

CHAPTER 137: WEAPONS CONTROL

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**§ 137.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AUTOMATIC FIREARM.** Any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. The term also means any semi-automatic firearm designed or specially adapted to fire more than 31 cartridges without reloading, other than a firearm chambering only .22 caliber short, long, or long-rifle cartridges.

**BALLISTIC KNIFE.** A knife with a detachable blade that is propelled by a spring-operated mechanism.

**DANGEROUS ORDNANCE.**

(1) Any of the following, except as provided in division (2) of this definition:

(a) Any automatic or sawed-off firearm, zip-gun, or ballistic knife.

(b) Any explosive device or incendiary device.

(c) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid, and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, cyclotol, and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder, and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating, or demolitions.

(d) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo, or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon.

(e) Any firearm muffler or silencer.

(f) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.

(2) The term does not include any of the following:

(a) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder.

(b) Any pistol, rifle, or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon, unless the firearm is an automatic or sawed-off firearm.

(c) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic, or

other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder.

(d) Black powder, priming quills, and percussion caps possessed and lawfully used to fire a cannon of a type defined in division (2)(c) of this definition during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers, and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition.

(e) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio, or museum piece.

(f) Any device that is expressly excepted from the definition of a destructive device pursuant to the Gun Control Act of 1968, 18 U.S.C. § 921(a)(4), as amended, and regulations issued under that act.

**DEADLY WEAPON.** Any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.

**EXPLOSIVE.** Any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes but is not limited to dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. The term does not include “fireworks,” as defined in R.C. § 3743.01, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored, or used in any activity described in R.C. § 3743.80, provided the activity is conducted in accordance with all applicable laws, rules, and regulations, including but not limited to the provisions of R.C. § 3743.80 and the rules of the Fire Marshal adopted pursuant to R.C. § 3737.82.

**EXPLOSIVE DEVICE.** Any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. The term includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.

**FIREARM.**

(1) Any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. The term includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.

(2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including but not limited to the representations and actions of the individual exercising control over the firearm.

**HANDGUN.** Any of the following:

(1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;

(2) Any combination of parts from which a firearm of a type described in division (1) of this definition can be assembled.

**INCENDIARY DEVICE.** Any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agent and a means to ignite it.

**SAWED-OFF FIREARM.** A shotgun with a barrel less than 18 inches long, or a rifle with a barrel less than 16 inches long, or a shotgun or rifle less than 26 inches long overall.

**SEMI-AUTOMATIC FIREARM.** Any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

**ZIP-GUN.** Any of the following:

(1) Any firearm of crude and extemporized manufacture.

(2) Any device, including without limitation a starter’s pistol, not designed as a firearm, but that is specially adapted for use as a firearm.

(3) Any industrial tool, signaling device, or safety device, not designed as a firearm, but that as designed is capable of use as such, when possessed, carried, or used as a firearm.  
(R.C. § 2923.11) (Rev. 2009)

**§ 137.02 CARRYING CONCEALED WEAPONS.**

(A) No person shall knowingly carry or have, concealed on the person’s person or concealed ready at hand, any of the following:

- (1) A deadly weapon other than a handgun;
- (2) A handgun other than a dangerous ordnance;
- (3) A dangerous ordnance.

(B) No person who has been issued a license or temporary emergency license to carry a concealed handgun under R.C. § 2923.125 or 2923.1213 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69 shall do any of the following:

(1) If the person is stopped for a law enforcement purpose, and is carrying a concealed handgun, fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a license or temporary emergency license to carry a concealed handgun and that the person then is carrying a concealed handgun;

(2) If the person is stopped for a law enforcement purpose and if the person is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;

(3) If the person is stopped for a law enforcement purpose, if the person is carrying a concealed handgun, and if the person is approached by any law enforcement officer while stopped, knowingly remove or attempt to remove the loaded handgun from the holster, pocket, or other place in which the person is carrying it, knowingly grasp or hold the loaded handgun, or knowingly have contact with the loaded handgun by touching it with the person's hands or fingers at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person removes, attempts to remove, grasps, holds, or has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer;

(4) If the person is stopped for a law enforcement purpose and if the person is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including but not limited to a specific order to the person to keep the person's hands in plain sight.

(C) (1) This section does not apply to any of the following:

(a) An officer, agent, or employee of this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry

handguns and is acting within the scope of the officer's, agent's, or employee's duties;

(b) Any person who is employed in this state, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, and who is subject to and in compliance with the requirements of R.C. § 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in this division (C)(1)(b) does not apply to the person;

(c) A person's transportation or storage of a firearm, other than a firearm described in R.C. § 2923.11(G) to (M), in a motor vehicle for any lawful purpose if the firearm is not on the actor's person;

(d) A person's storage or possession of a firearm, other than a firearm described in R.C. § 2923.11(G) to (M), in the actor's own home for any lawful purpose.

(2) Division (A)(2) of this section does not apply to any person who, at the time of the alleged carrying or possession of a handgun, is carrying a valid license or temporary emergency license to carry a concealed handgun issued to the person under R.C. § 2923.125 or 2923.1213 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69, unless the person knowingly is in a place described in R.C. § 2923.126(B).

(D) It is an affirmative defense to a charge under division (A)(1) of this section of carrying or having control of a weapon other than a handgun and other than a dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following applies:

(1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.

(2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.

(3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.

(E) No person who is charged with a violation of this section shall be required to obtain a license or temporary

emergency license to carry a concealed handgun under R.C. § 2923.125 or 2923.1213 as a condition for the dismissal of the charge.

(F) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this division or division (F)(2) of this section, carrying concealed weapons in violation of division (A) of this section is a misdemeanor of the first degree. Except as otherwise provided in this division or division (F)(2) of this section, if the offender previously has been convicted of a violation of this section or any substantially equivalent state law or municipal ordinance or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of division (A) of this section is a felony to be prosecuted under appropriate state law. Except as otherwise provided in division (F)(2) of this section, if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of division (A) of this section is a felony to be prosecuted under appropriate state law.

(2) If a person being arrested for a violation of division (A)(2) of this section promptly produces a valid license or temporary emergency license to carry a concealed handgun issued under R.C. § 2923.125 or 2923.1213 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69, and if at the time of the violation the person was not knowingly in a place described in R.C. § 2923.126(B), the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce any of those types of license and if the person is not in a place described in that section, the officer may arrest the person for a violation of that division, and the offender shall be punished as follows:

(a) The offender shall be guilty of a minor misdemeanor if both of the following apply:

1. Within 10 days after the arrest, the offender presents a license or temporary emergency license to carry a concealed handgun issued under R.C. § 2923.125 or 2923.1213 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.

2. At the time of the arrest, the offender was not knowingly in a place described in R.C. § 2923.126(B).

(b) The offender shall be guilty of a misdemeanor and shall be fined \$500 if all of the following apply:

1. The offender previously had been issued a license to carry a concealed handgun under R.C. § 2923.125 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69 and that was similar in nature to a license issued under R.C. § 2923.125, and that license expired within the two years immediately preceding the arrest.

2. Within 45 days after the arrest, the offender presents any type of license identified in division (F)(2)(a)1. of this section to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in R.C. § 2945.71.

3. At the time of the commission of the offense, the offender was not knowingly in a place described in R.C. § 2923.126(B).

(c) If neither division (F)(2)(a) nor (F)(2)(b) of this section applies, the offender shall be punished under division (F)(1) of this section.

(3) Except as otherwise provided in this division, carrying concealed weapons in violation of division (B)(1) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for a violation of division (B)(1) of this section, the offender's license or temporary emergency license to carry a concealed handgun shall be suspended pursuant to R.C. § 2923.128(A)(2). If, at the time of the stop of the offender for a law enforcement purpose that was the basis of the violation, any law enforcement officer involved with the stop had actual knowledge that the offender has been issued a license or temporary emergency license to carry a concealed handgun, carrying concealed weapons in violation of division (B)(1) of this section is a minor misdemeanor, and the offender's license or temporary emergency license to carry a concealed handgun shall not be suspended pursuant to R.C. § 2923.128(A)(2).

(4) Carrying concealed weapons in violation of division (B)(2) or (B)(4) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of division (B)(2) or (B)(4) of this section or any substantially equivalent state law or municipal ordinance, a felony to be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a misdemeanor violation of division (B)(2) or (B)(4) of this section, the offender's license or temporary emergency license to carry a concealed handgun shall be suspended pursuant to R.C. § 2923.128(A)(2).

(5) Carrying concealed weapons in violation of division (B)(3) of this section is a felony to be prosecuted under appropriate state law.

(G) If a law enforcement officer stops a person to question the person regarding a possible violation of this

section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division, R.C. § 2923.163(B) applies.

(R.C. § 2923.12) (Rev. 2009)

**Statutory reference:**

*Carrying concealed handguns, licensing through county sheriff, see R.C. §§ 2923.124 et seq.*

*Conveyance or possession of deadly weapons or dangerous ordnance on school premises, felony offense, see R.C. § 2923.122*

*Conveyance, possession, or control of deadly weapon or dangerous ordinance in a courthouse, felony offense, see R.C. § 2923.123*

*Possession of deadly weapon while under detention, felony offense, see R.C. § 2923.131*

*Possession of firearm in liquor permit premises, felony offense, see R.C. § 2923.121*

**§ 137.03 USING WEAPONS WHILE INTOXICATED.**

(A) No person, while under the influence of alcohol or any drug of abuse, shall carry or use any firearm or dangerous ordnance.

(B) Whoever violates this section is guilty of using weapons while intoxicated, a misdemeanor of the first degree.

(R.C. § 2923.15)

**§ 137.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.**

(A) No person shall knowingly discharge a firearm while in or on a motor vehicle.

(B) No person shall knowingly transport or have a loaded firearm in a motor vehicle in such a manner that the firearm is accessible to the operator or any passenger without leaving the vehicle.

(C) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:

(1) In a closed package, box, or case.

(2) In a compartment that can be reached only by leaving the vehicle.

(3) In plain sight and secured in a rack or holder made for the purpose.

(4) If the firearm is at least 24 inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least 18 inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

(D) No person shall knowingly transport or have a loaded handgun in a motor vehicle if, at the time of that transportation or possession, any of the following applies:

(1) The person is under the influence of alcohol, a drug of abuse, or a combination of them.

(2) The person's whole blood, blood serum or plasma, breath, or urine contains a concentration of alcohol, a listed controlled substance, or a listed metabolite of a controlled substance prohibited for persons operating a vehicle, as specified in R.C. § 4511.19(A), regardless of whether the person at the time of the transportation or possession as described in this division is the operator of or a passenger in the motor vehicle.

(E) No person who has been issued a license or temporary emergency license to carry a concealed handgun under R.C. § 2923.125 or 2923.1213 or a license to carry a concealed handgun that was issued to the person by another state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69, who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in R.C. § 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:

(1) Fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a license or temporary emergency license to carry a concealed handgun and that the person then possesses or has a loaded handgun in the motor vehicle;

(2) Fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a license or temporary emergency license to carry a concealed handgun and that the person then possesses or has a loaded handgun in the commercial motor vehicle;

(3) Knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's

hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;

(4) Knowingly have contact with the loaded handgun by touching it with the person's hands or fingers in the motor vehicle at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person removes, attempts to remove, grasps, holds, or has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer.

(5) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including but not limited to a specific order to the person to keep the person's hands in plain sight.

(F) (1) Divisions (A), (B), (C), and (E) of this section do not apply to any of the following:

(a) An officer, agent, or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's, or employee's duties;

(b) Any person who is employed in this state, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of R.C. § 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in this division (F)(1)(b) does not apply to the person.

(2) Division (A) of this section does not apply to a person if all of the following circumstances apply:

(a) The person discharges a firearm from a motor vehicle at a coyote or groundhog, the discharge is not during the deer gun hunting season as set by the Chief of the Division of Wildlife of the Department of Natural Resources, and the discharge at the coyote or groundhog, but for the operation of this section, is lawful.

(b) The motor vehicle from which the person discharges the firearm is on real property that is located in an unincorporated area of a township and that is either zoned for agriculture or is used for agriculture.

(c) The person owns the real property described in division (F)(2)(b) of this section, is the spouse or a child of another person who owns that real property, is a tenant of another person who owns that real property, or is the spouse or a child of a tenant of another person who owns that real property.

(d) The person does not discharge the firearm in any of the following manners:

1. While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;

2. In the direction of a street, highway or other public or private property used by the public for vehicular traffic or parking;

3. At or into an occupied structure that is a permanent or temporary habitation;

4. In the commission of any violation of law, including but not limited to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.

(3) Division (A) of this section does not apply to a person if all of the following apply:

(a) The person possesses a valid electric-powered all-purpose vehicle permit issued under R.C. § 1533.103 by the Chief of the Division of Wildlife.

(b) The person discharges a firearm at a wild quadruped or game bird as defined in R.C. § 1531.01 during the open hunting season for the applicable wild quadruped or game bird.

(c) The person discharges a firearm from a stationary electric-powered all-purpose vehicle as defined in R.C. § 1531.01 or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife, provided that the road is identified by an electric-powered all-purpose vehicle sign.

(d) The person does not discharge the firearm in any of the following manners:

1. While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;

2. In the direction of a street, a highway, or other public or private property that is used by the public for vehicular traffic or parking;

3. At or into an occupied structure that is a permanent or temporary habitation;

4. In the commission of any violation of law, including but not limited to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.

(4) Divisions (B) and (C) of this section do not apply to a person if all of the following circumstances apply:

(a) At the time of the alleged violation of either of those divisions, the person is the operator of or a passenger in a motor vehicle.

(b) The motor vehicle is on real property that is located in an unincorporated area of a township and that is either zoned for agriculture or is used for agriculture.

(c) The person owns the real property described in division (F)(4)(b) of this section, is the spouse or a child of another person who owns that real property, is a tenant of another person who owns that real property, or is the spouse or a child of a tenant of another person who owns that real property.

(d) The person, prior to arriving at the real property described in division (F)(4)(b) of this section, did not transport or possess a firearm in the motor vehicle in a manner prohibited by division (B) or (C) of this section while the motor vehicle was being operated on a street, highway or other public or private property used by the public for vehicular traffic or parking.

(5) Divisions (B) and (C) of this section do not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:

(a) The person transporting or possessing the handgun is carrying a valid license or temporary emergency license to carry a concealed handgun issued to the person under R.C. § 2923.125 or 2923.1213 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69.

(b) The person transporting or possessing the handgun is not knowingly in a place described in R.C. § 2923.126(B).

