

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**H. B. No. 515**

**Representative McGregor**

**Cosponsors: Representatives Duffey, Phillips, DeVitis**

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**A B I L L**

To amend sections 901.51, 901.99, 1503.29, 1503.99, 1  
2913.02, and 2913.61; to amend, for the purpose of 2  
adopting a new section number as indicated in 3  
parentheses, section 901.51 (1503.28); and to 4  
enact sections 1503.311, 1503.312, 1503.313, 5  
1503.314, 1503.315, 1503.316, 1503.317, and 6  
1503.318 of the Revised Code to establish 7  
requirements governing contracts for the 8  
harvesting of timber and enforcement procedures 9  
regarding and penalties for the theft of timber. 10

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

**Section 1.** That sections 901.51, 901.99, 1503.29, 1503.99, 11  
2913.02, and 2913.61 be amended, section 901.51 (1503.28) be 12  
amended for the purpose of adopting a new section number as 13  
indicated in parentheses, and sections 1503.311, 1503.312, 14  
1503.313, 1503.314, 1503.315, 1503.316, 1503.317, and 1503.318 of 15  
the Revised Code be enacted to read as follows: 16

**Sec. 901.99.** (A) ~~Whoever violates section 901.51 of the~~ 17  
~~Revised Code is guilty of a misdemeanor of the fourth degree.~~ 18

~~(B)~~ Whoever violates section 901.75 or division (C) of 19

section 901.73 of the Revised Code is guilty of a misdemeanor of 20  
the first degree. 21

~~(C)~~(B) Whoever violates division (A) of section 901.76 of the 22  
Revised Code is guilty of a felony of the fifth degree on a first 23  
offense and of a felony of the fourth degree on each subsequent 24  
offense. 25

~~(D)~~(C) Whoever violates division (B) of section 901.76 of the 26  
Revised Code is guilty of a felony of the fourth degree. 27

~~(E)~~(D) Whoever violates division (B) of section 901.511 of 28  
the Revised Code is guilty on a first offense of a misdemeanor or 29  
a felony that is one degree higher than the penalty for the most 30  
serious underlying specified offense that is involved in the 31  
violation. However, if on such an initial violation the penalty 32  
for the most serious underlying specified offense is a felony of 33  
the first degree, the violator is guilty of a felony of the first 34  
degree. 35

On each subsequent violation of division (B) of that section, 36  
the violator is guilty of a misdemeanor or a felony that is two 37  
degrees higher than the penalty for the most serious underlying 38  
specified offense that is involved in the subsequent violation. 39  
However, if on such a subsequent violation the penalty for the 40  
most serious underlying specified offense is a felony of the first 41  
or second degree, the violator is guilty of a felony of the first 42  
degree. 43

As used in this division, "specified offense" has the same 44  
meaning as in section 901.511 of the Revised Code, and "most 45  
serious underlying specified offense" refers to the underlying 46  
specified offense that carries the highest maximum penalty. 47

~~(F)~~(E) Whoever violates division (C) of section 901.511 of 48  
the Revised Code is guilty of a felony of the third degree. 49

**Sec. ~~901.51~~ 1503.28.** (A) No person, without privilege to do 50  
so, shall recklessly cut down, destroy, girdle, or otherwise 51  
injure a vine, bush, shrub, sapling, tree, or crop standing or 52  
growing on the land of another or upon public land. 53

~~In addition to the penalty provided in section 901.99 of the~~ 54  
~~Revised Code, whoever~~ (B) Whoever violates this section is liable 55  
in treble damages for the injury caused. Damages may include 56  
reasonable costs of reforestation activities related to the injury 57  
sustained by the plaintiff, reasonable costs of remediating 58  
incidental damages to the plaintiff's property, and costs of 59  
litigation, including, but not limited to, investigation costs and 60  
attorney fees. If the injury involves damage to timber, the value 61  
of the timber shall be determined as provided in division (D) of 62  
section 2913.61 of the Revised Code. 63

**Sec. 1503.29.** (A) As used in this section, "felony" has the 64  
same meaning as in section 109.511 of the Revised Code. 65

(B)(1) Subject to division (D) of this section, any person 66  
employed by the chief of the division of forestry for 67  
administrative service in a state forest may be designated by the 68  
chief and known as a forest officer. A forest officer, on any 69  
lands or waters owned, controlled, maintained, or administered by 70  
the department of natural resources and on highways, as defined in 71  
section 4511.01 of the Revised Code, adjacent to lands and waters 72  
owned, controlled, maintained, or administered by the division of 73  
forestry, has the authority specified under section 2935.03 of the 74  
Revised Code for peace officers of the department of natural 75  
resources to keep the peace, to enforce all laws and rules 76  
governing those lands and waters, and to make arrests for 77  
violation of those laws and rules, provided that the authority 78  
shall be exercised on lands or waters administered by another 79  
division of the department only pursuant to an agreement with the 80

chief of that division or to a request for assistance by an 81  
enforcement officer of that division in an emergency. 82

