

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ANIMALS

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ANIMALS RUNNING AT LARGE

§ 90.01 DOGS OR OTHER ANIMALS RUNNING AT LARGE; DANGEROUS OR VICIOUS DOGS.

(A) *Animals running at large.*

(1) No person, who is the owner or keeper of horses, mules, cattle, bison, sheep, goats, swine, llamas, alpacas, or geese, shall permit them to run at large in the public road, highway, street, lane, or alley, or upon unenclosed land, or cause the animals to be herded, kept, or detained for the purpose of grazing on premises other than those owned or lawfully occupied by the owner or keeper of the animals.

(R.C. § 951.02) (Rev. 2012)

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

(R.C. § 951.99) (Rev. 2012)

(3) The owner or keeper of an animal described in division (A)(1) of this section who negligently permits it to run at large in violation of division (A)(1) of this section is liable for all damages resulting from injury, death, or loss to person or property caused by the animal in any of the places specified in division (A)(1) of this section or upon the premises of another without reference to the fence that may enclose the premises.

(4) The running at large of any animal specified in division (A)(1) of this section in or upon any of the places specified in division (A)(1) of this section is prima facie evidence in a civil action for damages under division (A)(3) of this section that the owner or keeper of the animal negligently permitted the animal to run at large in violation of division (A)(1) of this section.

(R.C. § 951.10) (Rev. 2012)

(B) *Dogs running at large; dangerous or vicious dogs; debarked or surgically silenced vicious dogs.*

(1) As used in this section, **DANGEROUS DOG** and **VICIOUS DOG** have the same meanings as in R.C. § 955.11.

(2) No owner, keeper, or harbinger of any female dog shall permit it to go beyond the premises of the owner, keeper, or harbinger at any time the dog is in heat unless the dog is properly in leash.

(3) Except when a dog is lawfully engaged in hunting and accompanied by the owner, keeper, harbinger, or handler of the dog, no owner, keeper, or harbinger of any dog shall fail at any time to do either of the following:

(a) Keep the dog physically confined or restrained upon the premises of the owner, keeper, or harbinger by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape;

(b) Keep the dog under the reasonable control of some person.

(4) Except when a dangerous or vicious dog is lawfully engaged in hunting or training for the purpose of hunting and is accompanied by the owner, keeper, harbinger, or handler of the dog, no owner, keeper, or harbinger of a dangerous or vicious dog shall fail to do either of the following:

(a) While the dog is on the premises of the owner, keeper, or harbinger, securely confine it at all times in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top, except that a dangerous dog may, in the alternative, be tied with a leash or tether so that the dog is adequately restrained.

(b) While the dog is off the premises of the owner, keeper, or harbinger, keep that dog on a chain-link leash or tether that is not more than six feet in length and additionally do at least one of the following: keep the dog in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top; have the leash or tether controlled by a person who is of suitable age and discretion or securely attach, tie, or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station a person in close enough proximity to that dog so as to prevent it from causing injury to any person; or muzzle that dog.

(5) No owner, keeper, or harbinger of a vicious dog shall fail to obtain liability insurance with an insurer authorized to write liability insurance in this state providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than \$100,000 because of damage or bodily injury to or death of a person caused by the vicious dog.

(6) No person shall do any of the following:

(a) Debark or surgically silence a dog that the person knows or has reason to believe is a vicious dog;

(b) Possess a vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;

(c) Falsely attest on a waiver form provided by the veterinarian under division (B)(7) of this section that the person's dog is not a vicious dog or otherwise provide false information on that written waiver form.

(7) Before a veterinarian debarks or surgically silences a dog, the veterinarian may give the owner of the dog a written waiver form that attests that the dog is not a vicious dog. The written waiver form shall include all of the following:

(a) The veterinarian's license number and current business address;

(b) The number of the license of the dog if the dog is licensed;

(c) A reasonable description of the age, coloring, and gender of the dog as well as any notable markings on the dog;

(d) The signature of the owner of the dog attesting that the owner's dog is not a vicious dog;

(e) A statement that R.C. § 955.22(F) prohibits any person from doing any of the following:

1. Debarking or surgically silencing a dog that the person knows or has reason to believe is a vicious dog;

2. Possessing a vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;

3. Falsely attesting on a waiver form provided by the veterinarian under R.C. § 955.22(G) that the person's dog is not a vicious dog or otherwise provide false information on that written waiver form.

(8) It is an affirmative defense to a charge of a violation of division (B)(6) of this section that the veterinarian who is charged with the violation obtained, prior to debarking or surgically silencing the dog, a written waiver form that complies with division (B)(7) of this section and that attests that the dog is not a vicious dog. (R.C. § 955.22) (Rev. 2002)

(C) *Penalty.*

(1) Whoever violates divisions (B)(2) or (B)(3) above shall be fined not less than \$25 or more than \$100 on a first offense; and on each subsequent offense, shall be

fined not less than \$75 or more than \$250 and may be imprisoned for not more than 30 days.

