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Sub. S. B. No. 320

Senator Seitz

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Hagan, J., Hite, Hughes, Luckie, Mandel, Mecklenborg, Nero, Newcomb,
Oelslager, Otterman, J., Sayre, Schindel, Schneider, Setzer, Zehringer**

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A B I L L

To amend sections 2913.01, 2913.02, 2913.72, and 1
2923.31 and to enact section 1333.851 of the 2
Revised Code to include organized retail theft and 3
substantially similar conduct occurring in another 4
state within the definition of corrupt activity as 5
used in the Ohio Corrupt Activities Law, to 6
require compensation of an alcoholic beverage 7
distributor before reassigning the distributor's 8
product or brand territory, to make changes to the 9
law governing certain franchise agreements between 10
a successor manufacturer and distributor, and to 11
permit a court to order an offender who steals 12
rental property to pay for the cost of repairing 13
or replacing the stolen property and any loss of 14
revenue resulting from deprivation of the property 15
due to theft. 16

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

Section 1. That sections 2913.01, 2913.02, 2913.72, and 17
2923.31 be amended and section 1333.851 of the Revised Code be 18
enacted to read as follows: 19

Sec. 1333.851. (A) With respect to any merger, acquisition, 20
purchase, or assignment under division (D) of section 1333.85 of 21
the Revised Code, both of the following apply: 22

(1) The territories for the particular product or brand of 23
alcoholic beverage shall not be assigned to another distributor 24
until the successor manufacturer compensates the terminated or 25
nonrenewed distributor for the diminished value of the 26
distributor's business. 27

(2) When a distributor receives written notice of termination 28
or nonrenewal of its franchise pursuant to division (D) of section 29
1333.85 of the Revised Code, the distribution of beer or wine for 30
ninety days or more without a written contract shall not 31
constitute a franchise relationship between the successor 32
manufacturer and the distributor under section 1333.83 of the 33
Revised Code. 34

(B) With respect to the merger, acquisition, or purchase of a 35
manufacturer by a successor manufacturer or the purchase or 36
assignment of a product or brand to a successor manufacturer under 37
division (D) of section 1333.85 of the Revised Code, all of the 38
following apply: 39

(1) Except as otherwise provided in division (B)(2) of this 40
section, within seventy-five days after a distributor receives 41
written notice of termination or nonrenewal of its franchise 42
pursuant to division (D) of section 1333.85 of the Revised Code, 43
the distributor shall provide the successor manufacturer with the 44

three previous years of financial statements and other relevant 45
and reasonably necessary financial information regarding the 46
diminished value of the distributor's business. The distributor 47
and successor manufacturer shall negotiate in good faith to 48
determine the diminished value of the distributor's business, and 49
the successor manufacturer shall pay the distributor for that 50
diminished value. 51

(2) If the distributor and successor manufacturer are unable 52
to negotiate in good faith or are unable to resolve the 53
distributor's diminished value within ninety days of the date that 54
notice of termination is given, either party may bring an action 55
in the court of common pleas of the county in which the 56
distributor's principal place of business in this state is located 57
within ninety days of the date that notice of termination is 58
given, except that the parties may mutually agree in writing to 59
extend that ninety-day period. 60

(3) The court of common pleas shall determine the diminished 61
value of the distributor's business within ninety days after the 62
action is filed. The successor manufacturer shall pay the 63
distributor the amount of diminished value the court determines. 64
Upon payment of that amount by the manufacturer to the 65
distributor, the successor manufacturer may transfer the brands to 66
a new distributor. 67

(4) Either party may appeal the decision of the court of 68
common pleas to the court of appeals. The filing of an appeal does 69
not stay the successor manufacturer's payment of diminished value 70
to the distributor or the successor manufacturer's transfer of 71
brands to a new distributor. 72

(5) If the court is unable to determine the diminished value 73
of the distributor's business within ninety days after the action 74
is filed, the court shall order the successor manufacturer to pay 75
its last good faith offer to the distributor on the ninety-first 76

day after the action is filed and shall treat the manufacturer's 77
application for that order as a request for emergency injunctive 78
relief without the need for any showing of irreparable harm. Upon 79
payment of the amount of its last good faith offer to the 80
distributor, the successor manufacturer may transfer the brands to 81
a new distributor. After the successor manufacturer's payment of 82
that amount to the distributor and its transfer of the brands, the 83
court shall determine the diminished value of the distributor's 84
business. The successor manufacturer shall pay the distributor the 85
amount of the diminished value determined by the court less the 86
amount of its last good faith offer previously paid pursuant to 87
division (B)(5) of this section. 88

(6) The parties by mutual agreement may extend or shorten any 89
of the time deadlines set forth in this section. 90