(2) A forest officer, in or along any watercourse within, 83  
abutting, or upstream from the boundary of any area administered 84  
by the department, has the authority to enforce section 3767.32 of 85  
the Revised Code and other laws prohibiting the dumping of refuse 86  
into or along waters and to make arrests for violation of those 87  
laws. The jurisdiction of forest officers shall be concurrent with 88  
that of the peace officers of the county, township, or municipal 89  
corporation in which the violation occurs. 90

(3) A forest officer may enter upon private and public lands 91  
to investigate an alleged violation of, and may enforce, this 92  
chapter ~~and~~ sections 2909.02, 2909.03, and 2909.06 of the Revised 93  
Code when the alleged violation or other act pertains to forest 94  
fires; and section 2913.02 of the Revised Code when the alleged 95  
violation pertains to timber theft. 96

(C)(1) A forest officer may render assistance to a state or 97  
local law enforcement officer at the request of that officer or 98  
may render assistance to a state or local law enforcement officer 99  
in the event of an emergency. Forest officers serving outside the 100  
division of forestry under this section or serving under the terms 101  
of a mutual aid compact authorized under section 1501.02 of the 102  
Revised Code shall be considered as performing services within 103  
their regular employment for the purposes of compensation, pension 104  
or indemnity fund rights, workers' compensation, and other rights 105  
or benefits to which they may be entitled as incidents of their 106  
regular employment. 107

(2) Forest officers serving outside the division of forestry 108  
under this section or under a mutual aid compact retain personal 109  
immunity from civil liability as specified in section 9.86 of the 110  
Revised Code and shall not be considered an employee of a 111  
political subdivision for purposes of Chapter 2744. of the Revised 112

Code. A political subdivision that uses forest officers under this 113  
section or under the terms of a mutual aid compact authorized 114  
under section 1501.02 of the Revised Code is not subject to civil 115  
liability under Chapter 2744. of the Revised Code as the result of 116  
any action or omission of any forest officer acting under this 117  
section or under a mutual aid compact. 118

(D)(1) The chief of the division of forestry shall not 119  
designate a person as a forest officer pursuant to division (B)(1) 120  
of this section on a permanent basis, on a temporary basis, for a 121  
probationary term, or on other than a permanent basis if the 122  
person previously has been convicted of or has pleaded guilty to a 123  
felony. 124

(2)(a) The chief of the division of forestry shall terminate 125  
the employment as a forest officer of a person designated as a 126  
forest officer under division (B)(1) of this section if that 127  
person does either of the following: 128

(i) Pleads guilty to a felony; 129

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 130  
plea agreement as provided in division (D) of section 2929.43 of 131  
the Revised Code in which the forest officer agrees to surrender 132  
the certificate awarded to the forest officer under section 109.77 133  
of the Revised Code. 134

(b) The chief shall suspend from employment as a forest 135  
officer a person designated as a forest officer under division 136  
(B)(1) of this section if that person is convicted, after trial, 137  
of a felony. If the forest officer files an appeal from that 138  
conviction and the conviction is upheld by the highest court to 139  
which the appeal is taken or if the forest officer does not file a 140  
timely appeal, the chief shall terminate the employment of that 141  
forest officer. If the forest officer files an appeal that results 142  
in that forest officer's acquittal of the felony or conviction of 143

a misdemeanor, or in the dismissal of the felony charge against 144  
the forest officer, the chief shall reinstate that forest officer. 145  
A forest officer who is reinstated under division (D)(2)(b) of 146  
this section shall not receive any back pay unless that forest 147  
officer's conviction of the felony was reversed on appeal, or the 148  
felony charge was dismissed, because the court found insufficient 149  
evidence to convict the forest officer of the felony. 150

(3) Division (D) of this section does not apply regarding an 151  
offense that was committed prior to January 1, 1997. 152

(4) The suspension from employment, or the termination of the 153  
employment, of a forest officer under division (D)(2) of this 154  
section shall be in accordance with Chapter 119. of the Revised 155  
Code. 156

Sec. 1503.311. As used in sections 1503.29 and 1503.311 to 157  
1503.318 of the Revised Code: 158

(A) "Agent" means an individual who represents a timber buyer 159  
in effecting or attempting to effect the purchase of timber. 160

(B) "Landowner" means a person who owns the property where 161  
timber is to be harvested. 162

(C) "Prosecutor" has the same meaning as in section 2935.01 163  
of the Revised Code. 164

(D) "Timber" means trees, standing or felled, and logs that 165  
can be used for sawing or processing into lumber for building or 166  
structural purposes or for the manufacture of any article. 167

(E) "Timber buyer" means a person engaged in the business of 168  
buying timber from timber growers for sawing into lumber, 169  
processing, or resale, but does not include a person who 170  
occasionally purchases timber for sawing or processing for the 171  
person's own use and not for resale. 172

(F) "Timber grower" means the owner, tenant, or manager of 173

land in this state who has an interest in, or is entitled to 174  
receive any part of the proceeds from, the sale of timber grown on 175  
that land and includes a person exercising lawful authority to 176  
sell timber for such an owner, tenant, or manager. 177