(2) In addition to the penalties prescribed in division (C)(1) above, if the offender is guilty of a violation of division (B)(2) or (B)(3) above, the court may order the offender to personally supervise the dog that the offender owns, keeps, or harbors, to cause that dog to complete dog obedience training, or to do both.

(3) If a violation of division (B)(4) above involves a dangerous dog, whoever violates that division is guilty of a misdemeanor of the fourth degree on a first offense and of a misdemeanor of the third degree on each subsequent offense. Additionally, the court may order the offender to personally supervise the dangerous dog that the offender owns, keeps, or harbors, to cause that dog to complete dog obedience training, or to do both, and the court may order the offender to obtain liability insurance pursuant to division (B)(5) above. The court, in the alternative, may order the dangerous dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society.

(4) If a violation of division (B)(4) above involves a vicious dog, whoever violates that division is guilty of one of the following:

(a) A felony, to be prosecuted under appropriate state law, on a first or subsequent offense if the dog kills or seriously injures a person. Additionally, the court shall order that the vicious dog be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society.

(b) A misdemeanor of the first degree on a first offense and a felony, to be prosecuted under appropriate state law, on each subsequent offense. Additionally, the court may order the vicious dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society.

(c) A misdemeanor of the first degree if the dog causes injury, other than killing or serious injury, to a person.

(5) Whoever violates division (B)(5) above is guilty of a misdemeanor of the first degree.

(6) Whoever violates division (B)(6) above is guilty of a felony to be prosecuted under appropriate state law. Additionally, the court shall order that the vicious dog be humanely destroyed by a licensed veterinarian, the County Dog Warden, or the County Humane Society.

(R.C. § 955.99(E) - (H), (J)) (Rev. 2010)

Statutory reference:

Power of municipality to regulate animals running at large, see R.C. §§ 715.23 and 955.221

§ 90.02 CONFINING ANIMAL FOUND AT LARGE; PUBLICATION OF NOTICE; LIEN.

A person finding an animal at large in violation of § 90.01(A)(1) may, and a law enforcement officer of the municipality on view or information shall, take and confine that animal, promptly giving notice of the taking and confining of the animal to the owner or keeper, if known, and if not known, by publishing a notice describing the animal once in a newspaper of general circulation in the county or municipality where the animal was found. If the owner or keeper does not appear and claim the animal and pay the compensation prescribed in § 90.04 for so taking, advertising, and keeping it within ten days from the date of the notice, that person or the county shall have a lien for that compensation and the animal may be sold at public auction as provided in R.C. § 1311.49. The residue of the proceeds of sale shall be paid and deposited by the Treasurer in the General Funds of the county.

(R.C. § 951.11) (Rev. 2012)

§ 90.03 UNAVOIDABLE ESCAPES.

If it is proven that an animal running at large in violation of § 90.01(A)(1) escaped from its owner or keeper without the owner's or keeper's knowledge or fault, the animal shall be returned to its owner or keeper upon payment of the compensation prescribed in § 90.04 for its taking, advertising and keeping.

(R.C. § 951.12) (Rev. 2012)

§ 90.04 FEES.

(A) The person or municipality whose law enforcement officer takes an animal running at large in violation of § 90.01(A)(1) is entitled to receive from the owner or keeper of the animal the following compensation:

(1) For taking and advertising each horse, mule, head of cattle, bison, swine, sheep, goat, llama, alpaca, or goose, \$5.00; and

(2) Reasonable expenses actually incurred for keeping each animal described in division (A)(1) of this section.

(B) Compensation for taking, advertising, and keeping a single herd or flock shall not exceed \$50.00 when the flock or herd belongs to one person.

(R.C. § 951.13) (Rev. 2012)

§ 90.05 RABIES QUARANTINE ORDERS OF MAYOR.

(A) Whenever, in the judgment of the Mayor or his or her designee, rabies is prevalent, he or she shall declare a quarantine of all dogs in the municipality or a part thereof. During the quarantine, the owner, keeper or harbinger of any

dog shall keep it confined on the premises of the owner, keeper or harbinger or in a suitable pound or kennel, at the expense of the owner, keeper or harbinger, except that a dog may be permitted to leave the premises of its owner, keeper or harbinger if it is under leash or under the control of a responsible person. The quarantine order shall be considered an emergency and need not be published.

(B) When the quarantine has been declared, the Mayor or his or her designee may require the vaccination for rabies of all dogs within the municipality or part thereof. (R.C. § 955.26)

(C) No person shall violate a rabies quarantine order issued under this section or R.C. § 955.26. (R.C. § 955.39)

(D) Whoever violates division (C) of this section is guilty of a minor misdemeanor for a first offense; for each subsequent offense such person is guilty of a misdemeanor of the fourth degree. (R.C. § 955.99(C))

§ 90.06 INTERFERING WITH ENFORCEMENT OF QUARANTINE ORDERS.

