3715.05 of the Revised Code. 1713

(E) Whoever violates division (A)(1) of this section is 1714
guilty of unlawfully selling a pseudoephedrine product, a 1715
misdemeanor of the first degree. 1716

(F) Whoever violates division (B)(1) of this section is 1717
guilty of unlawfully selling a pseudoephedrine product to a minor, 1718
a misdemeanor of the fourth degree. 1719

(G) Whoever violates division (C) of this section is guilty 1720
of unlawfully selling a pseudoephedrine product as a minor, a 1721
delinquent act that would be a misdemeanor of the fourth degree if 1722
it could be committed by an adult. 1723

(H) Whoever violates division (D) of this section is guilty 1724
of improper sale of a pseudoephedrine product, a misdemeanor of 1725
the second degree. 1726

Sec. 2927.32. (A) As used in this section and section 2927.33 1727
of the Revised Code: 1728

(1) "Card holder" means any person who presents a driver's or 1729
commercial driver's license or an identification card to a seller, 1730
or an agent or employee of a seller, to purchase or receive any 1731
pseudoephedrine product from the seller, agent, or employee. 1732

(2) "Identification card" and "transaction scan device" have 1733
the same meanings as in section 2927.021 of the Revised Code. 1734

(3) "Seller" means a retailer or terminal distributor of 1735
dangerous drugs. 1736

(4) "Transaction scan" means the process by which a seller or an agent or employee of a seller checks by means of a transaction scan device the validity of a driver's or commercial driver's license or an identification card that is presented as a condition for purchasing or receiving any pseudoephedrine product. 1737
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(B)(1) A seller or an agent or employee of a seller may perform a transaction scan by means of a transaction scan device to check the validity of a driver's or commercial driver's license or identification card presented by a card holder as a condition for selling, giving away, or otherwise distributing to the card holder a pseudoephedrine product. 1742
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(2) If the information deciphered by the transaction scan performed under division (B)(1) of this section fails to match the information printed on the driver's or commercial driver's license or identification card presented by the card holder, or if the transaction scan indicates that the information so printed is false or fraudulent, neither the seller nor any agent or employee of the seller shall sell, give away, or otherwise distribute any pseudoephedrine product to the card holder. 1748
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(3) Division (B)(1) of this section does not preclude a seller or an agent or employee of a seller as a condition for selling, giving away, or otherwise distributing a pseudoephedrine product to the person presenting the document from using a transaction scan device to check the validity of a document other than a driver's or commercial driver's license or an identification card if the document includes a bar code or magnetic strip that may be scanned by the device. 1756
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(C) Rules adopted by the registrar of motor vehicles under division (C) of section 4301.61 of the Revised Code apply to the use of transaction scan devices for purposes of this section and section 2927.33 of the Revised Code. 1764
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(D)(1) No seller or agent or employee of a seller shall 1768
electronically or mechanically record or maintain any information 1769
derived from a transaction scan, except the following: 1770

(a) The name and date of birth of the person listed on the 1771
driver's or commercial driver's license or identification card 1772
presented by a card holder; 1773

(b) The expiration date and identification number of the 1774
driver's or commercial driver's license or identification card 1775
presented by a card holder. 1776

(2) No seller or agent or employee of a seller shall use the 1777
information that is derived from a transaction scan or that is 1778
permitted to be recorded and maintained under division (D)(1) of 1779
this section except for purposes of section 2927.33 of the Revised 1780
Code. 1781

(3) No seller or agent or employee of a seller shall use a 1782
transaction scan device for a purpose other than the purpose 1783
specified in division (B)(1) of this section. 1784

(4) No seller or agent or employee of a seller shall sell or 1785
otherwise disseminate the information derived from a transaction 1786
scan to any third party, including, but not limited to, selling or 1787
otherwise disseminating that information for any marketing, 1788
advertising, or promotional activities, but a seller or agent or 1789
employee of a seller may release that information pursuant to a 1790
court order or as specifically authorized by section 2927.33 or 1791
another section of the Revised Code. 1792

(E) Nothing in this section or section 2927.33 of the Revised 1793
Code relieves a seller or an agent or employee of a seller of any 1794
responsibility to comply with any other applicable state or 1795
federal laws or rules governing the sale, giving away, or other 1796
distribution of pseudoephedrine products. 1797