**Sec. 1503.312.** (A) The chief of the division of forestry may 178  
appoint one or more forest officers to be timber theft foresters 179  
whose jurisdiction extends over territory that the chief 180  
determines, subject to the approval of the director of natural 181  
resources. A timber theft forester shall serve in that position 182  
for one year from the date of appointment or until the forester's 183  
successor is appointed. The chief may remove a timber theft 184  
forester from that position at any time. 185

(B) The chief shall do all of the following: 186

(1) Supervise timber theft foresters appointed under this 187  
section; 188

(2) Instruct timber theft foresters in their duties; 189

(3) Establish policies and procedures governing timber theft 190  
investigations; 191

(4) Establish the qualifications and training that are 192  
required in order for a forest officer to be appointed a timber 193  
theft forester. 194

(C) Timber theft foresters are responsible for investigating 195  
alleged timber thefts on private and public lands in this state as 196  
assigned by the chief. 197

(D) A timber theft forester is not personally liable for any 198  
required or authorized act while acting within the scope of the 199  
forester's duties as a forester. 200

(E) The chief shall establish within the division an office 201  
of state forestry criminal investigation consisting of forest 202  
officers assigned to it by the chief. The office is responsible 203

for conducting investigations in accordance with section 1503.317 204  
of the Revised Code and conducting any other duties specified in 205  
that section. The chief shall ensure that forest officers assigned 206  
to the office receive training that the chief determines to be 207  
appropriate. 208

(F) The chief, by rules adopted in accordance with Chapter 209  
119. of the Revised Code, may require a timber buyer to be 210  
registered with or licensed by the division and to file with the 211  
division a surety bond or another form of security authorized by 212  
the division in an amount that the division designates. 213

(G) The chief, by rules adopted in accordance with Chapter 214  
119. of the Revised Code, may establish best management practices 215  
for the harvesting of timber on public and private lands. 216

**Sec. 1503.313. Prior to the purchase or harvesting of timber** 217  
**by a timber buyer, a landowner or timber grower, if different from** 218  
**the landowner, and a timber buyer shall enter into a written** 219  
**contract that includes all of the following:** 220

(A) The name or names of the owner of the property where 221  
timber is to be harvested if the owner is not the timber grower; 222

(B) A document showing the boundaries of each tract of land 223  
from which timber is to be harvested. If the area on the tract 224  
from which timber is to be harvested is less than the entire 225  
tract, the document shall indicate the more limited area. The 226  
document shall be a copy of one of the following in the following 227  
order of preference: 228

(1) A property survey conducted by a registered surveyor 229  
filed with the applicable county auditor or county engineer; 230

(2) A property survey conducted by a registered surveyor 231  
accurately depicting the tract that has not been filed with the 232  
applicable county auditor or county engineer; 233



(3) A plat map that accurately displays the boundary of the area of the land where timber is authorized to be harvested as well as the property boundary of the landowner's or timber grower's property; 234  
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(4) An aerial photograph that accurately displays the boundary of the area of the land where timber is authorized to be harvested as well as the property boundary of the landowner's or timber grower's property; 238  
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(5) A topographical map that accurately displays the boundary of the area of the land where timber is authorized to be harvested as well as the property boundary of the landowner's or timber grower's property. 242  
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The contract shall require the landowner or, if applicable, the timber grower to obtain a copy of the deed to the property for purposes of providing evidence of the property boundary and the right of the landowner or timber grower to enter into the contract. 246  
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(C) A provision requiring that the boundary of the area of the land where timber is authorized to be harvested under the contract be physically marked by the landowner or timber grower or by arrangement of the landowner or timber grower; 251  
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(D) A provision requiring the landowner or timber grower to certify that the territorial boundary of the area of land where timber is authorized to be harvested that is identified in the contract does not encroach on property that is not owned by the landowner or timber grower and does not include timber that the landowner or timber grower is not authorized to sell; 255  
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(E) A description of the timber that includes the type, description, category, dimensions, and number of trees to be harvested; 261  
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(F) The price or method of determining the price of the 264

timber and the payment terms; 265

(G) The dates when the timber will be harvested, which shall 266  
commence not sooner than one week after the signing of the 267  
contract unless the timber is being harvested as a result of storm 268  
damage resulting in an emergency; 269

(H) A provision stating that the timber buyer is responsible 270  
for acts and omissions related to the harvesting of timber by an 271  
agent, employee, or subcontractor of the timber buyer; 272

(I) A provision stating that the landowner or timber grower, 273  
if different from the landowner, may provide written notice to 274  
each adjacent landowner in accordance with section 1503.314 of the 275  
Revised Code. 276

**Sec. 1503.314.** (A) A landowner or timber grower, if different 277  
from the landowner, that enters into a contract under section 278  
1503.313 of the Revised Code with a timber buyer to harvest timber 279  
on the landowner's or timber grower's property may, but shall not 280  
be required to, provide written notice to each adjacent landowner 281  
indicating that the landowner or timber grower, if different from 282  
the landowner, has entered into a contract to have timber 283  
harvested. The landowner or timber grower shall provide the notice 284  
prior to the commencement of the timber harvest authorized under 285  
the contract. If notice is provided, it shall be provided by 286  
certified mail return receipt requested and sent to each adjacent 287  
landowner at the address indicated on the tax duplicate for that 288  
parcel, shall inform each adjacent landowner of the existence of 289  
the contract, and shall include a description of the territorial 290  
boundary of the area of land on the property where timber is 291  
proposed to be harvested. 292