Sec. 2913.01. As used in this chapter, unless the context 91
requires that a term be given a different meaning: 92

(A) "Deception" means knowingly deceiving another or causing 93
another to be deceived by any false or misleading representation, 94
by withholding information, by preventing another from acquiring 95
information, or by any other conduct, act, or omission that 96
creates, confirms, or perpetuates a false impression in another, 97
including a false impression as to law, value, state of mind, or 98
other objective or subjective fact. 99

(B) "Defraud" means to knowingly obtain, by deception, some 100
benefit for oneself or another, or to knowingly cause, by 101
deception, some detriment to another. 102

(C) "Deprive" means to do any of the following: 103

(1) Withhold property of another permanently, or for a period 104
that appropriates a substantial portion of its value or use, or 105
with purpose to restore it only upon payment of a reward or other 106

consideration;	107
(2) Dispose of property so as to make it unlikely that the owner will recover it;	108 109
(3) Accept, use, or appropriate money, property, or services, with purpose not to give proper consideration in return for the money, property, or services, and without reasonable justification or excuse for not giving proper consideration.	110 111 112 113
(D) "Owner" means, unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.	114 115 116 117 118
(E) "Services" include labor, personal services, professional services, <u>rental services</u> , public utility services including wireless service as defined in division (F)(1) of section 4931.40 of the Revised Code, common carrier services, and food, drink, transportation, entertainment, and cable television services and, for purposes of section 2913.04 of the Revised Code, include cable services as defined in that section.	119 120 121 122 123 124 125
(F) "Writing" means any computer software, document, letter, memorandum, note, paper, plate, data, film, or other thing having in or upon it any written, typewritten, or printed matter, and any token, stamp, seal, credit card, badge, trademark, label, or other symbol of value, right, privilege, license, or identification.	126 127 128 129 130
(G) "Forge" means to fabricate or create, in whole or in part and by any means, any spurious writing, or to make, execute, alter, complete, reproduce, or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.	131 132 133 134 135
(H) "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver, or display.	136 137

(I) "Coin machine" means any mechanical or electronic device	138
designed to do both of the following:	139
(1) Receive a coin, bill, or token made for that purpose;	140
(2) In return for the insertion or deposit of a coin, bill,	141
or token, automatically dispense property, provide a service, or	142
grant a license.	143
(J) "Slug" means an object that, by virtue of its size,	144
shape, composition, or other quality, is capable of being inserted	145
or deposited in a coin machine as an improper substitute for a	146
genuine coin, bill, or token made for that purpose.	147
(K) "Theft offense" means any of the following:	148
(1) A violation of section 2911.01, 2911.02, 2911.11,	149
2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04,	150
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32,	151
2913.33, 2913.34, 2913.40, 2913.42, 2913.43, 2913.44, 2913.45,	152
2913.47, former section 2913.47 or 2913.48, or section 2913.51,	153
2915.05, or 2921.41 of the Revised Code;	154
(2) A violation of an existing or former municipal ordinance	155
or law of this or any other state, or of the United States,	156
substantially equivalent to any section listed in division (K)(1)	157
of this section or a violation of section 2913.41, 2913.81, or	158
2915.06 of the Revised Code as it existed prior to July 1, 1996;	159
(3) An offense under an existing or former municipal	160
ordinance or law of this or any other state, or of the United	161
States, involving robbery, burglary, breaking and entering, theft,	162
embezzlement, wrongful conversion, forgery, counterfeiting,	163
deceit, or fraud;	164
(4) A conspiracy or attempt to commit, or complicity in	165
committing, any offense under division (K)(1), (2), or (3) of this	166
section.	167

(L) "Computer services" includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use, or data that is contained within a computer system or computer network.

(M) "Computer" means an electronic device that performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses. "Computer" includes, but is not limited to, all input, output, processing, storage, computer program, or communication facilities that are connected, or related, in a computer system or network to an electronic device of that nature.

(N) "Computer system" means a computer and related devices, whether connected or unconnected, including, but not limited to, data input, output, and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.

(O) "Computer network" means a set of related and remotely connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.

(P) "Computer program" means an ordered set of data representing coded instructions or statements that, when executed by a computer, cause the computer to process data.

(Q) "Computer software" means computer programs, procedures, and other documentation associated with the operation of a computer system.