(6) Divisions (B) and (C) of this section do not apply to a person if all of the following apply:

(a) The person possesses a valid electric-powered all-purpose vehicle permit issued under R.C. § 1533.103 by the Chief of the Division of Wildlife.

(b) The person is on or in an electric-powered all-purpose vehicle as defined in R.C. § 1531.01 or a motor vehicle during the open hunting season for a wild quadruped or game bird.

(c) The person is on or in an electric-powered all-purpose vehicle as defined in R.C. § 1531.01 or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife, provided that the road is identified by an electric-powered all-purpose vehicle sign.

(G) (1) The affirmative defenses authorized in R.C. § 2923.12(D)(1) and (D)(2) are affirmative defenses to a

charge under division (B) or (C) of this section that involves a firearm other than a handgun.

(2) It is an affirmative defense to a charge under division (B) or (C) of this section of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that this affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by division (B) or (C) of this section while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.

(H) (1) No person who is charged with a violation of division (B), (C), or (D) of this section shall be required to obtain a license or temporary emergency license to carry a concealed handgun under R.C. § 2923.125 or 2923.1213 as a condition for the dismissal of the charge.

(2) (a) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (E) of this section as it existed prior to September 30, 2011 and if the conduct that was the basis of the violation no longer would be a violation of division (E) of this section on or after September 30, 2011, the person may file an application under R.C. § 2953.37 requesting the expungement of the record of conviction.

(b) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (B) or (C) of this section as the division existed prior to September 30, 2011 and if the conduct that was the basis of the violation no longer would be a violation of division (B) or (C) of this section on or after September 30, 2011 due to the application of division (F)(5) of this section as it exists on and after September 30, 2011, the person may file an application under R.C. § 2953.37 requesting the expungement of the record of conviction.

(I) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of division (A) of this section is a felony to be prosecuted under appropriate state law. Violation of division (C) of this section is a misdemeanor of the fourth degree. A violation of division (D) of this section is a felony to be prosecuted under appropriate state law and, if the loaded handgun is concealed on the person's person, it is also a felony to be prosecuted under appropriate state law. Except as otherwise provided in this division, a violation of division (E)(1) or (E)(2) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for the violation, the offender's license or temporary emergency license to carry a concealed handgun shall be suspended pursuant to R.C. § 2923.128(A)(2). If at the time of the stop of the offender for a traffic stop, for another law enforcement purpose, or for a purpose defined in R.C. § 5503.34 that was the basis of the violation any law enforcement officer involved with the stop or the employee

of the motor carrier enforcement unit who made the stop had actual knowledge of the offender’s status as a licensee, a violation of division (E)(1) or (E)(2) of this section is a minor misdemeanor, and the offender’s license or temporary emergency license to carry a concealed handgun shall not be suspended pursuant to R.C. § 2923.128(A)(2). A violation of division (E)(4) of this section is a felony to be prosecuted under appropriate state law. A violation of division (E)(3) or (E)(5) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of division (E)(3) or (E)(5) of this section or any substantially equivalent state law or municipal ordinance, a felony to be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a misdemeanor violation of division (E)(3) or (E)(5) of this section, the offender’s license or temporary emergency license to carry a concealed handgun shall be suspended pursuant to R.C. § 2923.128(A)(2). A violation of division (B) of this section is a felony to be prosecuted under appropriate state law.

(J) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division, R.C. § 2923.163(B) applies.

(K) As used in this section:

**AGRICULTURE.** Has the same meaning as in R.C. § 519.01.

**COMMERCIAL MOTOR VEHICLE.** Has the same meaning as in R.C. § 4506.25(A).

**HIGHWAY.** Has the same meaning as in R.C. § 4511.01.

**MOTOR CARRIER ENFORCEMENT UNIT.** Means the Motor Carrier Enforcement Unit in the Department of Public Safety, Division of State Highway Patrol, that is created by R.C. § 5503.34.

**MOTOR VEHICLE.** Has the same meaning as in R.C. § 4511.01.

**OCCUPIED STRUCTURE.** Has the same meaning as in R.C. § 2909.01.

**STREET.** Has the same meaning as in R.C. § 4511.01.

**TENANT.** Has the same meaning as in R.C. § 1531.01.

**UNLOADED.** Means any of the following:

(a) No ammunition is in the firearm in question, and no ammunition is loaded into a magazine or speed loader that may be used with the firearm in question and that is located anywhere within the vehicle in question, without regard to where ammunition otherwise is located within the vehicle in question. For the purposes of division (a) of this definition, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.

(b) with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.

(R.C. § 2923.16) (Rev. 2012)

*Statutory reference:*

*Return of surrendered firearms by law enforcement, see R.C. § 2923.163*

**§ 137.05 POSSESSING CRIMINAL TOOLS.**

(A) No person shall possess or have under his or her control any substance, device, instrument, or article, with purpose to use it criminally.

(B) Each of the following constitutes prima facie evidence of criminal purpose:

(1) Possession or control of any dangerous ordnance, or the materials or parts for making a dangerous ordnance, in the absence of circumstances indicating the dangerous ordnance, materials or parts are intended for a legitimate use.

(2) Possession or control of any substance, device, instrument, or article designed or specially adapted for criminal use.

(3) Possession or control of any substance, device, instrument, or article commonly used for criminal purposes, under circumstances indicating the item is intended for criminal use.

(C) Whoever violates this section is guilty of possessing criminal tools. Except as otherwise provided in this division, possessing criminal tools is a misdemeanor of the first degree. If the circumstances indicate that the substance, device, instrument, or article involved in the offense was intended for use in the commission of a felony, possessing criminal tools is a felony to be prosecuted under appropriate state law.

(R.C. § 2923.24)



**§ 137.06 FAILURE TO SECURE DANGEROUS ORDNANCE.**

(A) No person, in acquiring, possessing, carrying, or using any dangerous ordnance, shall negligently fail to take proper precautions:

(1) To secure the dangerous ordnance against theft, or against its acquisition or use by any unauthorized or incompetent person.

(2) To insure the safety of persons and property.

(B) Whoever violates this section is guilty of failure to a secure dangerous ordnance, a misdemeanor of the second degree.  
(R.C. § 2923.19)

**§ 137.07 UNLAWFUL TRANSACTIONS IN WEAPONS.**

(A) No person shall:

(1) Recklessly sell, lend, give or furnish any firearm to any person prohibited by R.C. § 2923.13 or 2923.15, or a substantially equivalent municipal ordinance, from acquiring or using any firearm, or recklessly sell, lend, give or furnish any dangerous ordnance to any person prohibited by R.C. § 2923.13, 2923.15 or 2923.17, or a substantially equivalent municipal ordinance, from acquiring or using any dangerous ordnance;

(2) Possess any firearm or dangerous ordnance with purpose to dispose of it in violation of division (A)(1) of this section;

(3) Manufacture, possess for sale, sell, or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife, or similar weapon;

(4) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing him or her to be authorized to acquire dangerous ordnance pursuant to R.C. § 2923.17, or negligently fail to take a complete record of the transaction and forthwith forward a copy of the record to the sheriff of the county or Safety Director or Police Chief of the municipality where the transaction takes place;

(5) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession and under his or her control.

(B) Whoever violates this section is guilty of unlawful transactions in weapons. A violation of division (A)(1) or

(A)(2) of this section is a felony to be prosecuted under appropriate state law. A violation of division (A)(3) or (A)(4) of this section is a misdemeanor of the second degree. A violation of division (A)(5) of this section is a misdemeanor of the fourth degree.  
(R.C. § 2923.20) (Rev. 1999)

**§ 137.08 UNDERAGE PURCHASE OF FIREARM OR HANDGUN.**

(A) No person under 18 years of age shall purchase or attempt to purchase a firearm.

(B) No person under 21 years of age shall purchase or attempt to purchase a handgun; provided, that this division does not apply to the purchase or attempted purchase of a handgun by a person 18 years of age or older and under 21 years of age if either of the following applies:

(1) The person is a law enforcement officer and has received firearms training approved by the Ohio Peace Officer Training Council or equivalent firearms training.

(2) The person is an active or reserve member of the armed services of the United States or the Ohio National Guard, or was honorably discharged from military service in the active or reserve armed services of the United States or the Ohio National Guard, and the person has received firearms training from the armed services or the national guard or equivalent firearms training.

(C) Whoever violates division (A) of this section is guilty of underage purchase of a firearm, a delinquent act that would be a felony to be prosecuted under appropriate state law if it could be committed by an adult. Whoever violates division (B) of this section is guilty of underage purchase of a handgun, a misdemeanor of the second degree.  
(R.C. § 2923.211) (Rev. 2010)

**Statutory reference:**

*Improperly furnishing firearms to a minor, felony, see R.C. § 2923.21*

**§ 137.09 POINTING AND DISCHARGING FIREARMS AND OTHER WEAPONS.**

(A) *Discharge of firearms on or near prohibited premises.* No person shall do any of the following:

(1) Without permission from the proper officials and subject to division (B)(1) of this section, discharge a firearm upon or over a cemetery or within 100 yards of a cemetery;

(2) Subject to division (B)(2) of this section, discharge of a firearm on a lawn, park, pleasure ground, orchard, or other ground appurtenant to a schoolhouse, church, or inhabited dwelling, the property of another, or a charitable institution;

(3) Discharge a firearm upon or over a public road or highway.

(B) *Application of division (A).*

(1) Division (A)(1) of this section does not apply to a person who while on the person's own land, discharges a firearm.

(2) Division (A)(2) of this section does not apply to a person who owns any type of property described in that division and who, while on the person's own enclosure, discharges a firearm.

(C) *Penalty for violation of division (A).* Whoever violates division (A) of this section is guilty of discharge of a firearm on or near prohibited premises. A violation of division (A)(1) or (A)(2) of this section is a misdemeanor of the fourth degree. A violation of division (A)(3) shall be punished as follows:

(1) Except as otherwise provided in division (C)(2) of this section, a violation of division (A)(3) of this section is a misdemeanor of the first degree.

(2) If the violation created a substantial risk of physical harm to any person, caused serious physical harm to property, caused physical harm to any person, or caused serious physical harm to any person, a violation of division (A)(3) is a felony to be prosecuted under appropriate state law.

(R.C. § 2923.162) (Rev. 2005)

(D) *Hunting near township park.*

(1) No person shall hunt, shoot, or kill game within one-half mile of a township park unless the Board of Township Park Commissioners has granted permission to kill game not desired within the limits prohibited by this division.

(R.C. § 3773.06)

(2) Whoever violates division (D)(1) of this section is guilty of a misdemeanor of the fourth degree.

(R.C. § 3773.99(A))

(E) *Unlawful discharge.* No person shall discharge any BB gun, air gun, or firearm, or make use of any sling, bow and arrow, or crossbow, within the corporate limits of the municipality.

(F) *Unlawful pointing or aiming.* No person shall, intentionally and without malice, point or aim any BB gun, air gun, or firearm, or any sling, bow and arrow, or crossbow at or toward another.

(G) *Penalty for violations of division (E) or (F).* Whoever violates division (E) or (F) of this section is guilty of a misdemeanor of the fourth degree.

(H) *Exceptions.* This section shall not prohibit the firing of a military salute or the firing of weapons by persons of the nation's armed forces acting under military authority, and shall not apply to law enforcement officials or other government officials in the proper enforcement of the law, or to any person in the proper exercise of the right of self defense, or to any person otherwise lawfully permitted by proper federal, state or local authorities to discharge a BB gun, air gun, or firearm, or to use a sling, bow and arrow, or crossbow in a manner contrary to the provisions of this section. Division (E) of this section does not extend to cases in which BB guns, air guns, or firearms, or slings, bows and arrows, or crossbows are used in the confines of structures or used within the confines of a person's own property, provided such use is under adult supervision and is approved by the municipality.

(Rev. 2003)

*Statutory reference:*

*Improperly discharging firearm at or into habitation or school safety zone, felony offense, see R.C. § 2923.161*

**§ 137.10 LICENSE OR PERMIT TO POSSESS DANGEROUS ORDNANCE.**

(A) Upon application to the sheriff of the county or Safety Director or Police Chief of the municipality where the applicant resides or has his or her principal place of business, and upon payment of the fee specified in division (B) of this section, a license or temporary permit shall be issued to qualified applicants to acquire, possess, carry or use a dangerous ordnance for the following purposes:

(1) Contractors, wreckers, quarry workers, mine operators and other persons regularly employing explosives in the course of a legitimate business, with respect to explosives and explosive devices acquired, possessed, carried or used in the course of such business.

(2) Farmers, with respect to explosives and explosive devices acquired, possessed, carried or used for agricultural purposes on lands farmed by them.

(3) Scientists, engineers, and instructors, with respect to a dangerous ordnance acquired, possessed, carried or used in the course of bona fide research or instruction.

(4) Financial institutions and armored car company guards, with respect to automatic firearms lawfully acquired, possessed, carried or used by any such person while acting within the scope of his or her duties.

(5) In the discretion of the issuing authority, any responsible person, with respect to a dangerous ordnance lawfully acquired, possessed, carried or used for a legitimate research, scientific, educational, industrial or other proper purpose.

(B) Application for a license or temporary permit under this section shall be in writing under oath to the sheriff of the county or Safety Director or Police Chief of the municipality where the applicant resides or has his or her principal place of business. The application shall be accompanied by an application fee of \$50 when the application is for a license, and an application fee of \$5 when the application is for a temporary permit. The fees shall be paid into the General Revenue Fund of the county or municipality. The application shall contain the following information:

(1) The name, age, address, occupation and business address of the applicant, if he or she is a natural person, or the name, address, and principal place of business of the applicant if the applicant is a corporation.

(2) A description of the dangerous ordnance for which a permit is requested.

(3) A description of the places where and the manner in which the dangerous ordnance is to be kept, carried, and used.

(4) A statement of the purposes for which the dangerous ordnance is to be acquired, possessed, carried or used.

(5) Such other information as the issuing authority may require in giving effect to this section.

(C) Upon investigation, the issuing authority shall issue a license or temporary permit only if all of the following apply:

(1) The applicant is not otherwise prohibited by law from acquiring, having, carrying or using a dangerous ordnance.

(2) The applicant is 21 years of age or over, if the applicant is a natural person.

(3) It appears that the applicant has sufficient competence to safely acquire, possess, carry or use the dangerous ordnance, and that proper precautions will be taken to protect the security of the dangerous ordnance and ensure the safety of persons and property.

(4) It appears that the dangerous ordnance will be lawfully acquired, possessed, carried and used by the applicant for a legitimate purpose.