(F) Whoever violates division (B)(2) or (D) of this section 1798
is guilty of engaging in an illegal pseudoephedrine product 1799
transaction scan, and the court may impose upon the offender a 1800
civil penalty of up to one thousand dollars for each violation. 1801
The clerk of the court shall pay each collected civil penalty to 1802
the county treasurer for deposit into the county treasury. 1803

Sec. 2927.33. (A) A seller or an agent or employee of a 1804
seller may not be found guilty of a charge of a violation of 1805
section 2927.31 of the Revised Code in which the age of the 1806
purchaser or other recipient of a pseudoephedrine product is an 1807
element of the alleged violation if the seller, agent, or employee 1808
raises and proves as an affirmative defense that all of the 1809
following occurred: 1810

(1) A card holder attempting to purchase or receive a 1811
pseudoephedrine product presented a driver's or commercial 1812
driver's license or an identification card. 1813

(2) A transaction scan of the driver's or commercial driver's 1814
license or identification card that the card holder presented 1815
indicated that the license or card was valid. 1816

(3) The pseudoephedrine product was sold, given away, or 1817
otherwise distributed to the card holder in reasonable reliance 1818
upon the identification presented and the completed transaction 1819
scan. 1820

(B) In determining whether a seller or an agent or employee 1821
of a seller has proven the affirmative defense provided by 1822
division (A) of this section, the trier of fact in the action for 1823
the alleged violation of section 2927.31 of the Revised Code shall 1824
consider any written policy that the seller has adopted and 1825
implemented and that is intended to prevent violations of section 1826
2927.31 of the Revised Code. For purposes of division (A)(3) of 1827

this section, the trier of fact shall consider that reasonable 1828
reliance upon the identification presented and the completed 1829
transaction scan may require a seller or an agent or employee of a 1830
seller to exercise reasonable diligence to determine, and that the 1831
use of a transaction scan device does not excuse a seller or an 1832
agent or employee of a seller from exercising reasonable diligence 1833
to determine, the following: 1834

(1) Whether a person to whom the seller or agent or employee 1835
of a seller sells, gives away, or otherwise distributes a 1836
pseudoephedrine product is eighteen years of age or older; 1837

(2) Whether the description and picture appearing on the 1838
driver's or commercial driver's license or identification card 1839
presented by a card holder is that of the card holder. 1840

(C) In any criminal action in which the affirmative defense 1841
provided by division (A) of this section is raised, the registrar 1842
of motor vehicles or a deputy registrar who issued an 1843
identification card under sections 4507.50 to 4507.52 of the 1844
Revised Code shall be permitted to submit certified copies of the 1845
records of that issuance in lieu of the testimony of the personnel 1846
of or contractors with the bureau of motor vehicles in the action. 1847

Sec. 2933.33. (A) If a law enforcement officer has probable 1848
cause to believe that particular premises are used for the illegal 1849
manufacture of methamphetamine, for the purpose of conducting a 1850
search of the premises without a warrant, the risk of explosion or 1851
fire from the illegal manufacture of methamphetamine causing 1852
injury to the public constitutes exigent circumstances and 1853
reasonable grounds to believe that there is an immediate need to 1854
protect the lives, or property, of the officer and other 1855
individuals in the vicinity of the illegal manufacture. 1856

(B) As used in this section, "methamphetamine" has the same 1857

meaning as in section 2925.01 of the Revised Code.

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Sec. 3715.05. (A) As used in this section and section 3715.06
of the Revised Code:

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(1) "Consumer product" means any food or drink that is
consumed or used by humans and any drug, including a drug that may
be provided legally only pursuant to a prescription, that is
intended to be consumed or used by humans.

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(2) "Drug," "licensed health professional authorized to
prescribe drugs," "pharmacy," "prescriber," "prescription," and
"terminal distributor of dangerous drugs" have the same meanings
as in section 4729.01 of the Revised Code.

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(3) "Pharmacist" means a person licensed under Chapter 4729.
of the Revised Code to engage in the practice of pharmacy.

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(4) "Proof of age" means a driver's license, a commercial
driver's license, a military identification card, a passport, or
an identification card issued under sections 4507.50 to 4507.52 of
the Revised Code that shows a person is eighteen years of age or
older.

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(5) "Pseudoephedrine" means any material, compound, mixture,
or preparation that contains any quantity of pseudoephedrine, any
of its salts, optical isomers, or salts of optical isomers.