(R) "Data" means a representation of information, knowledge, facts, concepts, or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system, or computer network. For purposes of

section 2913.47 of the Revised Code, "data" has the additional 199
meaning set forth in division (A) of that section. 200

(S) "Cable television service" means any services provided by 201
or through the facilities of any cable television system or other 202
similar closed circuit coaxial cable communications system, or any 203
microwave or similar transmission service used in connection with 204
any cable television system or other similar closed circuit 205
coaxial cable communications system. 206

(T) "Gain access" means to approach, instruct, communicate 207
with, store data in, retrieve data from, or otherwise make use of 208
any resources of a computer, computer system, or computer network, 209
or any cable service or cable system both as defined in section 210
2913.04 of the Revised Code. 211

(U) "Credit card" includes, but is not limited to, a card, 212
code, device, or other means of access to a customer's account for 213
the purpose of obtaining money, property, labor, or services on 214
credit, or for initiating an electronic fund transfer at a 215
point-of-sale terminal, an automated teller machine, or a cash 216
dispensing machine. It also includes a county procurement card 217
issued under section 301.29 of the Revised Code. 218

(V) "Electronic fund transfer" has the same meaning as in 92 219
Stat. 3728, 15 U.S.C.A. 1693a, as amended. 220

(W) "Rented property" means personal property in which the 221
right of possession and use of the property is for a short and 222
possibly indeterminate term in return for consideration; the 223
rentee generally controls the duration of possession of the 224
property, within any applicable minimum or maximum term; and the 225
amount of consideration generally is determined by the duration of 226
possession of the property. 227

(X) "Telecommunication" means the origination, emission, 228
dissemination, transmission, or reception of data, images, 229

signals, sounds, or other intelligence or equivalence of 230
intelligence of any nature over any communications system by any 231
method, including, but not limited to, a fiber optic, electronic, 232
magnetic, optical, digital, or analog method. 233

(Y) "Telecommunications device" means any instrument, 234
equipment, machine, or other device that facilitates 235
telecommunication, including, but not limited to, a computer, 236
computer network, computer chip, computer circuit, scanner, 237
telephone, cellular telephone, pager, personal communications 238
device, transponder, receiver, radio, modem, or device that 239
enables the use of a modem. 240

(Z) "Telecommunications service" means the providing, 241
allowing, facilitating, or generating of any form of 242
telecommunication through the use of a telecommunications device 243
over a telecommunications system. 244

(AA) "Counterfeit telecommunications device" means a 245
telecommunications device that, alone or with another 246
telecommunications device, has been altered, constructed, 247
manufactured, or programmed to acquire, intercept, receive, or 248
otherwise facilitate the use of a telecommunications service or 249
information service without the authority or consent of the 250
provider of the telecommunications service or information service. 251
"Counterfeit telecommunications device" includes, but is not 252
limited to, a clone telephone, clone microchip, tumbler telephone, 253
or tumbler microchip; a wireless scanning device capable of 254
acquiring, intercepting, receiving, or otherwise facilitating the 255
use of telecommunications service or information service without 256
immediate detection; or a device, equipment, hardware, or software 257
designed for, or capable of, altering or changing the electronic 258
serial number in a wireless telephone. 259

(BB)(1) "Information service" means, subject to division 260

(BB)(2) of this section, the offering of a capability for 261

generating, acquiring, storing, transforming, processing, 262
retrieving, utilizing, or making available information via 263
telecommunications, including, but not limited to, electronic 264
publishing. 265

(2) "Information service" does not include any use of a 266
capability of a type described in division (BB)(1) of this section 267
for the management, control, or operation of a telecommunications 268
system or the management of a telecommunications service. 269

(CC) "Elderly person" means a person who is sixty-five years 270
of age or older. 271

(DD) "Disabled adult" means a person who is eighteen years of 272
age or older and has some impairment of body or mind that makes 273
the person unable to work at any substantially remunerative 274
employment that the person otherwise would be able to perform and 275
that will, with reasonable probability, continue for a period of 276
at least twelve months without any present indication of recovery 277
from the impairment, or who is eighteen years of age or older and 278
has been certified as permanently and totally disabled by an 279
agency of this state or the United States that has the function of 280
so classifying persons. 281

(EE) "Firearm" and "dangerous ordnance" have the same 282
meanings as in section 2923.11 of the Revised Code. 283

(FF) "Motor vehicle" has the same meaning as in section 284
4501.01 of the Revised Code. 285

(GG) "Dangerous drug" has the same meaning as in section 286
4729.01 of the Revised Code. 287

(HH) "Drug abuse offense" has the same meaning as in section 288
2925.01 of the Revised Code. 289

(II)(1) "Computer hacking" means any of the following: 290

(a) Gaining access or attempting to gain access to all or 291

part of a computer, computer system, or a computer network without 292
express or implied authorization with the intent to defraud or 293
with intent to commit a crime; 294