(D) The license or temporary permit shall identify the person to whom it is issued, identify the dangerous ordnance involved and state the purposes for which the license or temporary permit is issued, state the expiration date, if any, and list such restrictions on the acquisition, possession, carriage, or use of the dangerous ordnance as the issuing authority considers advisable to protect the security of the dangerous ordnance and ensure the safety of persons and property.

(E) A temporary permit shall be issued for the casual use of explosives and explosive devices, and other consumable dangerous ordnance, and shall expire within 30 days of its issuance. A license shall be issued for the regular use of a consumable dangerous ordnance, which license need not specify an expiration date, but the issuing authority may specify such expiration date, not earlier than one year from the date of issuance, as it considers advisable in view of the nature of the dangerous ordnance and the purposes for which the license is issued.

(F) The dangerous ordnance specified in a license or temporary permit may be obtained by the holder anywhere in the state. Pursuant to R.C. § 2923.18(F), the holder of a license may use such dangerous ordnance anywhere in the state. The holder of a temporary permit may use such dangerous ordnance only within the territorial jurisdiction of the issuing authority.

(G) The issuing authority shall forward to the State Fire Marshal a copy of each license or temporary permit issued pursuant to this section, and a copy of each record of a transaction in a dangerous ordnance and of each report of a lost or stolen dangerous ordnance, given to the local law enforcement authority as required by R.C. § 2923.20(A)(4) and (A)(5) or a substantially equivalent municipal ordinance. The State Fire Marshal will keep a permanent file of all licenses and temporary permits issued pursuant to this section, and of all records of transactions in, and losses or thefts of a dangerous ordnance forwarded by local law enforcement authorities pursuant to this section. (R.C. § 2923.18) (Rev. 1999)

**§ 137.11 POSSESSION OF AN OBJECT  
INDISTINGUISHABLE FROM A FIREARM IN A  
SCHOOL SAFETY ZONE.**

(A) No person shall knowingly possess an object in a school safety zone if both of the following apply:

(1) The object is indistinguishable from a firearm, whether or not the object is capable of being fired.

(2) The person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.

(B) (1) This section does not apply to any of the following:

(a) An officer, agent, or employee of this or any other state or the United States, or a law enforcement officer, who is authorized to carry deadly weapons or dangerous ordnance and is acting within the scope of the officer's, agent's, or employee's duties, a security officer employed by a board of education or governing body of a school during the time that the security officer is on duty pursuant to that contract of employment, or any other person who has written authorization from the board of education or

governing body of a school to convey deadly weapons or dangerous ordnance into a school safety zone or to possess a deadly weapon or dangerous ordnance in a school safety zone and who conveys or possesses the deadly weapon or dangerous ordnance in accordance with that authorization;

(b) Any person who is employed in this state, who is authorized to carry deadly weapons or dangerous ordnance, and who is subject to and in compliance with the requirements of R.C. § 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in this division (B)(1)(b) does not apply to the person.

(2) This section does not apply to premises upon which home schooling is conducted. This section also does not apply to a school administrator, teacher or employee who possesses an object that is indistinguishable from a firearm for legitimate school purposes during the course of employment, a student who uses an object that is indistinguishable from a firearm under the direction of a school administrator, teacher or employee, or any other person who, with the express prior approval of a school administrator, possesses an object that is indistinguishable from a firearm for a legitimate purpose, including the use of the object in a ceremonial activity, a play, re-enactment or other dramatic presentation, or a ROTC activity or another similar use of the object.

(3) This section does not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if, at the time of that conveyance, attempted conveyance, or possession of the handgun, all of the following apply:

(a) The person does not enter into a school building or onto school premises and is not at a school activity.

(b) The person is carrying a valid license or temporary emergency license to carry a concealed handgun issued to the person under R.C. § 2923.125 or 2923.1213 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69.

(c) The person is in the school safety zone in accordance with 18 U.S.C. § 922(q)(2)(B).

(d) The person is not knowingly in a place described in R.C. § 2923.126(B)(1) or (B)(3) through (B)(10).

(4) This section does not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if at the time of that conveyance, attempted conveyance, or possession of the handgun all of the following apply:

(a) The person is carrying a valid license or temporary emergency license to carry a concealed handgun issued to the person under R.C. § 2923.125 or R.C. § 2923.1213 or a license to carry a concealed handgun that was issued by another state with which the Attorney General has entered into a reciprocity agreement under R.C. § 109.69.

(b) The person is the driver or passenger in a motor vehicle and is in the school safety zone while immediately in the process of picking up or dropping off a child.

(c) The person is not in violation of section R.C. § 2923.16.

(C) Whoever violates this section is guilty of illegal possession of an object indistinguishable from a firearm in a school safety zone. Except as otherwise provided in this division, illegal possession of an object indistinguishable from a firearm in a school safety zone is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, illegal possession of an object indistinguishable from a firearm in a school safety zone is a felony to be prosecuted under appropriate state law.

(D) (1) In addition to any other penalty imposed upon a person who is convicted of or pleads guilty to a violation of this section, and subject to division (D)(2) of this section, if the offender has not attained 19 years of age, regardless of whether the offender is attending or is enrolled in a school operated by a board of education or for which the State Board of Education prescribes minimum standards under R.C. § 3301.07, the court shall impose upon the offender a class four suspension of the offender's probationary driver's license, restricted license, driver's license, commercial driver's license, temporary instruction permit, or probationary commercial driver's license that then is in effect from the range specified in R.C. § 4510.02(A)(4) and shall deny the offender the issuance of any permit or license of that type during the period of the suspension. If the offender is not a resident of this state, the court shall impose a class four suspension of the nonresident operating privilege of the offender from the range specified in R.C. § 4510.02(A)(4).

(2) If the offender shows good cause why the court should not suspend one of the types of licenses, permits or privileges specified in division (D)(1) of this section or deny the issuance of one of the temporary instruction permits specified in division (D)(1) of this section, the court in its discretion may choose not to impose the suspension, revocation or denial required in division (D)(1) of this section.

(E) As used in this section, **OBJECT THAT IS INDISTINGUISHABLE FROM A FIREARM** means an object made, constructed or altered so that, to a reasonable

person without specialized training in firearms, the object appears to be a firearm.

(R.C. § 2923.122(C) - (G)) (Rev. 2009)

**Statutory reference:**

*Conveyance or possession of deadly weapons or dangerous ordnance in a school safety zone, felony offense, see R.C. § 2923.122(A) and (B)*

**§ 137.12 POSSESSION OF DEADLY WEAPON WHILE UNDER DETENTION.**

(A) As used in this section, *DETENTION* and *DETENTION FACILITY* have the same meanings as in R.C. § 2921.01.

(B) No person under detention at a detention facility shall possess a deadly weapon.

(C) Whoever violates this section is guilty of possession of a deadly weapon while under detention.

(1) Except as otherwise provided in division (C)(2) of this section, possession of a deadly weapon while under detention is a felony to be prosecuted under state law.

(2) If the offender, at the time of the commission of the offense, was under detention as an alleged or adjudicated delinquent child or unruly child and if at the time the offender commits the act for which the offender was under detention it would not be a felony if committed by an adult, possession of a deadly weapon while under detention is a misdemeanor of the first degree.

(R.C. § 2923.131) (Rev. 2002)

**Statutory reference:**

*Possession of deadly weapon while under detention, felony offenses, see R.C. § 2923.131*

**§ 137.13 CONCEALED HANDGUN LICENSES; POSSESSION OF A REVOKED OR SUSPENDED LICENSE; ADDITIONAL RESTRICTIONS; POSTING OF SIGNS PROHIBITING POSSESSION.**

(A) *Possession of a revoked or suspended concealed handgun license.*

(1) No person, except in the performance of official duties, shall possess a license to carry a concealed handgun that was issued and that has been revoked or suspended pursuant to R.C. § 2923.128 or a temporary emergency license to carry a concealed handgun that was issued and that has been revoked pursuant to R.C. § 2923.1213.

(2) Whoever violates this division (A) is guilty of possessing a revoked or suspended concealed handgun license, a misdemeanor of the third degree. (R.C. § 2923.1211(B), (C))

(B) *Additional restrictions.* Pursuant to R.C. § 2923.126:

(1) (a) A license to carry a concealed handgun that is issued under R.C. § 2923.125 on or after March 14, 2007, shall expire five years after the date of issuance, and a license that is so issued prior to March 14, 2007, shall expire four years after the date of issuance. A licensee who has been issued a license under that section shall be granted a grace period of 30 days after the licensee's license expires during which the licensee's license remains valid. Except as provided in divisions (B)(2) and (B)(3) of this section, a licensee who has been issued a license under R.C. § 2923.125 or 2923.1213 may carry a concealed handgun anywhere in this state if the licensee also carries a valid license and valid identification when the licensee is in actual possession of a concealed handgun. The licensee shall give notice of any change in the licensee's residence address to the sheriff who issued the license within 45 days after that change.

(b) If a licensee is the driver or an occupant of a motor vehicle that is stopped as the result of a traffic stop or a stop for another law enforcement purpose and if the licensee is transporting or has a loaded handgun in the motor vehicle at that time, the licensee shall promptly inform any law enforcement officer who approaches the vehicle while stopped that the licensee has been issued a license or temporary emergency license to carry a concealed handgun and that the licensee currently possesses or has a loaded handgun; the licensee shall not knowingly disregard or fail to comply with lawful orders of a law enforcement officer given while the motor vehicle is stopped, knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the licensee's hands in plain sight after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves, unless directed otherwise by a law enforcement officer; and the licensee shall not knowingly remove, attempt to remove, grasp, or hold the loaded handgun or knowingly have contact with the loaded handgun by touching it with the licensee's hands or fingers, in any manner in violation of R.C. § 2923.16(E), after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves. Additionally, if a licensee is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in R.C. § 5503.04 and if the licensee is transporting or has a loaded handgun in the commercial motor vehicle at that time, the licensee shall promptly inform the employee of the unit who approaches the vehicle while stopped that the licensee has been issued a license or temporary emergency license to carry a concealed handgun and that the licensee currently possesses or has a loaded handgun.

(c) If a licensee is stopped for a law enforcement purpose and if the licensee is carrying a concealed handgun at the time the officer approaches, the licensee shall promptly inform any law enforcement officer

who approaches the licensee while stopped that the licensee has been issued a license or temporary emergency license to carry a concealed handgun and that the licensee currently is carrying a concealed handgun; the licensee shall not knowingly disregard or fail to comply with lawful orders of a law enforcement officer given while the licensee is stopped or knowingly fail to keep the licensee's hands in plain sight after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves, unless directed otherwise by a law enforcement officer; and the licensee shall not knowingly remove, attempt to remove, grasp, or hold the loaded handgun or knowingly have contact with the loaded handgun by touching it with the licensee's hands or fingers, in any manner in violation of R.C. § 2923.12(B), after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves.

(2) A valid license issued under R.C. § 2923.125 or 2923.1213 does not authorize the licensee to carry a concealed handgun in any manner prohibited under R.C. § 2923.12(B) or in any manner prohibited under R.C. § 2923.16. A valid license does not authorize the licensee to carry a concealed handgun into any of the following places:

(a) A police station, sheriff's office, or state highway patrol station, premises controlled by the Bureau of Criminal Identification and Investigation, a state correctional institution, jail, workhouse, or other detention facility, an airport passenger terminal, or an institution that is maintained, operated, managed, and governed pursuant to R.C. § 5119.02(A) or R.C. § 5123.03(A)(1);

(b) A school safety zone if the licensee's carrying the concealed handgun is in violation of R.C. § 2923.122;

(c) A courthouse or another building or structure in which a courtroom is located, in violation of R.C. § 2923.123;

(d) Any premises or open air arena for which a D permit has been issued under R.C. Chapter 4303 if the licensee's carrying the concealed handgun is in violation of R.C. § 2923.121;

(e) Any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle;

(f) Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;

(g) A child day-care center, a type A family day-care home, a type B family day-care home, or a type C family day-care home, except that this division does not prohibit a licensee who resides in a type A family day-

care home, a type B family day-care home, or a type C family day-care home from carrying a concealed handgun at any time in any part of the home that is not dedicated or used for day-care purposes, or from carrying a concealed handgun in a part of the home that is dedicated or used for day-care purposes at any time during which no children, other than children of that licensee, are in the home;

(h) An aircraft that is in, or intended for operation in, foreign air transportation, interstate air transportation, intrastate air transportation, or the transportation of mail by aircraft;

(i) Any building that is a government facility of this state or a political subdivision of this state and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located that is subject to division (B)(2)(c) of this section;

(j) A place in which federal law prohibits the carrying of handguns.

(3) (a) Nothing in this division (B) shall negate or restrict a rule, policy, or practice of a private employer that is not a private college, university, or other institution of higher education concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer. Nothing in this division (B) shall require a private employer of that nature to adopt a rule, policy, or practice concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer.

(b) 1. A private employer shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises or property of the private employer, including motor vehicles owned by the private employer, unless the private employer acted with malicious purpose. A private employer is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the private employer's decision to permit a licensee to bring, or prohibit a licensee from bringing, a handgun onto the premises or property of the private employer. As used in this division, **PRIVATE EMPLOYER** includes a private college, university, or other institution of higher education.

2. A political subdivision shall be immune from liability in a civil action, to the extent and in the manner provided in R.C. Chapter 2744, for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto any premises or property owned, leased, or otherwise under the control of the political subdivision. As used in this division, **POLITICAL SUBDIVISION** has the same meaning as in R.C. § 2744.01.

(c) 1. Except as provided in division (B)(3)(c)2. of this section, the owner or person in control of private land or premises, and a private person or entity leasing land or premises owned by the state, the United States, or a political subdivision of the state or the United States, may post a sign in a conspicuous location on that land or on those premises prohibiting persons from carrying firearms or concealed firearms on or onto that land or those premises. Except as otherwise provided in this division, a person who knowingly violates a posted prohibition of that nature is guilty of criminal trespass in violation of R.C. § 2911.21(A)(4) and is guilty of a misdemeanor of the fourth degree. If a person knowingly violates a posted prohibition of that nature and the posted land or premises primarily was a parking lot or other parking facility, the person is not guilty of criminal trespass in violation of R.C. § 2911.21(A)(4) and instead is subject only to a civil cause of action for trespass based on the violation.

2. A landlord may not prohibit or restrict a tenant who is a licensee and who on or after September 9, 2008 enters into a rental agreement with the landlord for the use of residential premises, and the tenant's guest while the tenant is present, from lawfully carrying or possessing a handgun on those residential premises.