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(6) "Pseudoephedrine product" means a consumer product
consisting of a single-ingredient preparation of pseudoephedrine
in which pseudoephedrine is the active ingredient.

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"Pseudoephedrine product" does not include either of the
following:

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(a) A consumer product containing pseudoephedrine that is in
a liquid, liquid capsule, or gel capsule form;

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(b) A consumer product primarily intended for administration

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to children under twelve years of age, according to the label 1887
instructions, in solid dosage form, including chewable tablets, 1888
when individual dosage units do not exceed fifteen milligrams of 1889
pseudoephedrine. 1890

(7) "Retailer" means a place of business that offers consumer 1891
products for sale to the general public. 1892

(8) "Single-ingredient preparation" means a compound, 1893
mixture, preparation, or substance that contains a single active 1894
ingredient. 1895

(9) "Wholesaler" has the same meaning as in section 3719.01 1896
of the Revised Code. 1897

(B) A retailer or terminal distributor of dangerous drugs 1898
that sells, offers to sell, holds for sale, delivers, or otherwise 1899
provides a pseudoephedrine product to the public shall do all of 1900
the following: 1901

(1) Segregate pseudoephedrine products from other merchandise 1902
so that no member of the public may procure or purchase such 1903
products without the direct assistance of a pharmacist or other 1904
authorized employee of the retailer or terminal distributor; 1905

(2) With regard to each time a pseudoephedrine product is 1906
sold or otherwise provided: 1907

(a) Determine, by examination of a valid proof of age, that 1908
the purchaser or recipient is at least eighteen years of age; 1909

(b) Make a reasonable attempt to ensure that no individual 1910
purchases or receives more than nine grams of pseudoephedrine 1911
products within a period of thirty consecutive days; 1912

(3) Maintain a log book of pseudoephedrine product purchases, 1913
in accordance with division (C) of this section. 1914

(C)(1) As used in this division, "law enforcement official" 1915
means an officer or employee of any agency or authority of the 1916

United States, a state, a territory, a political division of a 1917
state or territory, or an Indian tribe, who is empowered by the 1918
law to investigate or conduct an official inquiry into a potential 1919
violation of law or prosecute or otherwise conduct a criminal, 1920
civil, or administrative proceeding arising from an alleged 1921
violation of law. 1922

(2) A retailer or terminal distributor of dangerous drugs 1923
that sells, offers to sell, holds for sale, delivers, or otherwise 1924
provides a pseudoephedrine product to the public shall maintain a 1925
log book of all purchases of pseudoephedrine products. The log 1926
book may be maintained in a tangible format, in an electronic 1927
format, or in both a tangible format and an electronic format. As 1928
part of this requirement, the retailer or terminal distributor 1929
shall do all of the following: 1930

(a) Require each purchaser to sign an entry in the log book 1931
that is maintained in the electronic or tangible format; 1932

(b) Determine whether the name signed in the entry in the log 1933
book corresponds with the name on a government-issued 1934
identification card; 1935

(c) Retain the log book in a tangible format, in an 1936
electronic format, or in both a tangible format and an electronic 1937
format for a minimum of one year after the date of the last 1938
purchase recorded in the log book; 1939

(d) Include in the log book in the manner described in 1940
division (C)(5) of this section or, in the alternative, post, in a 1941
conspicuous location, the following statement: "Ohio law prohibits 1942
the over-the-counter purchase within any period of thirty 1943
consecutive days of more than nine grams of any consumer product 1944
in which pseudoephedrine is the only active ingredient. If you 1945
purchase a consumer product in which pseudoephedrine is the only 1946
active ingredient, you are required to sign a log book that may be 1947

accessible to law enforcement officers and to provide a 1948
government-issued identification card to verify your identity. 1949
Except in limited circumstances, the purchase within any period of 1950
thirty consecutive days of more than nine grams of any consumer 1951
product in which pseudoephedrine is the only active ingredient, 1952
and the purchase by any individual under eighteen years of age of 1953
any consumer product in which pseudoephedrine is the only active 1954
ingredient, are subject to criminal prosecution or delinquency 1955
proceedings in accordance with Ohio law. Also, the provision of 1956
false information concerning an individual's name, age, or other 1957
identification for the purpose of acquiring any consumer product 1958
in which pseudoephedrine is the only active ingredient is subject 1959
to criminal prosecution or delinquency proceedings in accordance 1960
with Ohio law." 1961