(B) If a landowner or timber grower provides notice under 293  
division (A) of this section and the identification of the 294  
boundaries as required by section 1503.313 of the Revised Code is 295

accurate and correct, both of the following apply: 296

(1) The landowner and timber grower, if different from the landowner, are not liable in any civil action by an adjacent landowner related to the removal of timber from the adjacent landowner's land by the timber buyer who is harvesting timber from the landowner's or timber grower's land pursuant to a contract entered into under that section. The provision of the notice is an affirmative defense to such a civil action. 297  
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(2) The landowner or timber grower, if different from the landowner, shall not be required to enter into negotiations or arbitration for compensation of a landowner on whose land timber was improperly harvested. 304  
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**Sec. 1503.315.** (A) A timber buyer and any agent of the timber buyer shall do all of the following: 308  
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(1) Employ best management practices for all work that is related to the harvesting of timber under the contract, including minimizing damage to land and the environment, if the chief of the division of forestry establishes best management practices in rules adopted under division (G) of section 1503.312 of the Revised Code, or, if such rules are not adopted, employ best efforts to minimize damage to land and the environment; 310  
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(2) Maintain records of the work that is related to the timber harvest for a period of six years subsequent to the termination of the work. The timber buyer or agent shall make all such records available for inspection by a forest officer designated under section 1503.29 of the Revised Code or another law enforcement officer for the purpose of assisting in any investigations regarding alleged thefts of timber. The records shall include all of the following: 317  
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(a) A copy of the contract signed by the landowner or timber 325

grower, if different from the landowner, and the timber buyer; 326

(b) A copy of any and all correspondence, including 327  
electronic mail, memoranda, letters, and notes between the 328  
landowner or timber grower, if different from the landowner, and 329  
the timber buyer; 330

(c) A copy of all receipts or records of transactions between 331  
the landowner and timber grower, if different from the landowner, 332  
and the timber buyer; 333

(d) Documentation of each load of logs removed from the 334  
property that includes the description and dimension of each log, 335  
the total number of logs, and the recipient of the load. A copy of 336  
the documentation shall be provided to the landowner or timber 337  
grower, if different from the landowner, and the recipient of the 338  
logs. 339

(3) Prior to the commencement of timber harvesting 340  
activities, post a sign prominently and in a conspicuous location 341  
on the property where timber harvesting will take place. The sign 342  
shall include the name of the timber buyer, the contact 343  
information for the timber buyer, and the estimated date on which 344  
timber harvesting will begin. 345

(4) Prior to the commencement of timber harvesting 346  
activities, obtain GPS coordinates of relevant property corners, 347  
monuments, and boundaries if the area from which timber will be 348  
harvested is less than one hundred feet from the property 349  
boundary, and use the coordinates to determine property lines and 350  
the perimeter of the harvest area unless the landowner or timber 351  
grower, if different from the landowner, and the adjacent 352  
landowners give written consent to proceed without GPS 353  
coordinates. 354

(B) No person shall do any of the following: 355

(1) Harvest timber without a written contract that contains 356

all of the provisions required in section 1503.313 of the Revised Code; 357  
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(2) Knowingly make a false statement in such a written contract; 359  
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(3) Recklessly fail to comply with the requirements established in division (A) of this section as applicable. 361  
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Sec. 1503.316. No person, without privilege to do so, shall recklessly take or harvest timber of another without the express or implied consent of the landowner or timber grower, if different from the landowner, or outside the boundaries specified in a written contract entered into under section 1503.313 of the Revised Code. 363  
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Sec. 1503.317. (A) As used in this section, "law enforcement agency" means an organization or unit comprised of law enforcement officers as defined in section 2901.01 of the Revised Code. 369  
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(B) A law enforcement agency may request the office of state forestry criminal investigation to assist in the investigation of alleged instances of timber theft and other violations of this chapter. 372  
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(C) If a landowner or timber grower, if different from the landowner, suspects that the landowner's or timber grower's, if different from the landowner, timber has been illegally harvested or that any other violation of this chapter has occurred and notifies the office of state forestry criminal investigation, the office shall refer the suspected violation to the prosecuting attorney of the applicable county. The referral shall be accompanied by a notice that the office, upon request, will assist in the investigation of the suspected violation. 376  
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Sec. 1503.318. (A) The prosecuting attorney of the applicable 385

county may request the attorney general to prosecute a person for 386  
a violation of division (B) of section 1503.315 or section 387  
1503.316 of the Revised Code. If the prosecuting attorney does not 388  
request the attorney general to prosecute the alleged violation 389  
and does not initiate prosecution within twenty-one days after 390  
receiving notice of the alleged violation, the chief of the 391  
division of forestry may request the attorney general to prosecute 392  
the alleged violation. 393