(b) Misusing computer or network services including, but not 295
limited to, mail transfer programs, file transfer programs, proxy 296
servers, and web servers by performing functions not authorized by 297
the owner of the computer, computer system, or computer network or 298
other person authorized to give consent. As used in this division, 299
"misuse of computer and network services" includes, but is not 300
limited to, the unauthorized use of any of the following: 301

(i) Mail transfer programs to send mail to persons other than 302
the authorized users of that computer or computer network; 303

(ii) File transfer program proxy services or proxy servers to 304
access other computers, computer systems, or computer networks; 305

(iii) Web servers to redirect users to other web pages or web 306
servers. 307

(c)(i) Subject to division (II)(1)(c)(ii) of this section, 308
using a group of computer programs commonly known as "port 309
scanners" or "probes" to intentionally access any computer, 310
computer system, or computer network without the permission of the 311
owner of the computer, computer system, or computer network or 312
other person authorized to give consent. The group of computer 313
programs referred to in this division includes, but is not limited 314
to, those computer programs that use a computer network to access 315
a computer, computer system, or another computer network to 316
determine any of the following: the presence or types of computers 317
or computer systems on a network; the computer network's 318
facilities and capabilities; the availability of computer or 319
network services; the presence or versions of computer software 320
including, but not limited to, operating systems, computer 321
services, or computer contaminants; the presence of a known 322

computer software deficiency that can be used to gain unauthorized 323
access to a computer, computer system, or computer network; or any 324
other information about a computer, computer system, or computer 325
network not necessary for the normal and lawful operation of the 326
computer initiating the access. 327

(ii) The group of computer programs referred to in division 328
(II)(1)(c)(i) of this section does not include standard computer 329
software used for the normal operation, administration, 330
management, and test of a computer, computer system, or computer 331
network including, but not limited to, domain name services, mail 332
transfer services, and other operating system services, computer 333
programs commonly called "ping," "tcpdump," and "traceroute" and 334
other network monitoring and management computer software, and 335
computer programs commonly known as "nslookup" and "whois" and 336
other systems administration computer software. 337

(d) The intentional use of a computer, computer system, or a 338
computer network in a manner that exceeds any right or permission 339
granted by the owner of the computer, computer system, or computer 340
network or other person authorized to give consent. 341

(2) "Computer hacking" does not include the introduction of a 342
computer contaminant, as defined in section 2909.02 of the Revised 343
Code, into a computer, computer system, computer program, or 344
computer network. 345

(JJ) "Police dog or horse" has the same meaning as in section 346
2921.321 of the Revised Code. 347

(KK) "Anhydrous ammonia" is a compound formed by the 348
combination of two gaseous elements, nitrogen and hydrogen, in the 349
manner described in this division. Anhydrous ammonia is one part 350
nitrogen to three parts hydrogen (NH₃). Anhydrous ammonia by 351
weight is fourteen parts nitrogen to three parts hydrogen, which 352
is approximately eighty-two per cent nitrogen to eighteen per cent 353

hydrogen.	354
(LL) "Assistance dog" has the same meaning as in section 955.011 of the Revised Code.	355 356
(MM) "Federally licensed firearms dealer" has the same meaning as in section 5502.63 of the Revised Code.	357 358
Sec. 2913.02. (A) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:	359 360 361 362
(1) Without the consent of the owner or person authorized to give consent;	363 364
(2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;	365 366
(3) By deception;	367
(4) By threat;	368
(5) By intimidation.	369
(B)(1) Whoever violates this section is guilty of theft.	370
(2) Except as otherwise provided in this division or division (B)(3), (4), (5), (6), (7), or (8) of this section, a violation of this section is petty theft, a misdemeanor of the first degree. If the value of the property or services stolen is five hundred dollars or more and is less than five thousand dollars or if the property stolen is any of the property listed in section 2913.71 of the Revised Code, a violation of this section is theft, a felony of the fifth degree. If the value of the property or services stolen is five thousand dollars or more and is less than one hundred thousand dollars, a violation of this section is grand theft, a felony of the fourth degree. If the value of the property or services stolen is one hundred thousand dollars or more and is	371 372 373 374 375 376 377 378 379 380 381 382

less than five hundred thousand dollars, a violation of this 383
section is aggravated theft, a felony of the third degree. If the 384
value of the property or services is five hundred thousand dollars 385
or more and is less than one million dollars, a violation of this 386
section is aggravated theft, a felony of the second degree. If the 387
value of the property or services stolen is one million dollars or 388
more, a violation of this section is aggravated theft of one 389
million dollars or more, a felony of the first degree. 390