(3) Each purchaser of a pseudoephedrine product shall do all 1962
of the following: 1963

(a) Sign and print the purchaser's name and address in the 1964
log book; 1965

(b) Provide a government-issued identification card to the 1966
retailer or terminal distributor to verify the purchaser's 1967
identity; 1968

(4) Information contained in the log book may not be used or 1969
disclosed except in the following circumstances: 1970

(a) In response to a court order or subpoena; 1971

(b) In response to a request from a law enforcement official 1972
to be used for law enforcement purposes. 1973

(5) If a retailer or terminal distributor of dangerous drugs 1974
chooses to include the statement set forth in division (C)(2)(d) 1975
of this section in the log book maintained under division (C)(2) 1976
of this section, the statement shall be set forth in the following 1977

manner: 1978

(a) If the log book is maintained in an electronic format, 1979
the statement shall be set forth in such a manner that it is 1980
presented on the viewing screen to each purchaser who is signing 1981
an entry in the log book before the purchaser may sign the entry. 1982

(b) If the log book is maintained in a tangible format, the 1983
statement shall be set forth on the cover of the log book and on 1984
each page of the log book. 1985

(D) Prescriptions, orders, and records maintained pursuant to 1986
this section and stocks of pseudoephedrine products shall be open 1987
for inspection to federal, state, county, and municipal officers, 1988
and employees of the state board of pharmacy whose duty it is to 1989
enforce the laws of this state or of the United States relating to 1990
controlled substances. Such prescriptions, orders, records, and 1991
stocks shall be open for inspection by the state medical board and 1992
its employees for purposes of enforcing Chapter 4731. of the 1993
Revised Code. 1994

Sec. 3715.06. (A) Each retailer, terminal distributor of 1995
dangerous drugs, pharmacy, prescriber, or wholesaler that sells, 1996
offers to sell, holds for sale, delivers, or otherwise provides 1997
any pseudoephedrine product and that discovers the theft or loss 1998
of any pseudoephedrine product in an amount of more than nine 1999
grams per incident of theft or loss shall notify all of the 2000
following upon discovery of the theft or loss: 2001

(1) The state board of pharmacy, by telephone immediately 2002
upon discovery of the theft or loss. 2003

(2) Law enforcement authorities. If the incident is a theft 2004
and the theft constitutes a felony, the retailer, terminal 2005
distributor of dangerous drugs, pharmacy, prescriber, or 2006
wholesaler shall report the theft to the law enforcement 2007

<u>authorities in accordance with section 2921.22 of the Revised</u>	2008
<u>Code.</u>	2009
<u>(B) Within thirty days after making a report by telephone to</u>	2010
<u>the state board of pharmacy pursuant to division (A) of this</u>	2011
<u>section, a retailer, terminal distributor of dangerous drugs,</u>	2012
<u>pharmacy, prescriber, or wholesaler shall send a written report to</u>	2013
<u>the state board of pharmacy.</u>	2014
<u>(C) The reports required under this section shall identify</u>	2015
<u>the product that was stolen or lost, the amount of the product</u>	2016
<u>stolen or lost, and the date and time of discovery of the theft or</u>	2017
<u>loss.</u>	2018
Sec. 4301.61. (A) As used in this section and section	2019
4301.611 of the Revised Code:	2020
(1) "Card holder" means any person who presents a driver's or	2021
commercial driver's license or an identification card to a permit	2022
holder, or an agent or employee of a permit holder, for either of	2023
the purposes listed in division (A)(4)(a) or (b) of this section.	2024
(2) "Identification card" means an identification card issued	2025
under sections 4507.50 to 4507.52 of the Revised Code.	2026
(3) "Permit holder" means the holder of a permit issued under	2027
Chapter 4303. of the Revised Code.	2028
(4) "Transaction scan" means the process by which a permit	2029
holder or an agent or employee of a permit holder checks, by means	2030
of a transaction scan device, the validity of a driver's or	2031
commercial driver's license or an identification card that is	2032
presented as a condition for doing either of the following:	2033
(a) Purchasing any beer, intoxicating liquor, or low-alcohol	2034
beverage;	2035
(b) Gaining admission to a premises that has been issued a	2036

liquor permit authorizing the sale of beer or intoxicating liquor 2037
for consumption on the premises where sold, and where admission is 2038
restricted to persons twenty-one years of age or older. 2039