(A) No person shall hinder, obstruct, resist or interfere with any enforcing officer while engaged in enforcing an order issued under § 90.05.

(B) It is a defense to prosecution under this section that the hindrance, obstruction, resistance, or interference alleged consisted of constitutionally protected speech only. Penalty, see § 90.99

§ 90.07 REPORTING ESCAPE OF EXOTIC OR DANGEROUS ANIMALS REQUIRED.

(A) The owner or keeper of any member of a species of the animal kingdom that escapes from the owner's or keeper's custody or control and that is not indigenous to this state or presents a risk of serious physical harm to persons or property, or both, shall, within one hour after the owner or keeper discovers or reasonably should have discovered the escape, report it to a law enforcement officer of the municipality and the sheriff of the county where the escape occurred, and the Clerk of the Legislative Authority where the escape occurred.

(B) If the office of the Clerk of the Legislative Authority is closed to the public at the time a report is required by division (A) of this section, it is sufficient compliance with division (A) of this section if the owner or keeper makes the report within one hour after the office is next open to the public.

(C) Whoever violates this section is guilty of a misdemeanor of the first degree. (R.C. § 2927.21) (Rev. 2006)

§ 90.08 DOGS MAY BE KILLED FOR CERTAIN ACTS.

Subject to R.C. § 955.261(A)(2) and (A)(3), a dog that is chasing or approaching in a menacing fashion or apparent attitude of attack that attempts to bite or otherwise endanger, or that kills or injures a person, or a dog that chases, threatens, harasses, injures, or kills livestock, poultry, other domestic animal, or other animal that is the property of another person, except a cat or another dog, can be killed at the time of that chasing, threatening, harassment, approaching, attempt, killing or injury. If, in attempting to kill such a dog, a person wounds it, the person is not liable to prosecution under the criminal laws or ordinances that punish cruelty to animals. Nothing in this section precludes a law enforcement officer from killing a dog that attacks a police dog as defined in R.C. § 2921.321. (R.C. § 955.28(A)) (Rev. 2009)

OFFENSES RELATING TO ANIMALS

§ 90.20 ABANDONING ANIMALS.

(A) No owner or keeper of a dog, cat, or other domestic animal shall abandon the animal. (R.C. § 959.01)

(B) Whoever violates division (A) of this section is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense. (R.C. § 959.99(E)(2)) (Rev. 2003)

§ 90.21 INJURING ANIMALS.

(A) No person shall maliciously, or willfully and without the consent of the owner, kill or injure a dog, cat, or any other domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity. (R.C. § 959.02)

(B) Except as otherwise provided in this division, whoever violates division (A) of this section is guilty of a misdemeanor of the second degree. If the value of the animal killed or the injury done amounts to \$300 or more, whoever violates division (A) of this section is guilty of a misdemeanor of the first degree. (R.C. § 959.99(B))

(C) This section does not apply to a person killing or injuring an animal or attempting to do so while endeavoring to prevent it from trespassing upon his or her enclosure, or while it is so trespassing, or while driving it away from his or her premises; provided within 15 days thereafter, payment is made for damages done to such animal by killing or injuring, less the actual amount of damage done by such

animal while so trespassing, or a sufficient sum of money is deposited with the nearest judge of a county court or judge of a municipal court having jurisdiction within such time to cover the damages. The deposit shall remain in the custody of such judge until there is a determination of the damage resulting from such killing or injury and from the trespass. The judge and his or her bondsmen shall be responsible for the safekeeping of such money and for the payment thereof as for money collected upon a judgment.

(R.C. § 959.04)

§ 90.22 POISONING ANIMALS.

(A) No person shall maliciously, or willfully and without the consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to a dog, cat, or any other domestic animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by any such animal, either upon his or her own lands or the lands of another.

(R.C. § 959.03)

(B) Whoever violates division (A) of this section is guilty of a misdemeanor of the fourth degree.

(R.C. § 959.99(C))

(C) This section does not apply to a person killing or injuring an animal or attempting to do so while endeavoring to prevent it from trespassing upon his or her enclosure, or while it is so trespassing, or while driving it away from his or her premises; provided that within 15 days thereafter, payment is made for damages done to such animal by killing or injuring, less the actual amount of damage done by such animal while so trespassing, or a sufficient sum of money is deposited with the nearest judge of a county court or judge of a municipal court having jurisdiction within such time to cover the damages. The deposit shall remain in the custody of such judge until there is a determination of the damage resulting from such killing or injury and from the trespass. The judge and his or her bondsmen shall be responsible for the safekeeping of such money and for the payment thereof as for money collected upon a judgment.

(R.C. § 959.04)

§ 90.23 CRUELTY TO ANIMALS; CRUELTY TO COMPANION ANIMALS.