(B) The attorney general, at the request of the prosecuting 394  
attorney of the applicable county or the chief, or the prosecuting 395  
attorney may bring an action enjoining a timber buyer or any 396  
entity that the timber buyer owns from buying timber in this state 397  
if the timber buyer violates division (B) of section 1503.315 or 398  
section 1503.316 of the Revised Code on a second or subsequent 399  
occurrence. 400

**Sec. 1503.99.** (A) Whoever violates section 1503.01 or 1503.12 401  
of the Revised Code is guilty of a minor misdemeanor. 402

(B) Whoever violates section 1503.18 or 1503.43 of the 403  
Revised Code is guilty of a misdemeanor of the third degree. 404

(C) Whoever violates division (B) of section 1503.315 of the 405  
Revised Code is guilty of a misdemeanor of the fourth degree on a 406  
first offense and a misdemeanor of the first degree on each 407  
subsequent offense. 408

(D) Whoever violates section 1503.316 of the Revised Code is 409  
guilty of one of the following based on the value of the property 410  
involved in the violation and the number of violations of that 411  
division: 412

<u>Value of property</u>	<u>Number of violations</u>	<u>Degree of offense</u>	
<u>Less than \$1,000</u>	<u>First and second</u>	<u>First degree</u>	414
	<u>violations</u>	<u>misdemeanor</u>	

	<u>Third and subsequent violations</u>	<u>Fifth degree felony</u>	415
<u>\$1,000 to \$7,499</u>	<u>First and second violations</u>	<u>Fifth degree felony</u>	416
	<u>Third and subsequent violations</u>	<u>Fourth degree felony</u>	417
<u>\$7,500 to \$149,999</u>	<u>First and second violations</u>	<u>Fourth degree felony</u>	418
	<u>Third and subsequent violations</u>	<u>Third degree felony</u>	419
<u>\$150,000 to \$749,999</u>	<u>First and second violations</u>	<u>Third degree felony</u>	420
	<u>Third and subsequent violations</u>	<u>Second degree felony</u>	421
<u>\$750,000 to \$1,499,999</u>	<u>First and second violations</u>	<u>Second degree felony</u>	422
	<u>Third and subsequent violations</u>	<u>First degree felony</u>	423
<u>\$1,500,000 or more</u>	<u>First and all subsequent violations</u>	<u>First degree felony</u>	424

(E) In addition to the penalties described in division (D) of this section, if a court orders restitution under section 2929.18 or 2929.28 of the Revised Code for a violation of section 1503.316 of the Revised Code, economic loss includes any incidental damage to the victim's property. Restitution may include reasonable costs of reforestation activities related to the injury sustained by the victim and reasonable costs of remediating incidental damage to the victim's property. The value of timber shall be determined as provided in division (D) of section 2913.61 of the Revised Code.

(F) The amendments to this section by ....B. ... of the 130th general assembly do not preclude prosecution for a violation of any other section of the Revised Code. One or more acts, or series of acts, or a course of behavior that can be prosecuted under this

section or another section of the Revised Code may be prosecuted 438  
under this section, the other section, or both sections. 439

**Sec. 2913.02.** (A) No person, with purpose to deprive the 440  
owner of property or services, shall knowingly obtain or exert 441  
control over either the property or services in any of the 442  
following ways: 443

(1) Without the consent of the owner or person authorized to 444  
give consent; 445

(2) Beyond the scope of the express or implied consent of the 446  
owner or person authorized to give consent; 447

(3) By deception; 448

(4) By threat; 449

(5) By intimidation. 450

(B)(1) Whoever violates this section is guilty of theft. 451

(2) Except as otherwise provided in this division or division 452  
(B)(3), (4), (5), (6), (7), (8), or (9) of this section, a 453  
violation of this section is petty theft, a misdemeanor of the 454  
first degree. If the value of the property or services stolen is 455  
one thousand dollars or more and is less than seven thousand five 456  
hundred dollars or if the property stolen is any of the property 457  
listed in section 2913.71 of the Revised Code, a violation of this 458  
section is theft, a felony of the fifth degree. If the value of 459  
the property or services stolen is seven thousand five hundred 460  
dollars or more and is less than one hundred fifty thousand 461  
dollars, a violation of this section is grand theft, a felony of 462  
the fourth degree. If the value of the property or services stolen 463  
is one hundred fifty thousand dollars or more and is less than 464  
seven hundred fifty thousand dollars, a violation of this section 465  
is aggravated theft, a felony of the third degree. If the value of 466  
the property or services is seven hundred fifty thousand dollars 467



or more and is less than one million five hundred thousand 468  
dollars, a violation of this section is aggravated theft, a felony 469  
of the second degree. If the value of the property or services 470  
stolen is one million five hundred thousand dollars or more, a 471  
violation of this section is aggravated theft of one million five 472  
hundred thousand dollars or more, a felony of the first degree. 473