3. As used in division (B)(3)(c) of this section:

**LANDLORD.** Has the same meaning as in R.C. § 5321.01.

**RENTAL AGREEMENT.** Has the same meaning as in R.C. § 5321.01.

**RESIDENTIAL PREMISES.** Has the same meaning as in R.C. § 5321.01, except the term does not include a dwelling unit that is owned or operated by a college or university.

**TENANT.** Has the same meaning as in R.C. § 5321.01.

(4) A person who holds a license to carry a concealed handgun that was issued pursuant to the law of another state that is recognized by the Attorney General pursuant to a reciprocity agreement entered into pursuant to R.C. § 109.69 has the same right to carry a concealed handgun in this state as a person who was issued a license to carry a concealed handgun under R.C. § 2923.125 and is subject to the same restrictions that apply to a person who carries a license issued under that section.

(5) A peace officer has the same right to carry a concealed handgun in this state as a person who was issued a license to carry a concealed handgun under R.C. § 2923.125. For purposes of reciprocity with other states, a peace officer shall be considered to be a licensee in this state.

(6) (a) A qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to division (B)(6)(b) of this section and a valid firearms requalification certification issued pursuant to division (B)(6)(c) of this section has the same right to carry a concealed handgun in this state as a person who was issued a license to carry a concealed handgun under R.C. § 2923.125 and is subject to the same restrictions that apply to a person who carries a license issued under that section. For purposes of reciprocity with other states, a qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to division (B)(6)(b) of this section and a valid firearms requalification certification issued pursuant to division (B)(6)(c) of this section shall be considered to be a licensee in this state.

(b) 1. Each public agency of this state or of a political subdivision of this state that is served by one or more peace officers shall issue a retired peace officer identification card to any person who retired from service as a peace officer with that agency, if the issuance is in accordance with the agency's policies and procedures and if the person, with respect to the person's service with that agency, satisfies all of the following:

a. The person retired in good standing from service as a peace officer with the public agency, and the retirement was not for reasons of mental instability.

b. Before retiring from service as a peace officer with that agency, the person was authorized to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and the person had statutory powers of arrest.

c. At the time of the person's retirement as a peace officer with that agency, the person was trained and qualified to carry firearms in the performance of the peace officer's duties.

d. Before retiring from service as a peace officer with that agency, the person was regularly employed as a peace officer for an aggregate of 15 years or more, or, in the alternative, the person retired from service as a peace officer with that agency, after completing any applicable probationary period of that service, due to a service-connected disability, as determined by the agency.

2. A retired peace officer identification card issued to a person under division (B)(6)(b)1. of this section shall identify the person by name, contain a photograph of the person, identify the public agency of this state or of the political subdivision of this state from which the person retired as a peace officer and that is issuing the identification card, and specify that the person retired in good standing from service as a peace officer with the issuing public agency and satisfies the criteria set forth in divisions (B)(6)(b)1.a. to (B)(6)(B)1.d.

of this section. In addition to the required content specified in this division, a retired peace officer identification card issued to a person under division (B)(6)(b)1. of this section may include the firearms requalification certification described in division (B)(6)(c) of this section, and if the identification card includes that certification, the identification card shall serve as the firearms requalification certification for the retired peace officer. If the issuing public agency issues credentials to active law enforcement officers who serve the agency, the agency may comply with division (B)(6)(b)1. of this section by issuing the same credentials to persons who retired from service as a peace officer with the agency and who satisfy the criteria set forth in divisions (B)(6)(b)1.a. to (B)(6)(b)1.d. of this section, provided that the credentials so issued to retired peace officers are stamped with the word “RETIRED”.

3. A public agency of this state or of a political subdivision of this state may charge persons who retired from service as a peace officer with the agency a reasonable fee for issuing to the person a retired peace officer identification card pursuant to division (B)(6)(b)1. of this section.

(c) 1. If a person retired from service as a peace officer with a public agency of this state or of a political subdivision of this state and the person satisfies the criteria set forth in divisions (B)(6)(b)1.a. to (B)(6)(b)1.d. of this section, the public agency may provide the retired peace officer with the opportunity to attend a firearms requalification program that is approved for purposes of firearms requalification required under R.C. § 109.801. The retired peace officer may be required to pay the cost of the course.

2. If a retired peace officer who satisfies the criteria set forth in divisions (B)(6)(b)1.a. to (B)(6)(b)1.d. of this section attends a firearms requalification program that is approved for purposes of firearms requalification required under R.C. § 109.801, the retired peace officer’s successful completion of the firearms requalification program requalifies the retired peace officer for purposes of division (B)(6) of this section for five years from the date on which the program was successfully completed, and the requalification is valid during that five-year period. If a retired peace officer who satisfies the criteria set forth in divisions (B)(6)(b)1.a. to (B)(6)(b)1.d. of this section satisfactorily completes such a firearms requalification program, the retired peace officer shall be issued a firearms requalification certification that identifies the retired peace officer by name, identifies the entity that taught the program, specifies that the retired peace officer successfully completed the program, specifies the date on which the course was successfully completed, and specifies that the requalification is valid for five years from that date of successful completion. The firearms requalification certification for a retired peace officer may be included in the retired peace officer identification card issued to the retired peace officer under division (B)(6)(b) of this section.

3. A retired peace officer who attends a firearms requalification program that is approved for purposes of firearms requalification required under R.C. § 109.801 may be required to pay the cost of the program.

(7) As used in division (B) of this section:

**GOVERNMENT FACILITY OF THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.** Means any of the following:

1. A building or part of a building that is owned or leased by the government of this state or a political subdivision of this state and where employees of the government of this state or the political subdivision regularly are present for the purpose of performing their official duties as employees of the state or political subdivision;

2. The office of a deputy registrar serving pursuant to R.C. Chapter 4503 that is used to perform deputy registrar functions.

**QUALIFIED RETIRED PEACE OFFICER.** Means a person who satisfies all of the following:

1. The person satisfies the criteria set forth in divisions (B)(6)(b)1.a. to (B)(6)(b)1.d. of this section.

2. The person is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

3. The person is not prohibited by federal law from receiving firearms.

**RETIRED PEACE OFFICER IDENTIFICATION CARD.** Means an identification card that is issued pursuant to division (B)(6)(b) of this section to a person who is a retired peace officer.  
(R.C. § 2923.126) (Rev. 2009)

(C) *Posting of signs prohibiting possession.* Pursuant to R.C. § 2923.1212:

(1) The following persons, boards, and entities, or designees, shall post in the following locations a sign that contains a statement in substantially the following form: “Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person’s control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto these premises.”

(a) The Director of Public Safety or the person or board charged with the erection, maintenance, or repair of police stations, municipal jails, and the municipal courthouse and courtrooms in a conspicuous location at all police stations, municipal jails, and municipal courthouses and courtrooms;



(b) The Sheriff or Sheriff's designee who has charge of the Sheriff's office in a conspicuous location in that office;

(c) The Superintendent of the State Highway Patrol or the Superintendent's designee in a conspicuous location at all state highway patrol stations;

(d) Each sheriff, chief of police, or person in charge of every county, multi-county, municipal, municipal-county, or multi-county/municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or other local or state correctional institution or detention facility within the state, or that person's designee, in a conspicuous location at that facility under that person's charge;

(e) The board of trustees of a regional airport authority, chief administrative officer of an airport facility, or other person in charge of an airport facility in a conspicuous location at each airport facility under that person's control;

(f) The officer or officer's designee who has charge of a courthouse or the building or structure in which a courtroom is located in a conspicuous location in that building or structure;

(g) The Superintendent of the Bureau of Criminal Identification and Investigation or the Superintendent's designee in a conspicuous location in all premises controlled by that Bureau;

(h) The owner, administrator, or operator of a child day-care center, a type A family day-care home, a type B family day-care home, or a type C family day-care home;

(i) The officer of this state or of a political subdivision of this state, or the officer's designee, who has charge of a building that is a government facility of this state or the political subdivision of this state, as defined in R.C. § 2923.126, and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located that is subject to R.C. § 2923.126(B)(3).

(2) The following boards, bodies, and persons, or designees, shall post in the following locations a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to R.C. § 2923.122, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance into a school safety zone."

(a) A board of education of a city, local, exempted village, or joint vocational school district or that board's designee in a conspicuous location in each building and on each parcel of real property owned or controlled by the board;

(b) A governing body of a school for which the State Board of Education prescribes minimum standards under R.C. § 3301.07 or that body's designee in a conspicuous location in each building and on each parcel of real property owned or controlled by the school;

(c) The principal or chief administrative officer of a nonpublic school in a conspicuous location on property owned or controlled by that nonpublic school. (R.C. § 2923.1212) (Rev. 2009)

#### § 137.14 DEFACED FIREARMS.

(A) No person shall do either of the following:

(1) Change, alter, remove, or obliterate the name of the manufacturer, model, manufacturer's serial number, or other mark of identification on a firearm.

(2) Possess a firearm knowing or having reasonable cause to believe that the name of the manufacturer, model, manufacturer's serial number, or other mark of identification on the firearm has been changed, altered, removed, or obliterated.

(B) (1) Whoever violates division (A)(1) of this section is guilty of defacing identification marks of a firearm. Except as otherwise provided in this division, defacing identification marks of a firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (A)(1) of this section, defacing identification marks of a firearm is a felony to be prosecuted under appropriate state law.

(2) Whoever violates division (A)(2) of this section is guilty of possessing a defaced firearm. Except as otherwise provided in this division, possessing a defaced firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (A)(2) of this section, possessing a defaced firearm is a felony to be prosecuted under appropriate state law.

(C) Division (A) of this section does not apply to any firearm on which no manufacturer's serial number was inscribed at the time of its manufacture. (R.C. § 2923.201) (Rev. 2007)



## CHAPTER 138: DRUG OFFENSES

### Section

- 138.01 Definitions
- 138.02 Trafficking in controlled substances; gift of marihuana
- 138.03 Drug possession offenses
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- 138.15 Possession, sale and disposal of hypodermics
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- 138.17 Unlawful furnishing of prescription to enable persons to be issued handicapped parking placards or license plates
- 138.18 Pseudoephedrine sales

### Statutory reference:

*Controlled substances, regulation of pharmacists and other professionals, see R.C. Chapters 3719 and 4729*

*Conviction of professionally licensed persons to be reported to licensing board, see R.C. § 2925.38*

*Criminal and civil forfeiture of property for felony drug abuse offenses, see R.C. Chapter 2981*

*Destruction of chemicals used to produce methamphetamine; preservation of samples, see R.C. § 2925.52*

*Driver's license suspension after certain drug convictions, see R.C. § 4510.07*

*Tampering with drugs, felony offense, see R.C. § 2925.24*

### § 138.01 DEFINITIONS.

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

**ADMINISTER.** The direct application of a drug, whether by injection, inhalation, ingestion, or any other means to a person or an animal.

**ADULTERATE.** To cause a drug to be adulterated as described in R.C. § 3715.63.

**BULK AMOUNT.** Of a controlled substance means any of the following:

(1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II or Schedule III, with the exception of marihuana, cocaine, L.S.D., heroin, and hashish and except as provided in division (2) or (5) of this definition, whichever of the following is applicable:

(a) An amount equal to or exceeding ten grams or 25 unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule I opiate or opium derivative;

(b) An amount equal to or exceeding ten grams of a compound, mixture, preparation, or substance that is or contains any amount of raw or gum opium;

(c) An amount equal to or exceeding 30 grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a Schedule I stimulant or depressant;

(d) An amount equal to or exceeding 20 grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II opiate or opium derivative;

(e) An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of phencyclidine;

(f) An amount equal to or exceeding 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 301 et seq., as amended) and the federal drug abuse control laws, as defined in this section, that is or

contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;

(g) An amount equal to or exceeding three grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 301 et seq., as amended) and the federal drug abuse control laws;

(2) An amount equal to or exceeding 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;

(3) An amount equal to or exceeding 20 grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III opiate or opium derivative;

(4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule V substance.

(5) An amount equal to or exceeding 200 solid dosage units, 16 grams, or 16 milliliters of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III anabolic steroid.

**CERTIFIED GRIEVANCE COMMITTEE.** A duly constituted and organized committee of the Ohio State Bar Association or of one or more local bar associations of the state that complies with the criteria set forth in Rule V, Section 6 of the Rules for the Government of the Bar of Ohio.

**COCAINE.** Any of the following:

(1) A cocaine salt, isomer, or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine.

(2) Coca leaves or a salt, compound, derivative, or preparation of coca leaves, including ecgonine, a salt, isomer, or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine.

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

**COMMITTED IN THE VICINITY OF A JUVENILE.**

An offense is “committed in the vicinity of a juvenile” if the offender commits the offense within 100 feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within 100 feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.

**COMMITTED IN THE VICINITY OF A SCHOOL.**

An offense is “committed in the vicinity of a school” if the offender commits the offense on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises.

**CONTROLLED SUBSTANCE.** A drug, compound, mixture, preparation, or substance included in Schedule I, II, III, IV, or V of R.C. § 3719.41.

**CONTROLLED SUBSTANCE ANALOG.**

(1) The phrase means, except as provided in division (2) of this definition, a substance to which both of the following apply:

(a) The chemical structure of the substance is substantially similar to the structure of a controlled substance in Schedule I or II.

(b) One of the following applies regarding the substance:

1. The substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

2. With respect to a particular person, that person represents or intends the substance to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(2) The phrase does not include any of the following:

(a) A controlled substance;

(b) Any substance for which there is an approved new drug application;

(c) With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent that

conduct with respect to that substance is pursuant to that exemption;

(d) Any substance to the extent it is not intended for human consumption before the exemption described in division (2)(c) of this definition takes effect with respect to that substance.

(3) A controlled substance analog, to the extent intended for human consumption, shall be treated for purposes of any provision of this Code or the Ohio Revised Code as a controlled substance in Schedule I.

**COUNTERFEIT CONTROLLED SUBSTANCE.** Any of the following:

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

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

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

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

**CULTIVATE.** Includes planting, watering, fertilizing or tilling.

**DANGEROUS DRUG.** Any of the following:

(1) Any drug to which either of the following applies:

(a) Under the Federal Food, Drug, and Cosmetic Act, is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without a prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or may be dispensed only upon a prescription.

(b) Under R.C. Chapter 3715 or 3719, may be dispensed only upon a prescription.