(A) No person shall:

(1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during the confinement with a sufficient quantity of good wholesome food and water;

(2) Impound or confine an animal without affording it, during the confinement, access to shelter from

wind, rain, snow, or excessive direct sunlight, if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. This division does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, *SHELTER* means an artificial enclosure, windbreak, sunshade, or natural windbreak or sunshade that is developed from the earth's contour, tree development, or vegetation;

(3) Carry or convey an animal in a cruel or inhuman manner;

(4) Keep animals other than cattle, poultry or fowl, swine, sheep, or goats in an enclosure without wholesome exercise and change of air, nor feed cows on food that produces impure or unwholesome milk;

(5) Detain livestock in railroad cars or compartments longer than 28 hours after they are so placed without supplying them with necessary food, water, and attention, nor permit the stock to be so crowded as to overlie, crush, wound, or kill each other.

(B) Upon the written request of the owner or person in custody of any particular shipment of livestock, which written request shall be separate and apart from any printed bill of lading or other railroad form, the length of time in which the livestock may be detained in any cars or compartment without food, water, and attention may be extended to 36 hours without penalty therefor. Division (A) of this section does not prevent the dehorning of cattle.

(C) All fines collected for violations of division (A) of this section shall be paid to the society or association for the prevention of cruelty to animals, if there is one in the municipality; otherwise, all fines shall be paid to the General Fund.

(R.C. § 959.13)

(D) Cruelty to companion animals.

(1) As used in this section:

COMPANION ANIMAL. Means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept. The term does not include livestock or any wild animal.

CRUELTY. Has the same meaning as in R.C. § 1717.01.

FEDERAL ANIMAL WELFARE ACT. Means the "Laboratory Animal Act of 1966", Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C. §§ 2131 et seq., as amended by the "Animal Welfare Act of 1970", Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976", Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985", Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.

PRACTICE OF VETERINARY MEDICINE. Has the same meaning as in R.C. § 4741.01.

RESIDENTIAL DWELLING. Means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.

TORMENT. Has the same meaning as in R.C. § 1717.01.

TORTURE. Has the same meaning as in R.C. § 1717.01.

WILD ANIMAL. Has the same meaning as in R.C. § 1531.01.

(2) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.

(3) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:

(a) Torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against the companion animal;

(b) Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment or confinement in any of those specified manners.

(4) Divisions (D)(2) and (D)(3) of this section do not apply to any of the following:

(a) A companion animal used in scientific research conducted by an institution in accordance with the Federal Animal Welfare Act and related regulations;

(b) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under R.C. Chapter 4741;

(c) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;

(d) The use of common training devices, if the companion animal is being treated in accordance with

usual and commonly accepted practices for the training of animals;

(e) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under R.C. Chapter 4741.

(5) Notwithstanding any section of the Ohio Revised Code that otherwise provides for the distribution of fine moneys, the Clerk of Court shall forward all fines the Clerk collects that are so imposed for any violation of this division (E) to the Treasurer of the municipality, whose county humane society or law enforcement agency is to be paid the fine money as determined under this division. The Treasurer shall pay the fine moneys to the county humane society or the county, township, municipal corporation, or state law enforcement agency in this state that primarily was responsible for or involved in the investigation and prosecution of the violation. If a county humane society receives any fine moneys under this division, the county humane society shall use the fine moneys to provide the training that is required for humane agents under R.C. § 1717.06.

(R.C. § 959.131) (Rev. 2003)

(E) Whoever violates division (A) of this section is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition including but not limited to the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this division, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.

(R.C. § 959.99(D))

(F) (1) Whoever violates division (D)(2) of this section is guilty of a misdemeanor of the first degree on a first offense and a felony to be prosecuted under appropriate state law on each subsequent offense.

(2) Whoever violates division (D)(3) of this section is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(3) (a) A court may order a person who is convicted of or pleads guilty to a violation of division (D) of this section to forfeit to an impounding agency, as defined in R.C. § 959.132, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.

(b) A court may order a person who is convicted of or pleads guilty to a violation of division (D) of this section to reimburse an impounding agency for the

reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under R.C. § 959.132.

(4) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of division (D) of this section suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

(R.C. § 959.99(E)) (Rev. 2003)

Statutory reference:

Impoundment of companion animals; notice and hearing, see R.C. § 959.132

§ 90.24 ANIMAL FIGHTS.

(A) No person shall knowingly engage in or be employed at cockfighting, bearbaiting, or pitting an animal against another, no person shall receive money for the admission of another to a place kept for this purpose; no person shall use, train, or possess any animal for seizing, detaining, or mistreating a domestic animal. Any person who knowingly purchases a ticket of admission to such place, or is present thereat, or witnesses such spectacle, is an aider and abettor.

(R.C. § 959.15)

(B) Whoever violates division (A) of this section is guilty of a misdemeanor of the fourth degree.

(R.C. § 959.99(C))

Statutory reference:

Dogfighting, felony provisions, see R.C. § 959.16

§ 90.25 TRAPSHOOTING.

(A) Live birds or fowl shall not be used as targets in trapshooting.