(3) Except as otherwise provided in division (B)(4), (5), 474  
(6), (7), (8), or (9) of this section, if the victim of the 475  
offense is an elderly person or disabled adult, a violation of 476  
this section is theft from an elderly person or disabled adult, 477  
and division (B)(3) of this section applies. Except as otherwise 478  
provided in this division, theft from an elderly person or 479  
disabled adult is a felony of the fifth degree. If the value of 480  
the property or services stolen is one thousand dollars or more 481  
and is less than seven thousand five hundred dollars, theft from 482  
an elderly person or disabled adult is a felony of the fourth 483  
degree. If the value of the property or services stolen is seven 484  
thousand five hundred dollars or more and is less than 485  
thirty-seven thousand five hundred dollars, theft from an elderly 486  
person or disabled adult is a felony of the third degree. If the 487  
value of the property or services stolen is thirty-seven thousand 488  
five hundred dollars or more and is less than one hundred fifty 489  
thousand dollars, theft from an elderly person or disabled adult 490  
is a felony of the second degree. If the value of the property or 491  
services stolen is one hundred fifty thousand dollars or more, 492  
theft from an elderly person or disabled adult is a felony of the 493  
first degree. 494

(4) If the property stolen is a firearm or dangerous 495  
ordnance, a violation of this section is grand theft. Except as 496  
otherwise provided in this division, grand theft when the property 497  
stolen is a firearm or dangerous ordnance is a felony of the third 498  
degree, and there is a presumption in favor of the court imposing 499

a prison term for the offense. If the firearm or dangerous 500  
ordnance was stolen from a federally licensed firearms dealer, 501  
grand theft when the property stolen is a firearm or dangerous 502  
ordnance is a felony of the first degree. The offender shall serve 503  
a prison term imposed for grand theft when the property stolen is 504  
a firearm or dangerous ordnance consecutively to any other prison 505  
term or mandatory prison term previously or subsequently imposed 506  
upon the offender. 507

(5) If the property stolen is a motor vehicle, a violation of 508  
this section is grand theft of a motor vehicle, a felony of the 509  
fourth degree. 510

(6) If the property stolen is any dangerous drug, a violation 511  
of this section is theft of drugs, a felony of the fourth degree, 512  
or, if the offender previously has been convicted of a felony drug 513  
abuse offense, a felony of the third degree. 514

(7) If the property stolen is a police dog or horse or an 515  
assistance dog and the offender knows or should know that the 516  
property stolen is a police dog or horse or an assistance dog, a 517  
violation of this section is theft of a police dog or horse or an 518  
assistance dog, a felony of the third degree. 519

(8) If the property stolen is anhydrous ammonia, a violation 520  
of this section is theft of anhydrous ammonia, a felony of the 521  
third degree. 522

(9) Except as provided in division (B)(2) of this section 523  
with respect to property with a value of seven thousand five 524  
hundred dollars or more and division (B)(3) of this section with 525  
respect to property with a value of one thousand dollars or more, 526  
if the property stolen is a special purpose article as defined in 527  
section 4737.04 of the Revised Code or is a bulk merchandise 528  
container as defined in section 4737.012 of the Revised Code, a 529  
violation of this section is theft of a special purpose article or 530

articles or theft of a bulk merchandise container or containers, a 531  
felony of the fifth degree. 532

(10) In addition to the penalties described in division 533  
(B)(2) of this section, if the offender committed the violation by 534  
causing a motor vehicle to leave the premises of an establishment 535  
at which gasoline is offered for retail sale without the offender 536  
making full payment for gasoline that was dispensed into the fuel 537  
tank of the motor vehicle or into another container, the court may 538  
do one of the following: 539

(a) Unless division (B)(10)(b) of this section applies, 540  
suspend for not more than six months the offender's driver's 541  
license, probationary driver's license, commercial driver's 542  
license, temporary instruction permit, or nonresident operating 543  
privilege; 544

(b) If the offender's driver's license, probationary driver's 545  
license, commercial driver's license, temporary instruction 546  
permit, or nonresident operating privilege has previously been 547  
suspended pursuant to division (B)(10)(a) of this section, impose 548  
a class seven suspension of the offender's license, permit, or 549  
privilege from the range specified in division (A)(7) of section 550  
4510.02 of the Revised Code, provided that the suspension shall be 551  
for at least six months. 552

(c) The court, in lieu of suspending the offender's driver's 553  
or commercial driver's license, probationary driver's license, 554  
temporary instruction permit, or nonresident operating privilege 555  
pursuant to division (B)(10)(a) or (b) of this section, instead 556  
may require the offender to perform community service for a number 557  
of hours determined by the court. 558

(11) In addition to the penalties described in division 559  
(B)(2) of this section, if the offender committed the violation by 560  
stealing rented property or rental services, the court may order 561

that the offender make restitution pursuant to section 2929.18 or 2929.28 of the Revised Code. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of section 2913.72 of the Revised Code.

(12) In addition to the penalties described in division (B)(2) of this section, if a court orders restitution under section 2929.18 or 2929.28 of the Revised Code and the property stolen is timber that has been illegally harvested, economic loss includes any incidental damage to the victim's property. Restitution may include reasonable costs of reforestation activities related to the injury sustained by the victim and reasonable costs of remediating incidental damage to the victim's property. The value of timber shall be determined as provided in division (D) of section 2913.61 of the Revised Code.

(C) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under division (B)(10) of this section may grant the offender limited driving privileges during the period of the suspension in accordance with Chapter 4510. of the Revised Code.