(3) Except as otherwise provided in division (B)(4), (5), 391
(6), (7), or (8) of this section, if the victim of the offense is 392
an elderly person or disabled adult, a violation of this section 393
is theft from an elderly person or disabled adult, and division 394
(B)(3) of this section applies. Except as otherwise provided in 395
this division, theft from an elderly person or disabled adult is a 396
felony of the fifth degree. If the value of the property or 397
services stolen is five hundred dollars or more and is less than 398
five thousand dollars, theft from an elderly person or disabled 399
adult is a felony of the fourth degree. If the value of the 400
property or services stolen is five thousand dollars or more and 401
is less than twenty-five thousand dollars, theft from an elderly 402
person or disabled adult is a felony of the third degree. If the 403
value of the property or services stolen is twenty-five thousand 404
dollars or more and is less than one hundred thousand dollars, 405
theft from an elderly person or disabled adult is a felony of the 406
second degree. If the value of the property or services stolen is 407
one hundred thousand dollars or more, theft from an elderly person 408
or disabled adult is a felony of the first degree. 409

(4) If the property stolen is a firearm or dangerous 410
ordnance, a violation of this section is grand theft. Except as 411
otherwise provided in this division, grand theft when the property 412
stolen is a firearm or dangerous ordnance is a felony of the third 413
degree, and there is a presumption in favor of the court imposing 414

a prison term for the offense. If the firearm or dangerous
ordnance was stolen from a federally licensed firearms dealer,
grand theft when the property stolen is a firearm or dangerous
ordnance is a felony of the first degree. The offender shall serve
a prison term imposed for grand theft when the property stolen is
a firearm or dangerous ordnance consecutively to any other prison
term or mandatory prison term previously or subsequently imposed
upon the offender.

(5) If the property stolen is a motor vehicle, a violation of
this section is grand theft of a motor vehicle, a felony of the
fourth degree.

(6) If the property stolen is any dangerous drug, a violation
of this section is theft of drugs, a felony of the fourth degree,
or, if the offender previously has been convicted of a felony drug
abuse offense, a felony of the third degree.

(7) If the property stolen is a police dog or horse or an
assistance dog and the offender knows or should know that the
property stolen is a police dog or horse or an assistance dog, a
violation of this section is theft of a police dog or horse or an
assistance dog, a felony of the third degree.

(8) If the property stolen is anhydrous ammonia, a violation
of this section is theft of anhydrous ammonia, a felony of the
third degree.

(9) In addition to the penalties described in division (B)(2)
of this section, if the offender committed the violation by
causing a motor vehicle to leave the premises of an establishment
at which gasoline is offered for retail sale without the offender
making full payment for gasoline that was dispensed into the fuel
tank of the motor vehicle or into another container, the court may
do one of the following:

(a) Unless division (B)(9)(b) of this section applies,

suspend for not more than six months the offender's driver's 446
license, probationary driver's license, commercial driver's 447
license, temporary instruction permit, or nonresident operating 448
privilege; 449

(b) If the offender's driver's license, probationary driver's 450
license, commercial driver's license, temporary instruction 451
permit, or nonresident operating privilege has previously been 452
suspended pursuant to division (B)(9)(a) of this section, impose a 453
class seven suspension of the offender's license, permit, or 454
privilege from the range specified in division (A)(7) of section 455
4510.02 of the Revised Code, provided that the suspension shall be 456
for at least six months. 457

(10) In addition to the penalties described in division 458
(B)(2) of this section, if the offender committed the violation by 459
stealing rented property or rental services, the court may order 460
that the offender make restitution pursuant to section 2929.18 or 461
2929.28 of the Revised Code. Restitution may include, but is not 462
limited to, the cost of repairing or replacing the stolen 463
property, or the cost of repairing the stolen property and any 464
loss of revenue resulting from deprivation of the property due to 465
theft of rental services that is less than or equal to the actual 466
value of the property at the time it was rented. Evidence of 467
intent to commit theft of rented property or rental services shall 468
be determined pursuant to the provisions of section 2913.72 of the 469
Revised Code. 470

(C) The sentencing court that suspends an offender's license, 471
permit, or nonresident operating privilege under division (B)(9) 472
of this section may grant the offender limited driving privileges 473
during the period of the suspension in accordance with Chapter 474
4510. of the Revised Code. 475

Sec. 2913.72. (A) Each of the following shall be considered 476

evidence of an intent to commit theft of rented property or rental services: 477
478

(1) At the time of entering into the rental contract, the 479
rentee presented the renter with identification that was 480
materially false, fictitious, or not current with respect to name, 481
address, place of employment, or other relevant information. 482

(2) After receiving a notice demanding the return of rented 483
property as provided in division (B) of this section, the rentee 484
neither returned the rented property nor made arrangements 485
acceptable with the renter to return the rented property. 486