(R.C. § 959.17)

(B) Whoever violates division (A) of this section is guilty of a misdemeanor of the fourth degree.

(R.C. § 959.99(C))

§ 90.26 LOUD DOG.

(A) No person shall own, harbor or keep in custody a dog which disturbs the peace by barking, yelping, howling or making other loud noises to the annoyance and/or discomfort of any person. Continuous barking, yelping, howling and/or making other loud noises for 15 consecutive minutes by such dog, whether confined inside a residence or building or to the outside area, shall be deemed to have

disturbed the peace and to have caused the annoyance and discomfort of persons; provided, that at the time of the complaint, no person or persons were trespassing or threatening to trespass upon the private property of the owner, and provided that the dog was not being teased or provoked in any manner.

(B) Any person who shall allow any dog habitually to remain, be lodged or fed within any dwelling, building, yard or enclosure owned or occupied by such person shall be considered as harboring or keeping such dog.

(C) Upon an initial complaint, an enforcement officer shall warn the person in writing of the violation. Upon a second such complaint within 30 days, the enforcement officer shall charge the person with a violation of this section.

(D) Division (A) of this section does not apply to owners, operators or employees of licensed veterinary hospitals, licensed kennels, or licensed animal boarding establishments, nor does this section apply to blind, deaf or hearing impaired, or mobility impaired persons when the dog serves as an assistance dog.

(E) Whoever violates this section is guilty of a minor misdemeanor.

(Rev. 2007)

Cross-reference:

Nuisances generally, see Chapter 93

§ 90.27 DOG TAGS.

(A) No owner of a dog, except a dog constantly confined to a registered kennel, shall fail to require the dog to wear, at all times, a valid tag issued in connection with a certificate of registration. A dog's failure at any time to wear a valid tag shall be prima facie evidence of a lack of registration and shall subject any dog found not wearing such tag to impoundment, sale, or destruction.

(R.C. § 955.10)

(B) Whoever violates division (A) of this section shall be guilty of a minor misdemeanor.

(R.C. § 955.99(B))

§ 90.28 DANGEROUS AND VICIOUS DOG DEFINED; TRANSFER OF OWNERSHIP CERTIFICATE; FORM STATING DOG'S PRIOR BEHAVIOR.

(A) As used in this section:

DANGEROUS DOG. Means a dog that, without provocation, and subject to the following sentence, has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person while that dog is off the premises of its owner, keeper or harbinger or some other

responsible person, or not physically restrained or confined in a locked pen which has a top, locked fenced yard, or other locked enclosure which has a top. The term does not include a police dog that has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person while the police dog is being used to assist law enforcement officers in the performance of their official duties.

MENACING FASHION. Means a dog that would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person.

POLICE DOG. Means a dog that has been trained and may be used to assist one or more law enforcement officers in the performance of their official duties.

VICIOUS DOG.

(a) Means a dog that, without provocation and subject to division (b) of this definition, meets any of the following criteria:

1. Has killed or caused serious injury to any person;
2. Has caused injury, other than killing or serious injury, to any person, or has killed another dog;
3. Belongs to a breed that is commonly known as a pit bull dog. The ownership, keeping, or harboring of such a breed of dog shall be prima facie evidence of the ownership, keeping or harboring of a vicious dog.

(b) The term does not include either of the following:

1. A police dog that has killed or caused serious injury to any person or that has caused injury, other than killing or serious injury, to any person while the police dog is being used to assist law enforcement officers in the performance of their official duties.
2. A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper or harbinger of the dog.

WITHOUT PROVOCATION. A dog acts without provocation when it was not teased, tormented, or abused by a person, or it was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity.

(B) Upon the transfer of ownership of any dog, the seller of the dog shall give the buyer a transfer of ownership

certificate that shall be signed by the seller. The certificate shall contain the registration number of the dog, the name of the seller, and a brief description of the dog. Blank forms of the certificate may be obtained from the County Auditor.

(C) Prior to the transfer of ownership or possession of any dog, upon the buyer's or other transferee's request, the seller or other transferor of the dog shall give to the person a written notice relative to the behavior and propensities of the dog.

(D) Within ten days after the transfer of ownership or possession of any dog, if the seller or transferor of the dog has knowledge that the dog is a dangerous or vicious dog, he or she shall give to the buyer or transferee, the Board of Health for the district in which the buyer or other transferee resides, and the dog warden of the county in which the buyer or other transferee resides a completed copy of a written form on which the seller shall furnish the following information:

- (1) The name and address of the buyer or other transferee of the dog;
- (2) The age, sex, color, breed and current registration number of the dog;
- (3) In addition, the seller shall answer the following questions which shall be specifically stated on the form as follows:

Has the dog ever chased or attempted to attack or bite a person? If yes, describe the incident(s) in which the behavior occurred.

Has the dog ever bitten a person? If yes, describe the incident(s) in which the behavior occurred.