(2) Any drug that contains a Schedule V controlled substance and that is exempt from R.C. Chapter 3719 or to which that chapter does not apply.

(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.

**DECEPTION.** Has the same meaning as in R.C. § 2913.01.

**DISCIPLINARY COUNSEL.** The disciplinary counsel appointed by the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court under the Rules for the Government of the Bar of Ohio.

**DISPENSE.** Means to sell, leave with, give away, dispose of, or deliver.

**DISTRIBUTE.** Means to deal in, ship, transport or deliver, but does not include administering or dispensing a drug.

**DRUG.** Any of the following:

(1) Any article recognized in the official United States pharmacopeia, national formulary, or any supplement intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.

(2) Any other article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.

(3) Any article, other than food, intended to affect the structure or any function of the body of humans or other animals.

(4) Any article intended for use as a component of any article specified in division (1), (2), or (3) above; but does not include devices or their components, parts, or accessories.

**DRUG ABUSE OFFENSE.** Any of the following:

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

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

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

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

**DRUG DEPENDENT PERSON.** Any person who, by reason of the use of any drug of abuse, is physically and/or psychologically dependent upon the use of such drug to the detriment of the person's health or welfare.

**DRUG OF ABUSE.** Any controlled substance, any harmful intoxicant, and any dangerous drug, as defined in this section.

**FEDERAL DRUG ABUSE CONTROL LAWS.** The "Comprehensive Drug Abuse Prevention and Control Act of 1970," 21 U.S.C. §§ 801 et seq., as amended.

**FELONY DRUG ABUSE OFFENSE.** Any drug abuse offense that would constitute a felony under the laws of this state, any other state, or the United States.

**HARMFUL INTOXICANT.** Does not include beer or intoxicating liquor, but means any of the following:

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

(a) Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent.

(b) Any aerosol propellant.

(c) Any fluorocarbon refrigerant.

(d) Any anesthetic gas.

(2) Gamma Butyrolactone;

(3) 1,4 Butanediol.

**HASHISH.** The resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.

**HYPODERMIC.** A hypodermic syringe or needle, or other instrument or device for the injection of medication.

**JUVENILE.** A person under 18 years of age.

**LABORATORY.** A laboratory approved by the State Board of Pharmacy as proper to be entrusted with the custody of controlled substances and the use of controlled substances for scientific and clinical purposes and for purposes of instruction.

**LAWFUL PRESCRIPTION.** A prescription that is issued for a legitimate medical purpose by a licensed health professional authorized to prescribe drugs, that is not altered or forged, and that was not obtained by means of deception or by the commission of any theft offense.

**LICENSED HEALTH PROFESSIONAL AUTHORIZED TO PRESCRIBE DRUGS or PRESCRIBER.** An individual who is authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual's professional practice, including only the following:

(1) A dentist licensed under R.C. Chapter 4715.

(2) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under R.C. § 4723.48.

(3) An optometrist licensed under R.C. Chapter 4725 to practice optometry under a therapeutic pharmaceutical agent's certificate.

(4) A physician authorized under R.C. Chapter 4731 to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(5) A physician assistant who holds a certificate to prescribe issued under R.C. Chapter 4730.

(6) A veterinarian licensed under R.C. Chapter 4741.

**L.S.D.** Lysergic acid diethylamide.

**MAJOR DRUG OFFENDER.** Has the same meaning as in R.C. § 2929.01.

**MANDATORY PRISON TERM.** Has the same meaning as in R.C. § 2929.01.

**MANUFACTURE.** To plant, cultivate, harvest, process, make, prepare, or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical synthesis, or compounding, or any combination of the same, and includes packaging, repackaging, labeling, and other activities incident to production.

**MANUFACTURER.** A person who manufactures a controlled substance, as "manufacture" is defined by this section.

**MARIHUANA.** All parts of a plant of the genus cannabis, whether growing or not, the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture, or preparation of a plant of that type or of its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the

mature stalks, except the resin extracted from the mature stalks, fiber, oil, or cake, or the sterilized seed of the plant that is incapable of germination. The term does not include hashish.

**METHAMPHETAMINE.** Methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer, or salt of an isomer of methamphetamine.

**MINOR DRUG POSSESSION OFFENSE.** Either of the following:

(1) A violation of R.C. § 2925.11 as it existed prior to July 1, 1996, or a substantially equivalent municipal ordinance.

(2) A violation of R.C. § 2925.11 as it exists on and after July 1, 1996, or a substantially equivalent municipal ordinance, that is a misdemeanor or a felony of the fifth degree.

**OFFICIAL WRITTEN ORDER.** An order written on a form provided for that purpose by the Director of the United States Drug Enforcement Administration, under any laws of the United States making provision for the order, if the order forms are authorized and required by federal law.

**PERSON.** Means any individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association or other legal entity.

**PHARMACIST.** A person licensed under R.C. Chapter 4729 to engage in the practice of pharmacy.

**PHARMACY.** Except when used in a context that refers to the practice of pharmacy, means any area, room, rooms, place of business, department, or portion of any of the foregoing, where the practice of pharmacy is conducted.

**POSSESS or POSSESSION.** Having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

**PRESCRIPTION.** A written, electronic or oral order for drugs or combination or mixtures of drugs to be used by a particular individual or for treating a particular animal, issued by a licensed health professional authorized to prescribe drugs.

**PRESUMPTION FOR A PRISON TERM or PRESUMPTION THAT A PRISON TERM SHALL BE IMPOSED.** A presumption as described in R.C. § 2929.13(D) that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under R.C. § 2929.11.

**PROFESSIONAL LICENSE.** Any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate, or temporary registration that is described in R.C. § 2925.01(W)(1) through (W)(36) and that qualifies a person as a professionally licensed person.

**PROFESSIONALLY LICENSED PERSON.** Any of the following:

(1) A person who has obtained a license as a manufacturer of controlled substances or a wholesaler of controlled substances under R.C. Chapter 3719;

(2) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under R.C. Chapter 4701 and who holds an Ohio permit issued under that chapter;

(3) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under R.C. Chapter 4703;

(4) A person who is registered as a landscape architect under R.C. Chapter 4703 or who holds a permit as a landscape architect issued under that chapter;

(5) A person licensed under R.C. Chapter 4707;

(6) A person who has been issued a certificate of registration as a registered barber under R.C. Chapter 4709;

(7) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of R.C. Chapter 4710;

(8) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, managing cosmetologist's license, managing hair designer's license, managing manicurist's license, managing esthetician's license, managing natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under R.C. Chapter 4713;

(9) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious intravenous sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license, or a dental hygienist's teacher's certificate under R.C. Chapter 4715;

(10) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license, or a crematory license, or who has been

registered for an embalmer's or funeral director's apprenticeship under R.C. Chapter 4717;

(11) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under R.C. Chapter 4723;

(12) A person who has been licensed to practice optometry or to engage in optical dispensing under R.C. Chapter 4725;

(13) A person licensed to act as a pawnbroker under R.C. Chapter 4727;

(14) A person licensed to act as a precious metals dealer under R.C. Chapter 4728;

(15) A person licensed as a pharmacist, a pharmacy intern, a wholesale distributor of dangerous drugs, or a terminal distributor of dangerous drugs under R.C. Chapter 4729;

(16) A person who is authorized to practice as a physician assistant under R.C. Chapter 4730;

(17) A person who has been issued a certificate to practice medicine and surgery, osteopathic medicine and surgery, a limited branch of medicine, or podiatry under R.C. Chapter 4731;

(18) A person licensed as a psychologist or school psychologist under R.C. Chapter 4732;

(19) A person registered to practice the profession of engineering or surveying under R.C. Chapter 4733;

(20) A person who has been issued a license to practice chiropractic under R.C. Chapter 4734;

(21) A person licensed to act as a real estate broker or real estate salesperson under R.C. Chapter 4735;

(22) A person registered as a registered sanitarian under R.C. Chapter 4736;

(23) A person licensed to operate or maintain a junkyard under R.C. Chapter 4737;

(24) A person who has been issued a motor vehicle salvage dealer's license under R.C. Chapter 4738;

(25) A person who has been licensed to act as a steam engineer under R.C. Chapter 4739;

(26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under R.C. Chapter 4741;

(27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under R.C. Chapter 4747;

(28) A person who has been issued a class A, class B, or class C license or who has been registered as an investigator or security guard employee under R.C. Chapter 4749;

(29) A person licensed and registered to practice as a nursing home administrator under R.C. Chapter 4751;

(30) A person licensed to practice as a speech-language pathologist or audiologist under R.C. Chapter 4753;

(31) A person issued a license as an occupational therapist or physical therapist under R.C. Chapter 4755;

(32) A person who is licensed as a professional clinical counselor or professional counselor, licensed as a social worker or independent social worker, or registered as a social work assistant under R.C. Chapter 4757;

(33) A person issued a license to practice dietetics under R.C. Chapter 4759;

(34) A person who has been issued a license or limited permit to practice respiratory therapy under R.C. Chapter 4761;

(35) A person who has been issued a real estate appraiser certificate under R.C. Chapter 4763;

(36) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules.

**PUBLIC PREMISES.** Any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.

**SALE.** Includes delivery, barter, exchange, transfer, or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant or employee.

**SAMPLE DRUG.** A drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.

**SCHEDULE I, II, III, IV OR V.** Controlled substance Schedules I, II, III, IV, and V established pursuant to R.C. § 3719.41, as amended pursuant to R.C. § 3719.43 or 3719.44.

**SCHOOL.** Any school operated by a board of education, any community school established under R.C.



Chapter 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under R.C. § 3301.07, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a criminal offense is committed.

**SCHOOL BUILDING.** Any building in which any of the instruction, extracurricular activities, or training provided by a school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted in the school building at the time a criminal offense is committed.

**SCHOOL PREMISES.** Either of the following:

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

(2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under R.C. Chapter 3314, or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under R.C. § 3301.07 and on which some of the instruction, extracurricular activities, or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.

**STANDARD PHARMACEUTICAL REFERENCE MANUAL.** The current edition, with cumulative changes if any, of any of the following reference works:

(1) The *National Formulary*.

(2) The *United States Pharmacopeia*, prepared by the authority of the United States Pharmacopeia Convention, Inc.

(3) Other standard references that are approved by the State Board of Pharmacy.

**THEFT OFFENSE.** Has the same meaning as in R.C. § 2913.01.

**UNIT DOSE.** An amount or unit or a compound, mixture, or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.

**WHOLESALE.** A person who, on official written orders other than prescriptions, supplies controlled substances that the person has not manufactured, produced or prepared personally and includes **WHOLESALE**

**DISTRIBUTOR OF DANGEROUS DRUGS**, which means a person engaged in the sale of dangerous drugs at wholesale and includes any agent or employee of that person authorized by that person to engage in the sale of dangerous drugs at wholesale.

(R.C. §§ 2925.01, 3719.01, 3719.011, 3719.013, 4729.01) (Rev. 2012)

### § 138.02 TRAFFICKING IN CONTROLLED SUBSTANCES; GIFT OF MARIHUANA.

(A) No person shall knowingly do any of the following:

(1) Sell or offer to sell a controlled substance;

(2) Prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance, when the offender knows or has reasonable cause to believe that the controlled substance is intended for sale or resale by the offender or another person.

(B) This section does not apply to any of the following:

(1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741.

(2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration.

(3) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug and Cosmetic Act" (21 U.S.C. §§ 301 et seq., as amended), and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that Act.

(C) Whoever violates division (A) of this section is guilty of the following:

(1) Except as otherwise provided in divisions (C)(2) and (C)(3) of this section, trafficking in controlled substances is a felony to be prosecuted under appropriate state law.

(2) Except as otherwise provided in division (C)(3) of this section, if the offense involves a gift of 20 grams or less of marihuana, trafficking in marihuana is a minor misdemeanor upon a first offense and a misdemeanor of the third degree upon a subsequent offense.

(3) If the offense involves a gift of 20 grams or less of marihuana and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.

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

(1) The court shall suspend for not less than six months nor more than five years the driver's or commercial driver's license or permit of any person who is convicted of or has pleaded guilty to a violation of this section.

(2) If the offender is a professionally licensed person, the court immediately shall comply with R.C. § 2925.38.

(E) (1) Notwithstanding any contrary provision of R.C. § 3719.21 and except as provided in R.C. § 2925.03(H), the Clerk of the Court shall pay any mandatory fine imposed pursuant to this section and any fine other than a mandatory fine that is imposed for a violation of this section pursuant to R.C. § 2929.18(A) or (B)(5) to the county, township, municipality, park district, as created pursuant to R.C. § 511.18 or 1545.04, or state law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender. However, the Clerk shall not pay a mandatory fine so imposed to a law enforcement agency unless the agency has adopted a written internal control policy under division (E)(2) of this section that addresses the use of the fine moneys that it receives. Each agency shall use the mandatory fines so paid to subsidize the agency's law enforcement efforts that pertain to drug offenses, in accordance with the written internal control policy adopted by the recipient agency under division (E)(2) of this section.

(2) (a) Prior to receiving any fine moneys under division (E)(1) of this section or R.C. § 2925.42(B), a law enforcement agency shall adopt a written internal control policy that addresses the agency's use and disposition of all fine moneys so received and that provides for the keeping of detailed financial records of the receipts of those fine moneys, the general types of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure. The policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation. All financial records of the receipts of those fine moneys, the general type of expenditures made out of those fine moneys, and the specific amount of each general type of expenditure by an agency are public records open for inspection under R.C. § 149.43. Additionally, a written internal control policy

adopted under this division is such a public record, and the agency that adopted it shall comply with it.

(b) Each law enforcement agency that receives in any calendar year any fine moneys under division (E)(1) of this section or R.C. § 2925.42(B) shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept by the agency pursuant to division (E)(2)(a) of this section for that calendar year, and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the Attorney General. Each report received by the Attorney General is a public record open for inspection under R.C. § 149.43.

(3) As used in division (E) of this section:

**LAW ENFORCEMENT AGENCIES.**

Includes but is not limited to the State Board of Pharmacy and the office of a prosecutor.

**PROSECUTOR.** Has the same meaning as in R.C. § 2935.01.

(F) As used in this section, **DRUG** includes any substance that is represented to be a drug. (R.C. § 2925.03) (Rev. 2012)

**Statutory reference:**

*Felony drug trafficking offenses, see R.C. § 2925.03(C)*

**§ 138.03 DRUG POSSESSION OFFENSES.**

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

(B) This section does not apply to any of the following:

(1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741.

(2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration.