(B) To establish that a rentee has an intent to commit theft 487
of rented property or rental services under division (A)(2) of 488
this section, a renter may issue a notice to a rentee demanding 489
the return of rented property. The renter shall mail the notice by 490
certified mail, return receipt requested, to the rentee at the 491
address the rentee gave when the rental contract was executed, or 492
to the rentee at the last address the rentee or the rentee's agent 493
furnished in writing to the renter. 494

(C) A demand for the return of rented property is not a 495
prerequisite for the prosecution of a rentee for theft of rented 496
property or rental services. The evidence specified in division 497
(A) of this section does not constitute the only evidence that may 498
be considered as evidence of intent to commit theft of rented 499
property or rental services. 500

(D) As used in this section: 501

(1) "Renter" means a person who owns rented property. 502

(2) "Rentee" means a person who pays consideration to a 503
renter for the use of rented property. 504

Sec. 2923.31. As used in sections 2923.31 to 2923.36 of the 505
Revised Code: 506

(A) "Beneficial interest" means any of the following:	507
(1) The interest of a person as a beneficiary under a trust	508
in which the trustee holds title to personal or real property;	509
(2) The interest of a person as a beneficiary under any other	510
trust arrangement under which any other person holds title to	511
personal or real property for the benefit of such person;	512
(3) The interest of a person under any other form of express	513
fiduciary arrangement under which any other person holds title to	514
personal or real property for the benefit of such person.	515
"Beneficial interest" does not include the interest of a	516
stockholder in a corporation or the interest of a partner in	517
either a general or limited partnership.	518
(B) "Costs of investigation and prosecution" and "costs of	519
investigation and litigation" mean all of the costs incurred by	520
the state or a county or municipal corporation under sections	521
2923.31 to 2923.36 of the Revised Code in the prosecution and	522
investigation of any criminal action or in the litigation and	523
investigation of any civil action, and includes, but is not	524
limited to, the costs of resources and personnel.	525
(C) "Enterprise" includes any individual, sole	526
proprietorship, partnership, limited partnership, corporation,	527
trust, union, government agency, or other legal entity, or any	528
organization, association, or group of persons associated in fact	529
although not a legal entity. "Enterprise" includes illicit as well	530
as licit enterprises.	531
(D) "Innocent person" includes any bona fide purchaser of	532
property that is allegedly involved in a violation of section	533
2923.32 of the Revised Code, including any person who establishes	534
a valid claim to or interest in the property in accordance with	535
division (E) of section 2981.04 of the Revised Code, and any	536
victim of an alleged violation of that section or of any	537

underlying offense involved in an alleged violation of that 538
section. 539

(E) "Pattern of corrupt activity" means two or more incidents 540
of corrupt activity, whether or not there has been a prior 541
conviction, that are related to the affairs of the same 542
enterprise, are not isolated, and are not so closely related to 543
each other and connected in time and place that they constitute a 544
single event. 545

At least one of the incidents forming the pattern shall occur 546
on or after January 1, 1986. Unless any incident was an aggravated 547
murder or murder, the last of the incidents forming the pattern 548
shall occur within six years after the commission of any prior 549
incident forming the pattern, excluding any period of imprisonment 550
served by any person engaging in the corrupt activity. 551

For the purposes of the criminal penalties that may be 552
imposed pursuant to section 2923.32 of the Revised Code, at least 553
one of the incidents forming the pattern shall constitute a felony 554
under the laws of this state in existence at the time it was 555
committed or, if committed in violation of the laws of the United 556
States or of any other state, shall constitute a felony under the 557
law of the United States or the other state and would be a 558
criminal offense under the law of this state if committed in this 559
state. 560

(F) "Pecuniary value" means money, a negotiable instrument, a 561
commercial interest, or anything of value, as defined in section 562
1.03 of the Revised Code, or any other property or service that 563
has a value in excess of one hundred dollars. 564

(G) "Person" means any person, as defined in section 1.59 of 565
the Revised Code, and any governmental officer, employee, or 566
entity. 567

(H) "Personal property" means any personal property, any 568

interest in personal property, or any right, including, but not 569
limited to, bank accounts, debts, corporate stocks, patents, or 570
copyrights. Personal property and any beneficial interest in 571
personal property are deemed to be located where the trustee of 572
the property, the personal property, or the instrument evidencing 573
the right is located. 574

(I) "Corrupt activity" means engaging in, attempting to 575
engage in, conspiring to engage in, or soliciting, coercing, or 576
intimidating another person to engage in any of the following: 577