Has the dog ever seriously injured or killed a person? If yes, describe the incident(s) in which the behavior occurred.

(4) The dog warden of the county in which the seller resides furnishes the form to the seller at no cost. (R.C. § 955.11) (Rev. 1999)

(E) (1) Whoever violates division (B) of this section is guilty of a minor misdemeanor.

(2) Whoever violates division (C) or (D) of this section is guilty of a minor misdemeanor on a first offense and of a misdemeanor of the fourth degree on each subsequent offense. (R.C. § 955.99(A))

§ 90.29 FAILURE TO REGISTER DOG OR DOG KENNEL.

(A) No owner, keeper, or harbinger of a dog more than three months of age, nor owner of a dog kennel, shall

fail to file an application for registration required by R.C. § 955.01, nor shall he or she fail to pay the legal fee therefor.

(R.C. § 955.21)

(B) Whoever violates this section shall be fined not less than \$25 nor more than \$100 on a first offense, and on each subsequent offense shall be fined not less than \$75 nor more than \$250 and may be imprisoned for not more than 30 days.

(R.C. § 955.99(E))

§ 90.30 HINDERING THE CAPTURE OF UNREGISTERED DOG.

(A) No person shall obstruct or interfere with anyone lawfully engaged in capturing an unlicensed dog or making an examination of a dog wearing a tag.

(R.C. § 955.24)

(B) Whoever violates this section is guilty of a minor misdemeanor.

(R.C. § 955.99(B))

(C) It is a defense to prosecution under this section that the hindrance, obstruction, resistance, or interference alleged consisted of constitutionally protected speech only.

§ 90.31 UNLAWFUL TAG.

(A) No person shall own, keep, or harbor a dog wearing a fictitious, altered, or invalid registration tag or a registration tag not issued by the County Auditor in connection with the registration of that animal.

(R.C. § 955.25)

(B) Whoever violates this section is guilty of a minor misdemeanor.

(R.C. § 955.99(B))

§ 90.32 RIGHTS OF BLIND, DEAF OR HEARING IMPAIRED, OR MOBILITY IMPAIRED PERSON, OR TRAINER WITH ASSISTANCE DOG.

(A) When either a blind, deaf or hearing impaired, or mobility impaired person, or a trainer of an assistance dog is accompanied by an assistance dog, the person or the trainer, as applicable, is entitled to the full and equal accommodations, advantages, facilities, and privileges of all public conveyances, hotels, and lodging places, all places of public accommodation, amusement, or resort, and other places to which the general public is invited, and may take the dog into such conveyances and places, subject only to the conditions and limitations applicable to all persons not so accompanied, except that:

(1) The dog shall not occupy a seat in any public conveyance; and

(2) The dog shall be leashed while using the facilities of a common carrier.

(3) Any dog in training to become an assistance dog shall be covered by a liability insurance policy provided by the nonprofit special agency engaged in such work protecting members of the public against personal injury or property damage caused by the dog.

(B) No person shall deprive a blind, deaf or hearing impaired, or mobility impaired person, or a trainer of an assistance dog who is accompanied by an assistance dog of any of the advantages, facilities, or privileges provided in division (A) of this section, nor charge the person or trainer a fee or charge for the dog.

(R.C. § 955.43(A), (B)) (Rev. 2007)

(C) As used in this section:

ASSISTANCE DOG. Means a guide dog, hearing dog, or service dog that has been trained by a nonprofit special agency.

BLIND. Means either of the following:

(a) Vision 20/200 or less in the better eye with proper correction;

(b) Field defect in the better eye with proper correction that contracts the peripheral field so that the diameter of the visual field subtends an angle no greater than 20 degrees.

GUIDE DOG. Means a dog that has been trained or is in training to assist a blind person.

HEARING DOG. Means a dog that has been trained or is in training to assist a deaf or hearing-impaired person.

INSTITUTIONS OF EDUCATION. Means:

(a) Any state university or college as defined in R.C. § 3345.32;

(b) Any private college or university that holds a certificate of authorization issued by the Ohio Board of Regents pursuant to R.C. Chapter 1713;

(c) Any elementary or secondary school operated by a board of education;

(d) Any chartered or nonchartered nonpublic elementary or secondary school; or

(e) Any school issued a certificate of registration by the state Board of Career Colleges and Schools.

MOBILITY IMPAIRED PERSON. Means any person, regardless of age, who is subject to a physiological

defect or deficiency regardless of its cause, nature, or extent that renders the person unable to move about without the aid of crutches, a wheelchair, or any other form of support, or that limits the person's functional ability to ambulate, climb, descend, sit, rise, or perform any related function. The term includes a person with a neurological or psychological disability that limits the person's functional ability to ambulate, climb, descend, sit, rise, or perform any related function, and also includes a person with a seizure disorder and a person who is diagnosed with autism.