**Sec. 2913.61.** (A) When a person is charged with a theft offense, or with a violation of division (A)(1) of section 1716.14 of the Revised Code involving a victim who is an elderly person or disabled adult that involves property or services valued at one thousand dollars or more, property or services valued at one thousand dollars or more and less than seven thousand five hundred

dollars, property or services valued at one thousand five hundred 593  
dollars or more and less than seven thousand five hundred dollars, 594  
property or services valued at seven thousand five hundred dollars 595  
or more and less than thirty-seven thousand five hundred dollars, 596  
property or services valued at seven thousand five hundred dollars 597  
or more and less than one hundred fifty thousand dollars, property 598  
or services valued at thirty-seven thousand five hundred dollars 599  
or more and less than one hundred fifty thousand dollars, property 600  
or services valued at thirty-seven thousand five hundred dollars 601  
or more, property or services valued at one hundred fifty thousand 602  
dollars or more, property or services valued at one hundred fifty 603  
thousand dollars or more and less than seven hundred fifty 604  
thousand dollars, property or services valued at seven hundred 605  
fifty thousand dollars or more and less than one million five 606  
hundred thousand dollars, or property or services valued at one 607  
million five hundred thousand dollars or more, the jury or court 608  
trying the accused shall determine the value of the property or 609  
services as of the time of the offense and, if a guilty verdict is 610  
returned, shall return the finding of value as part of the 611  
verdict. In any case in which the jury or court determines that 612  
the value of the property or services at the time of the offense 613  
was one thousand dollars or more, it is unnecessary to find and 614  
return the exact value, and it is sufficient if the finding and 615  
return is to the effect that the value of the property or services 616  
involved was one thousand dollars or more and less than seven 617  
thousand five hundred dollars, ~~was one thousand dollars or more~~ 618  
~~and less than seven thousand five hundred dollars,~~ was seven 619  
thousand five hundred dollars or more and less than thirty-seven 620  
thousand five hundred dollars, ~~was seven thousand five hundred~~ 621  
~~dollars or more and less than thirty seven thousand five hundred~~ 622  
~~dollars,~~ was seven thousand five hundred dollars or more and less 623  
than one hundred fifty thousand dollars, ~~was thirty seven thousand~~ 624  
~~five hundred dollars or more and less than one hundred fifty~~ 625

~~thousand dollars,~~ was thirty-seven thousand five hundred dollars 626  
or more and less than one hundred fifty thousand dollars, was one 627  
hundred fifty thousand dollars or more, was one hundred fifty 628  
thousand dollars or more and less than seven hundred fifty 629  
thousand dollars, was seven hundred fifty thousand dollars or more 630  
and less than one million five hundred thousand dollars, or was 631  
one million five hundred thousand dollars or more, whichever is 632  
relevant regarding the offense. 633

(B) If more than one item of property or services is involved 634  
in a theft offense or in a violation of division (A)(1) of section 635  
1716.14 of the Revised Code involving a victim who is an elderly 636  
person or disabled adult, the value of the property or services 637  
involved for the purpose of determining the value as required by 638  
division (A) of this section is the aggregate value of all 639  
property or services involved in the offense. 640

(C)(1) When a series of offenses under section 2913.02 of the 641  
Revised Code, or a series of violations of, attempts to commit a 642  
violation of, conspiracies to violate, or complicity in violations 643  
of division (A)(1) of section 1716.14, section 2913.02, 2913.03, 644  
or 2913.04, division (B)(1) or (2) of section 2913.21, or section 645  
2913.31 or 2913.43 of the Revised Code involving a victim who is 646  
an elderly person or disabled adult, is committed by the offender 647  
in the offender's same employment, capacity, or relationship to 648  
another, all of those offenses shall be tried as a single offense. 649  
The value of the property or services involved in the series of 650  
offenses for the purpose of determining the value as required by 651  
division (A) of this section is the aggregate value of all 652  
property and services involved in all offenses in the series. 653

(2) If an offender commits a series of offenses under section 654  
2913.02 of the Revised Code that involves a common course of 655  
conduct to defraud multiple victims, all of the offenses may be 656  
tried as a single offense. If an offender is being tried for the 657

commission of a series of violations of, attempts to commit a 658  
violation of, conspiracies to violate, or complicity in violations 659  
of division (A)(1) of section 1716.14, section 2913.02, 2913.03, 660  
or 2913.04, division (B)(1) or (2) of section 2913.21, or section 661  
2913.31 or 2913.43 of the Revised Code, whether committed against 662  
one victim or more than one victim, involving a victim who is an 663  
elderly person or disabled adult, pursuant to a scheme or course 664  
of conduct, all of those offenses may be tried as a single 665  
offense. If the offenses are tried as a single offense, the value 666  
of the property or services involved for the purpose of 667  
determining the value as required by division (A) of this section 668  
is the aggregate value of all property and services involved in 669  
all of the offenses in the course of conduct. 670