(3) Any person who sells, offers for sale, prescribes, dispenses, or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the Federal Food, Drug, and Cosmetic Act, and is sold, offered for sale, prescribed, dispensed, or administered for that purpose in accordance with that Act.

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

(C) Whoever violates division (A) of this section is guilty of one of the following:

(1) Except as otherwise provided in divisions (C)(2), (C)(3), (C)(4), and (C)(5), if the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule I or II of R.C. § 3719.41, or is cocaine, L.S.D., heroin, or a compound, mixture or preparation containing such drugs, possession of drugs is a felony to be prosecuted under appropriate state law.

(2) If the drug involved is a compound, mixture, preparation, or substance included in Schedule III, IV, or V of R.C. § 3719.41, whoever violates division (A) of this section is guilty of possession of drugs. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in the following division, possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, it is a felony to be prosecuted under appropriate state law.

(b) If the amount of the drug involved equals or exceeds the bulk amount, possession of drugs is a felony to be prosecuted under appropriate state law.

(3) If the drug involved in the violation is marihuana or a compound, mixture, preparation or substance containing marihuana other than hashish, whoever violates division (A) of this section is guilty of possession of marihuana. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in the following divisions, possession of marihuana is a minor misdemeanor.

(b) If the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a misdemeanor of the fourth degree.

(c) If the amount of the drug involved equals or exceeds 200 grams, possession of marihuana is a felony to be prosecuted under appropriate state law.

(4) If the drug involved in the violation is hashish or a compound, mixture, preparation or substance containing hashish, whoever violates division (A) of this section is guilty of possession of hashish. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in the following divisions, possession of hashish is a minor misdemeanor.

(b) If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.

(c) If the amount of the drug involved equals or exceeds ten grams of hashish in a solid form or equals or exceeds two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a felony to be prosecuted under appropriate state law.

(5) As used in this division, *SPICE* means 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, or 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol. If the drug involved is spice or a compound, mixture, preparation, or substance containing spice, whoever violates division (A) of this section is guilty of possession of spice, a minor misdemeanor.

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

(E) In addition to any prison term or jail term authorized or required by division (C) of this section and R.C. §§ 2929.13, 2929.14, 2929.22, 2929.24, and 2929.25, or any substantially equivalent municipal ordinance, and in addition to any other sanction that is imposed for the offense under this section, R.C. §§ 2929.11 through 2929.18, or R.C. §§ 2929.21 through 2929.28, or any substantially equivalent municipal ordinance, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section shall do the following if applicable regarding the offender:

(1) Notwithstanding any contrary provision of R.C. § 3719.21, the Clerk of Court shall pay a fine imposed for a violation of this section pursuant to R.C. § 2929.18(A) in accordance with and subject to the requirements of R.C. § 2925.03(F). The agency that receives the fine shall use the fine as specified in R.C. § 2925.03(F).

(2) The court shall suspend for not less than six months nor more than five years the offender's driver's or commercial driver's license or permit.

(3) If the offender is a professionally licensed person, in addition to any other sanction imposed for a

violation of this section, the court immediately shall comply with R.C. § 2925.38.

(R.C. § 2925.11) (Rev. 2012)

*Statutory reference:*

*Felony drug possession offenses, see R.C. § 2925.11(C)*

**§ 138.04 POSSESSING DRUG ABUSE INSTRUMENTS.**

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

(B) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct was in accordance with R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741.

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

(D) In addition to any other sanction imposed upon an offender for a violation of this section, the court shall suspend for not less than six months nor more than five years the offender's driver's or commercial driver's license or permit. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.  
(R.C. § 2925.12) (Rev. 2007)

**§ 138.05 PERMITTING DRUG ABUSE.**

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

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

(C) Whoever violates this section is guilty of permitting drug abuse.

(1) Except as provided in division (C)(2) of this section, permitting drug abuse is a misdemeanor of the first degree.

(2) Permitting drug abuse is a felony to be prosecuted under appropriate state law if the felony drug abuse offense in question is a violation of R.C. § 2925.02 or 2925.03.

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

(1) The court shall suspend for not less than six months nor more than five years the offender's driver's or commercial driver's license or permit.

(2) If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.

(E) Notwithstanding any contrary provision of R.C. § 3719.21, the Clerk of Court shall pay a fine imposed for a violation of this section pursuant to R.C. § 2929.18(A) in accordance with and subject to the requirements of R.C. § 2925.03(F). The agency that receives the fine shall use the fine as specified in R.C. § 2925.03(F).

(F) Any premises or real estate that is permitted to be used in violation of division (B) of this section constitutes a nuisance subject to abatement pursuant to R.C. Chapter 3767.  
(R.C. § 2925.13) (Rev. 2004)

**§ 138.06 ILLEGAL CULTIVATION OF MARIHUANA.**

(A) No person shall knowingly cultivate marihuana.

(B) This section does not apply to any person listed in R.C. § 2925.03(B)(1), (B)(2) or (B)(3), or a substantially equivalent municipal ordinance, to the extent and under the circumstances described in that division.

(C) Whoever commits a violation of division (A) of this section is guilty of illegal cultivation of marihuana.

(1) Except as otherwise provided in the following divisions, illegal cultivation of marihuana is a minor misdemeanor or, if the offense was committed in the

vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the fourth degree.

(2) If the amount of marihuana involved equals or exceeds 100 grams but is less than 200 grams, illegal cultivation of marihuana is a misdemeanor of the fourth degree or, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the third degree.

(3) If the amount of marihuana involved equals or exceeds 200 grams, illegal cultivation of marihuana is a felony to be prosecuted under appropriate state law.

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

(1) The court shall suspend the offender's driver's or commercial driver's license or permit in accordance with R.C. § 2925.03(G). If an offender's driver's or commercial driver's license or permit is suspended in accordance with that division, the offender may request termination of, and the court may terminate, the suspension in accordance with that division.

(2) If the offender is a professionally licensed person, the court immediately shall comply with R.C. § 2925.38.

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

(R.C. § 2925.04) (Rev. 2005)

**Statutory reference:**

*Illegal manufacturing of controlled substances, felony, see R.C. § 2925.04*

*Sale or use of drugs not approved by Food and Drug Administration, felony, see R.C. § 2925.09*

**§ 138.07 ABUSING HARMFUL INTOXICANTS.**

(A) Except for lawful research, clinical, medical, dental, or veterinary purposes, no person, with purpose to induce intoxication or similar physiological effects, shall obtain, possess, or use a harmful intoxicant.

(B) Whoever violates this section is guilty of abusing harmful intoxicants, a misdemeanor of the first degree. If

the offender previously has been convicted of a drug abuse offense, abusing harmful intoxicants is a felony to be prosecuted under appropriate state law.

(C) In addition to any other sanction imposed upon an offender for a violation of this section, the court shall suspend for not less than six months nor more than five years the offender's driver's or commercial driver's license or permit. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.

(R.C. § 2925.31) (Rev. 2004)

**§ 138.08 ILLEGAL DISPENSING OF DRUG SAMPLES.**

(A) No person shall knowingly furnish a sample drug to another person.

(B) Division (A) of this section does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with R.C. Chapters 3719, 4715, 4723, 4725, 4729, 4730, 4731, and 4741.

(C) (1) Whoever violates this section is guilty of illegal dispensing of drug samples.

(2) If the drug involved in the offense is a compound, mixture, preparation, or substance included in Schedule I or II of R.C. § 3719.41 with the exception of marihuana, illegal dispensing of drug samples is a felony to be prosecuted under appropriate state law.

(3) If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in Schedule III, IV or V of R.C. § 3719.41, or is marihuana, the penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in the following division, illegal dispensing of drug samples is a misdemeanor of the second degree.

(b) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a misdemeanor of the first degree.

(D) In addition to any prison term authorized or required by division (C) of this section and R.C. §§ 2929.13 and 2929.14, and in addition to any other sanction imposed for the offense under this section or R.C. §§ 2929.11 through 2929.18, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section shall do both of the following:

(1) The court shall suspend for not less than six months nor more than five years the offender's driver's or commercial driver's license.

(2) If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.

(E) Notwithstanding any contrary provision of R.C. § 3719.21, the Clerk of Court shall pay a fine imposed for a violation of this section pursuant to R.C. § 2929.18(A) in accordance with and subject to the requirements of R.C. § 2925.03(F). The agency that receives the fine shall use the fine as specified in R.C. § 2925.03(F).

(R.C. § 2925.36) (Rev. 2007)

**Statutory reference:**

*Felony offenses, see R.C. § 2925.36(C)(2)*

**§ 138.09 FEDERAL PROSECUTION BAR TO MUNICIPAL PROSECUTION.**

No person shall be prosecuted for a violation of this chapter if the person has been acquitted or convicted under the federal drug abuse control laws of the same act or omission which, it is alleged, constitutes a violation of this chapter.

(R.C. §§ 2925.50, 3719.19) (Rev. 2002)

**§ 138.10 NITROUS OXIDE: IMPROPER DISPENSING OR DISTRIBUTION; POSSESSION IN A MOTOR VEHICLE.**

(A) *Improper dispensing or distribution.*

(1) No person who dispenses or distributes nitrous oxide in cartridges shall fail to comply with either of the following:

(a) The record-keeping requirements established under division (A)(3) of this section.

(b) The labeling and transaction identification requirements established under division (A)(4) of this section.

(2) Whoever violates division (A)(1)(a) or (A)(1)(b) of this section is guilty of improperly dispensing or distributing nitrous oxide, a misdemeanor of the fourth degree.

(3) Beginning July 1, 2001, a person who dispenses or distributes nitrous oxide shall record each transaction involving the dispensing or distribution of the nitrous oxide on a separate card. The person shall require the purchaser to sign the card and provide a complete residence address. The person dispensing or distributing the nitrous oxide shall sign and date the card. The person shall retain the card recording a transaction for one year from the

date of the transaction. The person shall maintain the cards at the person's business address and make them available during normal business hours for inspection and copying by officers or employees of the State Board of Pharmacy or of other law enforcement agencies that are authorized to investigate violations of this code, R.C. Chapters 2925, 3719, or 4729, or federal drug abuse control laws. The cards used to record each transaction shall inform the purchaser of the following:

(a) That nitrous oxide cartridges are to be used only for purposes of preparing food;

(b) That inhalation of nitrous oxide can have dangerous health effects; and

(c) That it is a violation of state law to distribute or dispense cartridges of nitrous oxide to any person under age 21, punishable as a felony of the fifth degree.

(4) (a) Each cartridge of nitrous oxide dispensed or distributed in this municipality shall bear the following printed warning: "Nitrous oxide cartridges are to be used only for purposes of preparing food. Nitrous oxide cartridges may not be sold to persons under age 21. Do not inhale contents. Misuse can be dangerous to your health."

(b) Each time a person dispenses or distributes one or more cartridges of nitrous oxide, the person shall mark the packaging containing the cartridges with a label or other device that identifies the person who dispensed or distributed the nitrous oxide and the person's business address.

(R.C. § 2925.32(B)(4), (D)(2), (F), (G)) (Rev. 2001)

(B) *Possession in a motor vehicle.*

(1) As used in this section, **MOTOR VEHICLE**, **STREET** and **HIGHWAY** have the same meaning as in R.C. § 4511.01.

(2) Unless authorized by this code or by state law, no person shall possess an open cartridge of nitrous oxide in either of the following circumstances:

(a) While operating or being a passenger in or on a motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking.

(b) While being in or on a stationary motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking.

(3) Whoever violates this division (B) is guilty of possessing nitrous oxide in a motor vehicle, a misdemeanor of the fourth degree.

(R.C. § 2925.33) (Rev. 2002)

**Statutory reference:**

*Trafficking in harmful intoxicants, see R.C. § 2925.32*

**§ 138.11 LABORATORY REPORT REQUIRED.**

(A) (1) In any criminal prosecution for a violation of this chapter or R.C. Chapters 2925 or 3719, a laboratory report from the Bureau of Criminal Identification and Investigation or a laboratory operated by another law enforcement agency, or a laboratory established by or under the authority of an institution of higher education that has its main campus in this state and that is accredited by the Association of American Universities or the North Central Association of Colleges and Secondary Schools, primarily for the purpose of providing scientific service to law enforcement agencies, and signed by the person performing the analysis, stating that the substance that is the basis of the alleged offense has been weighed and analyzed and stating the findings as to the content, weight, and identity of the substance and that it contains any amount of a controlled substance and the number and description of unit dosages, is prima facie evidence of the content, identity, and weight or the existence and number of unit dosages of the substance. In any criminal prosecution for a violation of R.C. § 2925.041 or a violation of this chapter, R.C. Chapter 2925 or R.C. Chapter 3719 that is based on the possession of chemicals sufficient to produce a compound, mixture, preparation, or substance included in Schedule I, II, III, IV, or V, a laboratory report from the Bureau or from any laboratory that is operated or established as described in this division that is signed by the person performing the analysis, stating that the substances that are the basis of the alleged offense have been weighed and analyzed and stating the findings as to the content, weight, and identity of each of the substances, is prima facie evidence of the content, identity, and weight of the substances.

(2) Attached to that report shall be a copy of a notarized statement by the signer of the report giving the name of the signer and stating that the signer is an employee of the laboratory issuing the report and that performing the analysis is a part of the signer's regular duties, and giving an outline of the signer's education, training, and experience for performing an analysis of materials included under this section. The signer shall attest that scientifically accepted tests were performed with due caution, and that the evidence was handled in accordance with established and accepted procedures while in the custody of the laboratory.

(B) The prosecuting attorney shall serve a copy of the report on the attorney of record for the accused, or on the accused if the accused has no attorney, prior to any proceeding in which the report is to be used against the accused other than at a preliminary hearing or grand jury proceeding where the report may be used without having been previously served upon the accused.

(C) The report shall not be prima facie evidence of the contents, identity, and weight or the existence and number of unit dosages of the substance if the accused or the accused's attorney demands the testimony of the person signing the report, by serving the demand upon the

prosecuting attorney, within seven days from the accused or the accused's attorney's receipt of the report. The time may be extended by a trial judge in the interests of justice.

(D) Any report issued for use under this section shall contain notice of the right of the accused to demand, and the manner in which the accused shall demand, the testimony of the person signing the report.