SERVICE DOG. Means a dog that has been trained or is in training to assist a mobility impaired person. (R.C. §§ 955.011(B), 955.43(C)) (Rev. 2012)

(D) Whoever violates any provision of this section shall be guilty of a misdemeanor of the fourth degree. (R.C. § 955.99(D))

Cross-reference:

Assaulting assistance dog, see § 136.15

§ 90.33 RETAIL SALE AND TRANSPORTATION OF DOGS.

(A) No person shall sell, offer to sell, or expose for sale to the general public at retail any dog under the age of eight weeks.

(B) No person shall receive or ship, for sale to the general public at retail, any dog that is not accompanied by a certificate, issued by a licensed veterinarian who is accredited by the United States Department of Agriculture and authorized to issue health certificates for animals in interstate commerce, certifying that the dog is sufficiently sound and healthy to be reasonably expected to withstand the intended transportation without adverse effect.

(C) This section does not apply to the transportation of dogs in interstate commerce by common carrier, provided that neither the point of shipment nor the point of receiving is within this state.

(D) No person responsible for the transportation of a pregnant dog shall be liable in damages for any injury or illness of, or the death of, the dog or any puppies, whenever the injuries, illness or death results from the birth of such puppies during the time the dog is being transported. (R.C. § 955.50)

(E) Whoever violates this section is guilty of a minor misdemeanor for a first offense; each subsequent offense is a misdemeanor of the fourth degree. (R.C. § 955.99(C))

§ 90.34 COLORING RABBITS OR BABY POULTRY; REGULATION OF SALE AND DISPLAY.

(A) No person shall dye or otherwise color any rabbit or baby poultry, including but not limited to chicks and ducklings. No person shall sell, offer for sale, expose for sale, raffle or give away any rabbit or baby poultry which has been dyed or otherwise colored. No poultry younger than four weeks of age may be sold, given away or otherwise distributed to any person in lots of less than six. Stores, shops, vendors and others offering young poultry for sale or other distribution shall provide and operate brooders or other heating devices that may be necessary to maintain poultry in good health, and shall keep adequate food and water available to the poultry at all times. (R.C. § 925.62)

(B) Whoever violates this section is guilty of a misdemeanor of the fourth degree on a first offense; each subsequent offense is a misdemeanor of the third degree. (R.C. § 925.99(B))

§ 90.35 JACKLIGHTING PROHIBITED.

(A) No person shall throw or cast the rays of a spotlight or other artificial light from any vehicle into any field, woodland, or forest while having in his or her possession a hunting device, or throw or cast the rays of a spotlight or other artificial light from any vehicle into any field, woodland, or forest for the purpose of locating a wild animal.

(B) This section does not apply to law enforcement officers, wildlife officers, military personnel, and officers or employees of the Department of Natural Resources while in the performance of their duties, or to any landowner or lessee having a reason to use a light while engaged in surveillance or protection of his or her property.

(C) An officer whose duty it is to enforce this chapter may arrest a person whom he or she has reasonable grounds to believe is violating this section, search the vehicle for firearms or other hunting implements in the possession or under the control of that person, and seize the same. (R.C. § 1533.161)

(D) Whoever violates division (A) of this section is guilty of a misdemeanor of the third degree. (R.C. § 1533.99(B))

§ 90.99 PENALTY.

Whoever violates any provision of this chapter for which another penalty is not specifically provided shall be subject to the penalty as provided in § 10.99.

CHAPTER 91: FIREWORKS, EXPLOSIVES, FIRE PREVENTION

Section

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Failure to secure dangerous ordnance, see § 137.06
Fire Department, see Chapter 35
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Statutory reference:

Fire Marshal, fire safety, see R.C. Chapter 3737
Fireworks, state law provisions, see R.C. Chapter 3743
Ohio Fire Code, see O.A.C. Chapter 1301:7-7
Open burning, see O.A.C. Chapter 3745-19
Power to regulate explosives, see R.C. § 715.60

FIREWORKS AND EXPLOSIVES

§ 91.01 DEFINITIONS.

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

1.3G FIREWORKS. Display fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation "Division 1.3" in Title 49 of the Code of Federal Regulations.

1.4G FIREWORKS. Consumer fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation "Division 1.4" in Title 49 of the Code of Federal Regulations.

BEER. Has the same meaning as in R.C. § 4301.01.

BOOBY TRAP. A small tube that has a string protruding from both ends that has a friction-sensitive composition and that is ignited by pulling the ends of the string.

CIGARETTE LOAD. A small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.

CONTROLLED SUBSTANCE. Has the same meaning as in R.C. § 3719.01.

DISCHARGE SITE. An area immediately surrounding the mortars used to fire aerial shells.

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. (R.C. § 2923.11) (Rev. 2009)

FIREWORKS. Any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, except ordinary matches and except as provided in R.C. § 3743.80.