(3) When a series of two or more offenses under section 671  
2913.40, 2913.48, or 2921.41 of the Revised Code is committed by 672  
the offender in the offender's same employment, capacity, or 673  
relationship to another, all of those offenses may be tried as a 674  
single offense. If the offenses are tried as a single offense, the 675  
value of the property or services involved for the purpose of 676  
determining the value as required by division (A) of this section 677  
is the aggregate value of all property and services involved in 678  
all of the offenses in the series of two or more offenses. 679

(4) In prosecuting a single offense under division (C)(1), 680  
(2), or (3) of this section, it is not necessary to separately 681  
allege and prove each offense in the series. Rather, it is 682  
sufficient to allege and prove that the offender, within a given 683  
span of time, committed one or more theft offenses or violations 684  
of section 2913.40, 2913.48, or 2921.41 of the Revised Code in the 685  
offender's same employment, capacity, or relationship to another 686  
as described in division (C)(1) or (3) of this section, or 687  
committed one or more theft offenses that involve a common course 688  
of conduct to defraud multiple victims or a scheme or course of 689

conduct as described in division (C)(2) of this section. While it 690  
is not necessary to separately allege and prove each offense in 691  
the series in order to prosecute a single offense under division 692  
(C)(1), (2), or (3) of this section, it remains necessary in 693  
prosecuting them as a single offense to prove the aggregate value 694  
of the property or services in order to meet the requisite 695  
statutory offense level sought by the prosecution. 696

(D) The following criteria shall be used in determining the 697  
value of property or services involved in a theft offense: 698

(1) The value of an heirloom, memento, collector's item, 699  
antique, museum piece, manuscript, document, record, or other 700  
thing that has intrinsic worth to its owner and that either is 701  
irreplaceable or is replaceable only on the expenditure of 702  
substantial time, effort, or money, is the amount that would 703  
compensate the owner for its loss. 704

(2) The value of personal effects and household goods, and of 705  
materials, supplies, equipment, and fixtures used in the 706  
profession, business, trade, occupation, or avocation of its 707  
owner, which property is not covered under division (D)(1) of this 708  
section and which retains substantial utility for its purpose 709  
regardless of its age or condition, is the cost of replacing the 710  
property with new property of like kind and quality. 711

(3)(a) The value of timber is the greater of either the 712  
replacement value or the fair market value of the timber that was 713  
illegally harvested. 714

(b) As used in this division, "replacement value" is the cost 715  
of purchasing, delivering, and planting a young tree with a 716  
caliper of not less than three inches and not more than five 717  
inches of a similar type and variety as the illegally harvested 718  
tree. 719

(4) The value of any real or personal property that is not 720



covered under division (D)(1) ~~or~~, (2), or (3) of this section, and 721  
the value of services, is the fair market value of the property or 722  
services. ~~As~~ 723

(5) As used in this section, "fair market value" is the money 724  
consideration that a buyer would give and a seller would accept 725  
for property or services, assuming that the buyer is willing to 726  
buy and the seller is willing to sell, that both are fully 727  
informed as to all facts material to the transaction, and that 728  
neither is under any compulsion to act. 729

(E) Without limitation on the evidence that may be used to 730  
establish the value of property or services involved in a theft 731  
offense: 732

(1) When the property involved is personal property held for 733  
sale at wholesale or retail, the price at which the property was 734  
held for sale is prima-facie evidence of its value. 735

(2) When the property involved is a security or commodity 736  
traded on an exchange, the closing price or, if there is no 737  
closing price, the asked price, given in the latest market 738  
quotation prior to the offense is prima-facie evidence of the 739  
value of the security or commodity. 740

(3) When the property involved is livestock, poultry, or raw 741  
agricultural products for which a local market price is available, 742  
the latest local market price prior to the offense is prima-facie 743  
evidence of the value of the livestock, poultry, or products. 744

(4) When the property involved is a negotiable instrument, 745  
the face value is prima-facie evidence of the value of the 746  
instrument. 747

(5) When the property involved is a warehouse receipt, bill 748  
of lading, pawn ticket, claim check, or other instrument entitling 749  
the holder or bearer to receive property, the face value or, if 750  
there is no face value, the value of the property covered by the 751

instrument less any payment necessary to receive the property is 752  
prima-facie evidence of the value of the instrument. 753

(6) When the property involved is a ticket of admission, 754  
ticket for transportation, coupon, token, or other instrument 755  
entitling the holder or bearer to receive property or services, 756  
the face value or, if there is no face value, the value of the 757  
property or services that may be received by the instrument is 758  
prima-facie evidence of the value of the instrument. 759

(7) When the services involved are gas, electricity, water, 760  
telephone, transportation, shipping, or other services for which 761  
the rate is established by law, the duly established rate is 762  
prima-facie evidence of the value of the services. 763

(8) When the services involved are services for which the 764  
rate is not established by law, and the offender has been notified 765  
prior to the offense of the rate for the services, either in 766  
writing, orally, or by posting in a manner reasonably calculated 767  
to come to the attention of potential offenders, the rate 768  
contained in the notice is prima-facie evidence of the value of 769  
the services. 770

**Section 2.** That existing sections 901.51, 901.99, 1503.29, 771  
1503.99, 2913.02, and 2913.61 of the Revised Code are hereby 772  
repealed. 773