(E) Any person who is accused of a violation of this chapter or R.C. Chapters 2925 or 3719 is entitled, upon written request made to the prosecuting attorney, to have a portion of the substance that is, or of each of the substances that are, the basis of the alleged violation preserved for the benefit of independent analysis performed by a laboratory analyst employed by the accused person, or, if the accused is indigent, by a qualified laboratory analyst appointed by the court. Such portion shall be a representative sample of the entire substance that is, or of each of the substances that are, the basis of the alleged violation and shall be of sufficient size, in the opinion of the court, to permit the accused's analyst to make a thorough scientific analysis concerning the identity of the substance or substances. The prosecuting attorney shall provide the accused's analyst with the sample portion at least 14 days prior to trial, unless the trial is to be held in a court not of record or unless the accused person is charged with a minor misdemeanor, in which case the prosecuting attorney shall provide the accused's analyst with the sample portion at least three days prior to trial. If the prosecuting attorney determines that such a sample portion cannot be preserved and given to the accused's analyst, the prosecuting attorney shall so inform the accused person, or the accused's attorney. In such a circumstance, the accused person is entitled, upon written request made to the prosecuting attorney, to have the accused's privately employed or court appointed analyst present at an analysis of the substance that is, or the substances that are, the basis of the alleged violation, and, upon further written request, to receive copies of all recorded scientific data that result from the analysis and that can be used by an analyst in arriving at conclusions, findings, or opinions concerning the identity of the substance or substances subject to the analysis.

(F) In addition to the rights provided under division (E) of this section, any person who is accused of a violation of this chapter or R.C. Chapters 2925 or 3719 that involves a bulk amount of a controlled substance, or any multiple thereof, or who is accused of a violation of R.C. § 2925.11 or a substantially equivalent municipal ordinance, other than a minor misdemeanor violation, that involves marijuana, is entitled, upon written request made to the prosecuting attorney, to have a laboratory analyst of the accused's choice, or, if the accused is indigent, a qualified laboratory analyst appointed by the court, present at a measurement or weighing of the substance that is the basis of the alleged violation. Also, the accused person is entitled, upon further written request, to receive copies of all recorded scientific data that result from the measurement or weighing and that can be used by an analyst in arriving at conclusions,

findings, or opinions concerning the weight, volume, or number of unit doses of the substance subject to the measurement or weighing.

(R.C. § 2925.51) (Rev. 2002)

(G) In addition to the financial sanctions authorized or required under R.C. §§ 2929.18 and 2929.28 and to any costs otherwise authorized or required under any provision of law, the court imposing sentence upon an offender who is convicted of or pleads guilty to a drug abuse offense may order the offender to pay to the state, municipal, or county law enforcement agencies that handled the investigation and prosecution all of the costs that the state, municipal corporation, or county reasonably incurred in having tests performed under this section or R.C. § 2925.51 or in any other manner on any substance that was the basis of, or involved in, the offense to determine whether the substance contained any amount of a controlled substance if the results of the tests indicate that the substance tested contained any controlled substance. No court shall order an offender under this section to pay the costs of tests performed on a substance if the results of the tests do not indicate that the substance tested contained any controlled substance. The court shall hold a hearing to determine the amount of costs to be imposed under this section. The court may hold the hearing as part of the sentencing hearing for the offender. (R.C. § 2925.511) (Rev. 2007)

### § 138.12 COUNTERFEIT CONTROLLED SUBSTANCES.

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

(B) Whoever violates division (A) of this section shall be guilty of possession of counterfeit controlled substances, a misdemeanor of the first degree.

(C) Notwithstanding any contrary provision of R.C. § 3719.21, the Clerk of Court shall pay a fine imposed for a violation of this section pursuant to R.C. § 2929.18(A) in accordance with and subject to the requirements of R.C. § 2925.03(F). The agency that receives the fine shall use the fine as specified in R.C. § 2925.03(F).

(R.C. § 2925.37(A), (G), (M)) (Rev. 1999)

#### *Statutory reference:*

*Trafficking and other felony counterfeit controlled substance offenses, see R.C. § 2925.37(H) through (K)*

### § 138.13 USE, POSSESSION, OR SALE OF DRUG PARAPHERNALIA.

(A) As used in this section, **DRUG PARAPHERNALIA** means any equipment, product, or material of any kind that is used by the offender, intended by the offender for use, or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing,

concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, a controlled substance in violation of this chapter. The term includes but is not limited to any of the following equipment, products, or materials that are used by the offender, intended by the offender for use, or designed by the offender for use, in any of the following manners:

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

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

(3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine.

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

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

(6) A scale or balance for weighing or measuring a controlled substance.

(7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, for cutting a controlled substance.

(8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana.

(9) A blender, bowl, container, spoon, or mixing device for compounding a controlled substance.

(10) A capsule, balloon, envelope, or container for packaging small quantities of a controlled substance.

(11) A container or device for storing or concealing a controlled substance.

(12) A hypodermic syringe, needle, or instrument for parenterally injecting a controlled substance into the human body.

(13) An object, instrument, or device for ingesting, inhaling, or otherwise introducing into the human body, marihuana, cocaine, hashish, or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe, with or without a screen, permanent screen, hashish head, or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a



marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.

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

(1) Any statement by the owner or by anyone in control of the equipment, product, or material, concerning its use.

(2) The proximity in time or space of the equipment, product, or material, or of the act relating to the equipment, product, or material, to a violation of any provision of this chapter or R.C. Chapter 2925.

(3) The proximity of the equipment, product, or material to any controlled substance.

(4) The existence of any residue of a controlled substance on the equipment, product, or material.

(5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product, or material, to deliver it to any person whom he or she knows intends to use the equipment, product, or material to facilitate a violation of any provision of this chapter or R.C. Chapter 2925. A finding that the owner or anyone in control of the equipment, product, or material is not guilty of a violation of any other provision of this chapter or R.C. Chapter 2925 does not prevent a finding that the equipment, product, or material was intended or designed by the offender for use as drug paraphernalia.

(6) Any oral or written instruction provided with the equipment, product, or material concerning its use.

(7) Any descriptive material accompanying the equipment, product, or material and explaining or depicting its use.

(8) National or local advertising concerning the use of the equipment, product, or material.

(9) The manner and circumstances in which the equipment, product, or material is displayed for sale.

(10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product, or material to the total sales of the business enterprise.

(11) The existence and scope of legitimate uses of the equipment, product, or material in the community.

(12) Expert testimony concerning the use of the equipment, product, or material.

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

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

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

(D) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by R.C. § 3719.172.

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

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

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

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

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

(G) In addition to any other sanction imposed upon an offender for a violation of this section, the court shall suspend for not less than six months nor more than five years the offender's driver's or commercial driver's license or permit. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with R.C. § 2925.38.

(R.C. § 2925.14) (Rev. 2008)

**§ 138.14 CONTROLLED SUBSTANCE OR PRESCRIPTION LABELS.**

(A) Whenever a manufacturer sells a controlled substance, and whenever a wholesaler sells a controlled substance in a package the wholesaler has prepared, the manufacturer or wholesaler shall securely affix to each package in which the controlled substance is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of controlled substance contained therein. No person, except a pharmacist for the purpose of dispensing a controlled substance upon a prescription, shall alter, deface or remove any label so affixed.

(B) No person shall alter, deface or remove any label affixed pursuant to R.C. § 3719.08 as long as any of the original contents remain.  
(R.C. § 3719.08(A), (E))

(C) Whoever violates this section is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, or R.C. § 3719.07 or 3719.08, or a drug abuse offense, a violation of this section is a felony to be prosecuted under appropriate state law. If the violation involves the sale, offer to sell, or possession of a Schedule I or II controlled substance, with the exception of marihuana, and if the offender, as a result of the violation, is a major drug offender, then R.C. § 3719.99(D) applies.  
(R.C. § 3719.99(C)) (Rev. 1999)

**§ 138.15 POSSESSION, SALE AND DISPOSAL OF HYPODERMICS.**

(A) Possession of a hypodermic is authorized for the following:

(1) A manufacturer or distributor of, or dealer in hypodermics, or medication packaged in hypodermics, and any authorized agent or employee of that manufacturer, distributor or dealer, in the regular course of business;

(2) A terminal distributor of dangerous drugs, in the regular course of business;

(3) A person authorized to administer injections, in the regular course of the person's profession or employment;

(4) A person, when the hypodermic in his possession was lawfully obtained and is kept and used for the purpose of self-administration of insulin or other drug prescribed for the treatment of disease by a licensed health professional authorized to prescribe drugs;

(5) A person whose use of a hypodermic is for legal research, clinical, educational or medicinal purposes;

(6) A farmer, for the lawful administration of a drug to an animal;

(7) A person whose use of a hypodermic is for lawful professional, mechanical, trade or craft purposes.

(B) No manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, or their authorized agents or employees, and no terminal distributor of dangerous drugs, shall display any hypodermic for sale. No person authorized to possess a hypodermic pursuant to division (A) of this section shall negligently fail to take reasonable precautions to prevent any hypodermic in the person's possession from theft or acquisition by any unauthorized person.  
(R.C. § 3719.172(A), (B))

(C) Whoever violates division (B) of this section is guilty of a misdemeanor of the third degree. If the offender previously has been convicted of a violation of division (B) of this section, R.C. § 3719.05, 3719.06, 3719.13, 3719.172(B), or 3719.31, or a drug abuse offense, a violation of division (B) of this section is a misdemeanor of the first degree.  
(R.C. § 3719.99(E)) (Rev. 1999)

**Statutory reference:**

*Felony offenses, see R.C. § 3719.172(C) and (D)*

**§ 138.16 CONTROLLED SUBSTANCE SCHEDULES.**

Controlled Substance Schedules I, II, III, IV, and V, as established in R.C. § 3719.41 and amended by R.C. §§ 3719.43 and 3719.44, are hereby adopted by reference, and shall be treated as if set forth in full herein.  
(Rev. 1999)

**Statutory reference:**

*For comprehensive lists of drugs identified under each of the following Schedules, see R.C. § 3719.41, as amended by R.C. §§ 3719.43 and 3719.44:*

**Schedule I**

- (A) *Narcotics - opiates*
- (B) *Narcotics - opium derivatives*
- (C) *Hallucinogens*
- (D) *Depressants*
- (E) *Stimulants*

**Schedule II**

- (A) *Narcotics - opium and opium derivatives*
- (B) *Narcotics - opiates*
- (C) *Stimulants*
- (D) *Depressants*
- (E) *Hallucinogenic substances*
- (F) *Immediate precursors*

*Schedule III*

- (A) *Stimulants*
- (B) *Depressants*
- (C) *Narcotic antidotes*
- (D) *Narcotics - narcotic preparations*
- (E) *Anabolic steroids*
- (F) *Hallucinogenic substances*

*Schedule IV*

- (A) *Narcotic drugs*
- (B) *Depressants*
- (C) *Fenfluramine*
- (D) *Stimulants*
- (E) *Other substances*

*Schedule V*

- (A) *Narcotic drugs*
- (B) *Narcotics - narcotic preparations*
- (C) *Stimulants*

**§ 138.17 UNLAWFUL FURNISHING OF PRESCRIPTION TO ENABLE PERSONS TO BE ISSUED HANDICAPPED PARKING PLACARDS OR LICENSE PLATES.**

(A) No physician or chiropractor shall do either of the following:

(1) Furnish a person with a prescription in order to enable the person to be issued a removable windshield placard, temporary removable windshield placard, or license plates under R.C. § 4503.44, knowing that the person does not meet any of the criteria contained in R.C. § 4503.44(A)(1).

(2) Furnish a person with a prescription described in division (A)(1) of this section and knowingly misstate on the prescription the length of time the physician or chiropractor expects the person to have the disability that limits or impairs the person's ability to walk in order to enable the person to retain a placard issued under R.C. § 4503.44 for a period of time longer than that which would be estimated by a similar practitioner under the same or similar circumstances.  
(R.C. §§ 4731.481, 4734.161) (Rev. 2001)

(B) Whoever violates this section is guilty of a misdemeanor of the first degree.  
(R.C. §§ 4731.99(F), 4734.99(B))

***Cross-reference:***

*Parking privileges for persons with disabilities, see § 76.05*

**§ 138.18 PSEUDOEPHEDRINE SALES.**

(A) *Unlawful purchases.*

(1) As used in this section:

**CONSUMER PRODUCT.** Means any food or drink that is consumed or used by humans and any drug, including a drug that may be provided legally only pursuant to a prescription, that is intended to be consumed or used by humans.

**PSEUDOEPHEDRINE.** Means any material, compound, mixture, or preparation that contains any quantity of pseudoephedrine, any of its salts, optical isomers, or salts of optical isomers.

**PSEUDOEPHEDRINE PRODUCT.** Means a consumer product consisting of a single-ingredient preparation of pseudoephedrine in which pseudoephedrine is the active ingredient. The term does not include either of the following:

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

2. A consumer product primarily intended for administration to children under 12 years of age, according to the label instructions, in solid dosage form, including chewable tablets, when individual dosage units do not exceed 15 milligrams of pseudoephedrine.

**RETAILER.** Means a place of business that offers consumer products for sale to the general public.

**SINGLE-INGREDIENT PREPARATION.** Means a compound, mixture, preparation, or substance that contains a single active ingredient.

**TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS.** Has the same meaning as in R.C. § 4729.01.

(2) (a) No individual shall knowingly purchase, receive, or otherwise acquire more than nine grams of any pseudoephedrine product within a period of 30 consecutive days, unless the pseudoephedrine product is dispensed by a pharmacist pursuant to a valid prescription issued by a licensed health professional authorized to prescribe drugs and the conduct of the pharmacist and the licensed health professional authorized to prescribe drugs is in accordance with R.C. Chapter 3719, 4715, 4723, 4729, 4731, or 4741.

(b) It is not a violation of division (A)(2)(a) of this section for an individual to receive or accept more than nine grams of any pseudoephedrine product within a period of 30 consecutive days if the individual is an employee of a retailer or terminal distributor of dangerous drugs, and the employee receives or accepts from the retailer or terminal distributor of dangerous drugs the pseudoephedrine product in a sealed container in connection with manufacturing, warehousing, placement, stocking, bagging, loading, or unloading of the product.

(3) (a) No individual under 18 years of age shall knowingly purchase, receive, or otherwise acquire a pseudoephedrine product, unless the pseudoephedrine product is dispensed by a pharmacist pursuant to a valid prescription issued by a licensed health professional authorized to prescribe drugs and the conduct of the pharmacist and the licensed health professional authorized to prescribe drugs is in accordance with R.C. Chapter 3719, 4715, 4723, 4729, 4731, or 4741.