(1) Conduct defined as "racketeering activity" under the 578
"Organized Crime Control Act of 1970," 84 Stat. 941, 18 U.S.C. 579
1961(1)(B), (1)(C), (1)(D), and (1)(E), as amended; 580

(2) Conduct constituting any of the following: 581

(a) A violation of section 1315.55, 1322.02, 2903.01, 582
2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 583
2905.11, 2905.22, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 584
2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 585
2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2913.05, 586
2913.06, 2921.02, 2921.03, 2921.04, 2921.11, 2921.12, 2921.32, 587
2921.41, 2921.42, 2921.43, 2923.12, or 2923.17; division 588
(F)(1)(a), (b), or (c) of section 1315.53; division (A)(1) or (2) 589
of section 1707.042; division (B), (C)(4), (D), (E), or (F) of 590
section 1707.44; division (A)(1) or (2) of section 2923.20; 591
division (J)(1) of section 4712.02; section 4719.02, 4719.05, or 592
4719.06; division (C), (D), or (E) of section 4719.07; section 593
4719.08; or division (A) of section 4719.09 of the Revised Code. 594

(b) Any violation of section 3769.11, 3769.15, 3769.16, or 595
3769.19 of the Revised Code as it existed prior to July 1, 1996, 596
any violation of section 2915.02 of the Revised Code that occurs 597
on or after July 1, 1996, and that, had it occurred prior to that 598
date, would have been a violation of section 3769.11 of the 599

Revised Code as it existed prior to that date, or any violation of 600
section 2915.05 of the Revised Code that occurs on or after July 601
1, 1996, and that, had it occurred prior to that date, would have 602
been a violation of section 3769.15, 3769.16, or 3769.19 of the 603
Revised Code as it existed prior to that date. 604

(c) Any violation of section 2907.21, 2907.22, 2907.31, 605
2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 606
2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37 607
of the Revised Code, any violation of section 2925.11 of the 608
Revised Code that is a felony of the first, second, third, or 609
fourth degree and that occurs on or after July 1, 1996, any 610
violation of section 2915.02 of the Revised Code that occurred 611
prior to July 1, 1996, any violation of section 2915.02 of the 612
Revised Code that occurs on or after July 1, 1996, and that, had 613
it occurred prior to that date, would not have been a violation of 614
section 3769.11 of the Revised Code as it existed prior to that 615
date, any violation of section 2915.06 of the Revised Code as it 616
existed prior to July 1, 1996, or any violation of division (B) of 617
section 2915.05 of the Revised Code as it exists on and after July 618
1, 1996, when the proceeds of the violation, the payments made in 619
the violation, the amount of a claim for payment or for any other 620
benefit that is false or deceptive and that is involved in the 621
violation, or the value of the contraband or other property 622
illegally possessed, sold, or purchased in the violation exceeds 623
five hundred dollars, or any combination of violations described 624
in division (I)(2)(c) of this section when the total proceeds of 625
the combination of violations, payments made in the combination of 626
violations, amount of the claims for payment or for other benefits 627
that is false or deceptive and that is involved in the combination 628
of violations, or value of the contraband or other property 629
illegally possessed, sold, or purchased in the combination of 630
violations exceeds five hundred dollars; 631

(d) Any violation of section 5743.112 of the Revised Code 632
when the amount of unpaid tax exceeds one hundred dollars; 633

(e) Any violation or combination of violations of section 634
2907.32 of the Revised Code involving any material or performance 635
containing a display of bestiality or of sexual conduct, as 636
defined in section 2907.01 of the Revised Code, that is explicit 637
and depicted with clearly visible penetration of the genitals or 638
clearly visible penetration by the penis of any orifice when the 639
total proceeds of the violation or combination of violations, the 640
payments made in the violation or combination of violations, or 641
the value of the contraband or other property illegally possessed, 642
sold, or purchased in the violation or combination of violations 643
exceeds five hundred dollars; 644

(f) Any combination of violations described in division 645
(I)(2)(c) of this section and violations of section 2907.32 of the 646
Revised Code involving any material or performance containing a 647
display of bestiality or of sexual conduct, as defined in section 648
2907.01 of the Revised Code, that is explicit and depicted with 649
clearly visible penetration of the genitals or clearly visible 650
penetration by the penis of any orifice when the total proceeds of 651
the combination of violations, payments made in the combination of 652
violations, amount of the claims for payment or for other benefits 653
that is false or deceptive and that is involved in the combination 654
of violations, or value of the contraband or other property 655
illegally possessed, sold, or purchased in the combination of 656
violations exceeds five hundred dollars. 657

(3) Conduct constituting a violation of any law of any state 658
other than this state that is substantially similar to the conduct 659
described in division (I)(2) of this section, provided the 660
defendant was convicted of the conduct in a criminal proceeding in 661
the other state; 662