(5) "Transaction scan device" means any commercial device or 2040
combination of devices used at a point of sale that is capable of 2041
deciphering in an electronically readable format the information 2042
encoded on the magnetic strip or bar code of a driver's or 2043
commercial driver's license or an identification card. 2044

(B)(1) A permit holder or an agent or employee of a permit 2045
holder may perform a transaction scan by means of a transaction 2046
scan device to check the validity of a driver's or commercial 2047
driver's license or identification card presented by a card holder 2048
for either of the purposes listed in division (A)(4)(a) or (b) of 2049
this section. 2050

(2) If the information deciphered by the transaction scan 2051
performed under division (B)(1) of this section fails to match the 2052
information printed on the driver's or commercial driver's license 2053
or identification card presented by the card holder, or if the 2054
transaction scan indicates that the information so printed is 2055
false or fraudulent, neither the permit holder nor any agent or 2056
employee of the permit holder shall sell any beer, intoxicating 2057
liquor, or low-alcohol beverage to the card holder. 2058

(3) Division (B)(1) of this section does not preclude a 2059
permit holder or an agent or employee of a permit holder from 2060
using a transaction scan device to check the validity of a 2061
document other than a driver's or commercial driver's license or 2062
an identification card, if the document includes a bar code or 2063
magnetic strip that may be scanned by the device, as a condition 2064
of a sale of beer, intoxicating liquor, or a low-alcohol beverage 2065
or of granting admission to a premises described in division 2066
(A)(4) of this section. 2067

(C) The registrar of motor vehicles, with the approval of the liquor control commission, shall adopt, and may amend or rescind, rules in accordance with Chapter 119. of the Revised Code that do both of the following:

(1) Govern the recording and maintenance of information described in divisions (D)(1)(a) and (b) of this section ~~and~~, divisions (D)(1)(a) and (b) of section 2927.021 of the Revised Code, and divisions (D)(1)(a) and (b) of section 2927.32 of the Revised Code;

(2) Ensure quality control in the use of transaction scan devices under this section and sections 2927.021, 2927.022, 2927.32, 2927.33, and 4301.611 of the Revised Code.

(D)(1) No permit holder or agent or employee of a permit holder shall electronically or mechanically record or maintain any information derived from a transaction scan, except the following:

(a) The name and date of birth of the person listed on the driver's or commercial driver's license or identification card presented by a card holder;

(b) The expiration date and identification number of the driver's or commercial driver's license or identification card presented by a card holder.

(2) No permit holder or agent or employee of a permit holder shall use the information that is derived from a transaction scan or that is permitted to be recorded and maintained by division (D)(1) of this section, except for purposes of section 4301.611 of the Revised Code.

(3) No permit holder or agent or employee of a permit holder shall use a transaction scan device for a purpose other than a purpose listed in division (A)(4)(a) or (b) of this section.

(4) No permit holder or agent or employee of a permit holder

shall sell or otherwise disseminate the information derived from a
transaction scan to any third party, including, but not limited
to, selling or otherwise disseminating that information for any
marketing, advertising, or promotional activities, but a permit
holder or agent or employee of a permit holder may release that
information pursuant to a court order or as specifically
authorized by section 4301.611 or another section of the Revised
Code.

(E) Nothing in this section or section 4301.611 of the
Revised Code relieves a permit holder or an agent or employee of a
permit holder of any responsibility to comply with any other
applicable state or federal laws or rules governing the sale of
beer, intoxicating liquor, or low-alcohol beverages.

(F) Whoever violates division (B)(2) or (D) of this section
is guilty of an illegal liquor transaction scan, and the court may
impose upon the offender a civil penalty of up to one thousand
dollars for each violation. The clerk of the court shall pay each
collected civil penalty to the county treasurer for deposit into
the county treasury.

Section 2. That existing sections 109.60, 2151.022, 2152.02,
2919.22, 2925.01, 2925.04, 2925.041, 2925.14, 2925.52, and 4301.61
of the Revised Code are hereby repealed.

Section 3. Section 2151.022 of the Revised Code is presented
in this act as a composite of the section as amended by both Am.
Sub. S.B. 179 and Sub. S.B. 218 of the 123rd General Assembly. The
General Assembly, applying the principle stated in division (B) of
section 1.52 of the Revised Code that amendments are to be
harmonized if reasonably capable of simultaneous operation, finds
that the composite is the resulting version of the section in
effect prior to the effective date of the section as presented in
this act.