(b) Division (A)(3)(a) of this section does not apply to an individual under 18 years of age who purchases, receives, or otherwise acquires a pseudoephedrine product from any of the following:

1. A licensed health professional authorized to prescribe drugs or pharmacist who dispenses, sells, or otherwise provides the pseudoephedrine product to that individual and whose conduct is in accordance with R.C. Chapter 3719, 4715, 4723, 4729, 4731, or 4741;

2. A parent or guardian of that individual who provides the pseudoephedrine product to the individual;

3. A person, as authorized by that individual's parent or guardian, who dispenses, sells, or otherwise provides the pseudoephedrine product to the individual;

4. A retailer or terminal distributor of dangerous drugs who provides the pseudoephedrine product to that individual if the individual is an employee of the retailer or terminal distributor of dangerous drugs and the individual receives or accepts from the retailer or terminal distributor of dangerous drugs the pseudoephedrine product in a sealed container in connection with manufacturing, warehousing, placement, stocking, bagging, loading, or unloading of the product.

(4) No individual under 18 years of age shall knowingly show or give false information concerning the individual's name, age, or other identification for the purpose of purchasing, receiving, or otherwise acquiring a pseudoephedrine product.

(5) No individual shall knowingly fail to comply with the requirements of division (E)(3)(c) of this section.

(6) Whoever violates division (A)(2)(a) of this section is guilty of unlawful purchase of a pseudoephedrine product, a misdemeanor of the first degree.

(7) Whoever violates division (A)(3)(a) of this section is guilty of underage purchase of a pseudoephedrine product, a delinquent act that would be a misdemeanor of the fourth degree if it could be committed by an adult.

(8) Whoever violates division (A)(4) of this section is guilty of using false information to purchase a pseudoephedrine product, a delinquent act that would be a

misdemeanor of the first degree if it could be committed by an adult.

(9) Whoever violates division (A)(5) of this section is guilty of improper purchase of a pseudoephedrine product, a misdemeanor of the fourth degree. (R.C. § 2925.55) (Rev. 2007)

(B) *Unlawful retail sales.*

(1) (a) Except as provided in division (B)(1)(b) of this section, no retailer or terminal distributor of dangerous drugs or an employee of a retailer or terminal distributor of dangerous drugs shall knowingly sell, offer to sell, hold for sale, deliver, or otherwise provide to any individual within a period of 30 consecutive days an amount of pseudoephedrine product that is greater than nine grams.

(b) Division (B)(1)(a) of this section does not apply to any quantity of pseudoephedrine product dispensed by a pharmacist pursuant to a valid prescription issued by a licensed health professional authorized to prescribe drugs if the conduct of the pharmacist and the licensed health professional authorized to prescribe drugs is in accordance with R.C. Chapter 3719, 4715, 4723, 4729, 4731, or 4741.

(c) It is not a violation of division (B)(1)(a) of this section for a retailer, terminal distributor of dangerous drugs, or employee of either to provide to an individual more than nine grams of any pseudoephedrine product within a period of 30 consecutive days if the individual is an employee of the retailer or terminal distributor of dangerous drugs, and the employee receives or accepts from the retailer, terminal distributor of dangerous drugs, or employee the pseudoephedrine product in a sealed container in connection with manufacturing, warehousing, placement, stocking, bagging, loading, or unloading of the product.

(2) (a) Except as provided in division (B)(2)(b) of this section, no retailer or terminal distributor of dangerous drugs or an employee of a retailer or terminal distributor of dangerous drugs shall sell, offer to sell, hold for sale, deliver, or otherwise provide a pseudoephedrine product to an individual who is under 18 years of age.

(b) Division (B)(2)(a) of this section does not apply to any of the following:

1. A licensed health professional authorized to prescribe drugs or pharmacist who dispenses, sells, or otherwise provides a pseudoephedrine product to an individual under 18 years of age and whose conduct is in accordance with R.C. Chapter 3719, 4715, 4723, 4729, 4731, or 4741;

2. A parent or guardian of an individual under 18 years of age who provides a pseudoephedrine product to the individual;

3. A person who, as authorized by the individual's parent or guardian, dispenses, sells, or otherwise provides a pseudoephedrine product to an individual under 18 years of age;

4. The provision by a retailer, terminal distributor of dangerous drugs, or employee of either of a pseudoephedrine product in a sealed container to an employee of the retailer or terminal distributor of dangerous drugs who is under 18 years of age in connection with manufacturing, warehousing, placement, stocking, bagging, loading, or unloading of the product.

(3) No retailer or terminal distributor of dangerous drugs shall fail to comply with the requirements of division (E)(3)(b) of this section.

(4) Whoever violates division (B)(1)(a) of this section is guilty of unlawfully selling a pseudoephedrine product, a misdemeanor of the first degree.

(5) Whoever violates division (B)(2)(a) of this section is guilty of unlawfully selling a pseudoephedrine product to a minor, a misdemeanor of the fourth degree.

(6) Whoever violates division (B)(3) of this section is guilty of improper sale of a pseudoephedrine product, a misdemeanor of the second degree.  
(R.C. § 2925.56) (Rev. 2007)

(C) *Transaction scans.*

(1) As used in this division and division (D) of this section:

**CARD HOLDER.** Means any person who presents a driver's or commercial driver's license or an identification card to a seller, or an agent or employee of a seller, to purchase or receive any pseudoephedrine product from the seller, agent, or employee.

**IDENTIFICATION CARD.** Has the same meaning as in R.C. § 2927.021.

**SELLER.** Means a retailer or terminal distributor of dangerous drugs.

**TRANSACTION SCAN.** Means the process by which a seller or an agent or employee of a seller checks by means of a transaction scan device the validity of a driver's or commercial driver's license or an identification card that is presented as a condition for purchasing or receiving any pseudoephedrine product.

**TRANSACTION SCAN DEVICE.** Has the same meaning as in R.C. § 2927.021.

(2) (a) A seller or an agent or employee of a seller may perform a transaction scan by means of a transaction scan device to check the validity of a driver's or

commercial driver's license or identification card presented by a card holder as a condition for selling, giving away, or otherwise distributing to the card holder a pseudoephedrine product.

(b) If the information deciphered by the transaction scan performed under division (C)(2)(a) of this section fails to match the information printed on the driver's or commercial driver's license or identification card presented by the card holder, or if the transaction scan indicates that the information so printed is false or fraudulent, neither the seller nor any agent or employee of the seller shall sell, give away, or otherwise distribute any pseudoephedrine product to the card holder.

(c) Division (C)(2)(a) of this section does not preclude a seller or an agent or employee of a seller as a condition for selling, giving away, or otherwise distributing a pseudoephedrine product to the person presenting the document from using a transaction scan device to check the validity of a document other than a driver's or commercial driver's license or an identification card if the document includes a bar code or magnetic strip that may be scanned by the device.

(3) Rules adopted by the Registrar of Motor Vehicles under R.C. § 4301.61(C) apply to the use of transaction scan devices for purposes of this division (C) and division (D) of this section.

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

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

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

(b) No seller or agent or employee of a seller shall use the information that is derived from a transaction scan or that is permitted to be recorded and maintained under division (C)(4)(a) of this section except for purposes of division (D) of this section.

(c) No seller or agent or employee of a seller shall use a transaction scan device for a purpose other than the purpose specified in division (C)(2)(a) of this section.

(d) No seller or agent or employee of a seller shall sell or otherwise disseminate the information derived from a transaction scan to any third party, including but not limited to selling or otherwise disseminating that information for any marketing, advertising, or promotional activities, but a seller or agent or employee of a seller may

release that information pursuant to a court order or as specifically authorized by division (D) of this section or any other section of the Ohio Revised Code.

(5) Nothing in this division (C) or division (D) of this section relieves a seller or an agent or employee of a seller of any responsibility to comply with any other applicable state or federal laws or rules governing the sale, giving away, or other distribution of pseudoephedrine products.

(6) Whoever violates division (C)(2)(b) or (C)(4) of this section is guilty of engaging in an illegal pseudoephedrine product transaction scan, and the court may impose upon the offender a civil penalty of up to \$1,000 for each violation. The Clerk of the Court shall pay each collected civil penalty to the County Treasurer for deposit into the County Treasury.  
(R.C. § 2925.57) (Rev. 2007)

(D) *Affirmative defenses.*

(1) A seller or an agent or employee of a seller may not be found guilty of a charge of a violation of division (B) of this section in which the age of the purchaser or other recipient of a pseudoephedrine product is an element of the alleged violation if the seller, agent, or employee raises and proves as an affirmative defense that all of the following occurred:

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

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

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

(2) In determining whether a seller or an agent or employee of a seller has proven the affirmative defense provided by division (D)(1) of this section, the trier of fact in the action for the alleged violation of division (B) of this section shall consider any written policy that the seller has adopted and implemented and that is intended to prevent violations of division (B) of this section. For purposes of division (D)(1)(c) of this section, the trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a seller or an agent or employee of a seller to exercise reasonable diligence to determine, and that the use of a transaction scan device does not excuse a seller or an agent or employee of a seller from exercising reasonable diligence to determine, the following:

(a) Whether a person to whom the seller or agent or employee of a seller sells, gives away, or otherwise distributes a pseudoephedrine product is 18 years of age or older;

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

(3) In any criminal action in which the affirmative defense provided by division (D)(1) of this section is raised, the Registrar of Motor Vehicles or a deputy registrar who issued an identification card under R.C. §§ 4507.50 through 4507.52 shall be permitted to submit certified copies of the records of that issuance in lieu of the testimony of the personnel of or contractors with the Bureau of Motor Vehicles in the action.  
(R.C. § 2925.58) (Rev. 2007)

(E) *Retailer's duties.*

(1) As used in this division and division (F) of this section:

**DRUG.** Has the same meaning as in R.C. § 4729.01.

**LICENSED HEALTH PROFESSIONAL AUTHORIZED TO PRESCRIBE DRUGS.** Has the same meaning as in R.C. § 4729.01.

**PHARMACIST.** Means a person licensed under R.C. Chapter 4729 to engage in the practice of pharmacy.

**PHARMACY.** Has the same meaning as in R.C. § 4729.01.

**PRESCRIBER.** Has the same meaning as in R.C. § 4729.01.

**PRESCRIPTION.** Has the same meaning as in R.C. § 4729.01.

**PROOF OF AGE.** Means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under R.C. §§ 4507.50 through 4507.52 that shows a person is 18 years of age or older.

**TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS.** Has the same meaning as in R.C. § 4729.01.

**WHOLESALE.** Has the same meaning as in R.C. § 3719.01.

(2) A retailer or terminal distributor of dangerous drugs that sells, offers to sell, holds for sale,

delivers, or otherwise provides a pseudoephedrine product to the public shall do all of the following:

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

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

1. Determine, by examination of a valid proof of age, that the purchaser or recipient is at least 18 years of age;

2. Make a reasonable attempt to ensure that no individual purchases or receives more than nine grams of pseudoephedrine products within a period of 30 consecutive days;

(c) Maintain a log book of pseudoephedrine product purchases, in accordance with division (E)(3) of this section.

(3) (a) As used in this division (E)(3), **LAW ENFORCEMENT OFFICIAL** means an officer or employee of any agency or authority of the United States, a state, a territory, a political division of a state or territory, or an Indian tribe, who is empowered by the law to investigate or conduct an official inquiry into a potential violation of law or prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

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

1. Require each purchaser to sign an entry in the log book that is maintained in the electronic or tangible format;

2. Determine whether the name signed in the entry in the log book corresponds with the name on a government-issued identification card;

3. Retain the log book in a tangible format, in an electronic format, or in both a tangible format and an electronic format for a minimum of one year after the date of the last purchase recorded in the log book;

4. Include in the log book in the manner described in division (E)(3)(e) of this section or, in the alternative, post, in a conspicuous location, the

following statement: "Ohio law prohibits the over-the-counter purchase within any period of 30 consecutive days of more than nine grams of any consumer product in which pseudoephedrine is the only active ingredient. If you purchase a consumer product in which pseudoephedrine is the only active ingredient, you are required to sign a log book that may be accessible to law enforcement officers and to provide a government-issued identification card to verify your identity. Except in limited circumstances, the purchase within any period of 30 consecutive days of more than nine grams of any consumer product in which pseudoephedrine is the only active ingredient, and the purchase by any individual under 18 years of age of any consumer product in which pseudoephedrine is the only active ingredient, are subject to criminal prosecution or delinquency proceedings in accordance with Ohio law. Also, the provision of false information concerning an individual's name, age, or other identification for the purpose of acquiring any consumer product in which pseudoephedrine is the only active ingredient is subject to criminal prosecution or delinquency proceedings in accordance with Ohio law."

(c) Each purchaser of a pseudoephedrine product shall do all of the following:

1. Sign and print the purchaser's name and address in the log book;

2. Provide a government-issued identification card to the retailer or terminal distributor of dangerous drugs to verify the purchaser's identity.

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

1. In response to a court order or subpoena;

2. In response to a request from a law enforcement official to be used for law enforcement purposes.

(e) If a retailer or terminal distributor of dangerous drugs chooses to include the statement set forth in division (E)(3)(b)4. of this section in the log book maintained under division (E)(3)(b) of this section, the statement shall be set forth in the following manner:

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

2. If the log book is maintained in a tangible format, the statement shall be set forth on the cover of the log book and on each page of the log book.

(4) Prescriptions, orders, and records maintained pursuant to this section and stocks of

pseudoephedrine products shall be open for inspection to federal, state, county, and municipal officers, and employees of the State Board of Pharmacy whose duty it is to enforce the laws of this state or of the United States relating to controlled substances. Such prescriptions, orders, records, and stocks shall be open for inspection by the State Medical Board and its employees for purposes of enforcing R.C. Chapter 4731.

(R.C. § 3715.05) (Rev. 2007)

(F) *Theft or loss; reporting requirements.*

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

(a) The State Board of Pharmacy, by telephone immediately upon discovery of the theft or loss;

(b) Law enforcement authorities. If the incident is a theft and the theft constitutes a felony, the retailer, terminal distributor of dangerous drugs, pharmacy, prescriber, or wholesaler shall report the theft to the law enforcement authorities in accordance with R.C. § 2921.22.

(2) Within 30 days after making a report by telephone to the State Board of Pharmacy pursuant to division (F)(1)(a) of this section, a retailer, terminal distributor of dangerous drugs, pharmacy, prescriber, or wholesaler shall send a written report to the State Board of Pharmacy.

(3) The reports required under this section shall identify the product that was stolen or lost, the amount of the product stolen or lost, and the date and time of discovery of the theft or loss.

(R.C. § 3715.06) (Rev. 2007)