(4) Animal or ecological terrorism; 663

(5)(a) Conduct constituting any of the following: 664

(i) Organized retail theft; 665

(ii) Conduct that constitutes one or more violations of any law of any state other than this state, that is substantially similar to organized retail theft, and that if committed in this state would be organized retail theft, if the defendant was convicted of or pleaded guilty to the conduct in a criminal proceeding in the other state. 666
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(b) By enacting division (I)(5)(a) of this section, it is the intent of the general assembly to add organized retail theft and the conduct described in division (I)(5)(a)(ii) of this section as conduct constituting corrupt activity. The enactment of division (I)(5)(a) of this section and the addition by division (I)(5)(a) of this section of organized retail theft and the conduct described in division (I)(5)(a)(ii) of this section as conduct constituting corrupt activity does not limit or preclude, and shall not be construed as limiting or precluding, any prosecution for a violation of section 2923.32 of the Revised Code that is based on one or more violations of section 2913.02 or 2913.51 of the Revised Code, one or more similar offenses under the laws of this state or any other state, or any combination of any of those violations or similar offenses, even though the conduct constituting the basis for those violations or offenses could be construed as also constituting organized retail theft or conduct of the type described in division (I)(5)(a)(ii) of this section. 672
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(J) "Real property" means any real property or any interest in real property, including, but not limited to, any lease of, or mortgage upon, real property. Real property and any beneficial interest in it is deemed to be located where the real property is located. 689
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(K) "Trustee" means any of the following: 694

(1) Any person acting as trustee under a trust in which the trustee holds title to personal or real property;

(2) Any person who holds title to personal or real property for which any other person has a beneficial interest;

(3) Any successor trustee.

"Trustee" does not include an assignee or trustee for an insolvent debtor or an executor, administrator, administrator with the will annexed, testamentary trustee, guardian, or committee, appointed by, under the control of, or accountable to a court.

(L) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted in violation of any federal or state law relating to the business of gambling activity or relating to the business of lending money at an usurious rate unless the creditor proves, by a preponderance of the evidence, that the usurious rate was not intentionally set and that it resulted from a good faith error by the creditor, notwithstanding the maintenance of procedures that were adopted by the creditor to avoid an error of that nature.

(M) "Animal activity" means any activity that involves the use of animals or animal parts, including, but not limited to, hunting, fishing, trapping, traveling, camping, the production, preparation, or processing of food or food products, clothing or garment manufacturing, medical research, other research, entertainment, recreation, agriculture, biotechnology, or service activity that involves the use of animals or animal parts.

(N) "Animal facility" means a vehicle, building, structure, nature preserve, or other premises in which an animal is lawfully kept, handled, housed, exhibited, bred, or offered for sale, including, but not limited to, a zoo, rodeo, circus, amusement

park, hunting preserve, or premises in which a horse or dog event 726
is held. 727

(O) "Animal or ecological terrorism" means the commission of 728
any felony that involves causing or creating a substantial risk of 729
physical harm to any property of another, the use of a deadly 730
weapon or dangerous ordnance, or purposely, knowingly, or 731
recklessly causing serious physical harm to property and that 732
involves an intent to obstruct, impede, or deter any person from 733
participating in a lawful animal activity, from mining, foresting, 734
harvesting, gathering, or processing natural resources, or from 735
being lawfully present in or on an animal facility or research 736
facility. 737

(P) "Research facility" means a place, laboratory, 738
institution, medical care facility, government facility, or public 739
or private educational institution in which a scientific test, 740
experiment, or investigation involving the use of animals or other 741
living organisms is lawfully carried out, conducted, or attempted. 742
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(Q) "Organized retail theft" means the theft of retail 744
property with a retail value of five hundred dollars or more from 745
one or more retail establishments with the intent to sell, 746
deliver, or transfer that property to a retail property fence. 747

(R) "Retail property" means any tangible personal property 748
displayed, held, stored, or offered for sale in or by a retail 749
establishment. 750

(S) "Retail property fence" means a person who possesses, 751
procures, receives, or conceals retail property that was 752
represented to the person as being stolen or that the person knows 753
or believes to be stolen. 754

(T) "Retail value" means the full retail value of the retail 755
property. In determining whether the retail value of retail 756

property equals or exceeds five hundred dollars, the value of all 757
retail property stolen from the retail establishment or retail 758
establishments by the same person or persons within any 759
one-hundred-eighty-day period shall be aggregated. 760

Section 2. That existing sections 2913.01, 2913.02, 2913.72, 761
and 2923.31 of the Revised Code are hereby repealed. 762