FIREWORKS INCIDENT. Any action or omission that occurs at a fireworks exhibition that results in injury or death, or a substantial risk of injury or death, to any person, and that involves either of the following:

(1) The handling or other use, or the results of the handling or other use, of fireworks or associated equipment or other materials;

(2) The failure of any person to comply with any applicable requirement imposed by this chapter or R.C. Chapter 3743, or any applicable rule adopted under this chapter or R.C. Chapter 3743.

FIREWORKS INCIDENT SITE. A discharge site or other location at a fireworks exhibition where a fireworks incident occurs, a location where an injury or death associated with a fireworks incident occurs, or a location where evidence of a fireworks incident or an injury or death associated with a fireworks incident is found

FIREWORKS PLANT. All buildings and other structures in which the manufacturing of fireworks, or the storage or sale of manufactured fireworks by a manufacturer, takes place.

HIGHWAY. Any public street, road, alley, way, lane or other public thoroughfare.

INTOXICATING LIQUOR. Has the same meaning as in R.C. § 4301.01.

LICENSED BUILDING. A building on the licensed premises of a licensed manufacturer or wholesaler of fireworks that is approved for occupancy by the building official having jurisdiction.

LICENSED EXHIBITOR OF FIREWORKS or **LICENSED EXHIBITOR.** A person licensed pursuant to R.C. §§ 3743.50 through 3743.55.

LICENSED MANUFACTURER OF FIREWORKS or **LICENSED MANUFACTURER.** A person licensed pursuant to R.C. §§ 3743.02 through 3743.08.

LICENSED PREMISES. The real estate upon which a licensed manufacturer or wholesaler of fireworks conducts business.

LICENSED WHOLESALER OF FIREWORKS or **LICENSED WHOLESALER.** A person licensed pursuant to R.C. §§ 3743.15 through 3743.21.

MANUFACTURING OF FIREWORKS. The making of fireworks from raw materials, none of which in and of themselves constitute fireworks, or the processing of fireworks.

NOVELTIES and **TRICK NOISEMAKERS.**

(1) Devices that produce a small report intended to surprise the user, including but not limited to booby traps, cigarette loads, party poppers, and snappers;

(2) Snakes or glow worms;

(3) Smoke devices;

(4) Trick matches.

PARTY POPPER. A small plastic or paper item that contains not more than 16 milligrams of friction-sensitive explosive composition that is ignited by pulling a string protruding from the item, and from which paper streamers are expelled when the item is ignited.

PROCESSING OF FIREWORKS. The making of fireworks from materials all or part of which in and of themselves constitute fireworks, but does not include the mere packaging or repackaging of fireworks.

RAILROAD. Any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs, and sidings installed and primarily used in serving a mine, quarry or plant.

RETAIL SALE or **SELL AT RETAIL.** A sale of fireworks to a purchaser who intends to use the fireworks and not to resell them.

SMOKE DEVICE. A tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

SNAKE or **GLOW WORM.** A device that consists of a pressed pellet of pyrotechnic composition that produces a large snake-like ash upon burning, which ash expands in length as the pellet burns.

SNAPPER. A small paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand and that, when dropped, implodes.

STORAGE LOCATION. A single parcel or contiguous parcels of real estate approved by the Fire Marshal pursuant to R.C. § 3743.04(I) or R.C. § 3743.17(G) that are separate from a licensed premises containing a retail showroom, and which parcel or parcels a licensed manufacturer or wholesaler of fireworks may use only for the distribution, possession, and storage of fireworks in accordance with this chapter.

TRICK MATCH. A kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.

WHOLESALE SALE or SELL AT WHOLESALE. A sale of fireworks to a purchaser who intends to resell the fireworks so purchased.

WIRE SPARKLER. A sparkler consisting of a wire or stick coated with a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains no more than 100 grams of this mixture.
(R.C. § 3743.01) (Rev. 2009)

§ 91.02 POSSESSION, SALE, AND USE OF FIREWORKS.

(A) No person shall possess fireworks in this municipality or shall possess for sale or sell fireworks in this municipality, except a licensed manufacturer of fireworks as authorized by R.C. §§ 3743.02 through 3743.08, a licensed wholesaler of fireworks as authorized by R.C. §§ 3743.15 through 3743.21, a shipping permit holder as authorized by R.C. § 3743.40, an out-of-state resident as authorized by R.C. § 3743.44, a resident of this state as authorized by R.C. § 3743.45, or a licensed exhibitor of fireworks as authorized by R.C. §§ 3743.50 through 3743.55, or as authorized by any municipal ordinance that is substantially equivalent to any of these statutes, and except as provided in R.C. § 3743.80 or a substantially equivalent municipal ordinance.

(B) Except as provided in R.C. § 3743.80 or a substantially equivalent municipal ordinance, and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to R.C. §§ 3743.50 through 3743.55 or a substantially equivalent municipal ordinance, no person shall discharge, ignite, or explode any fireworks in this municipality.

(C) No person shall use in a theater or public hall what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.

(D) No person shall sell fireworks of any kind to a person under 18 years of age. No person under 18 years of

age shall enter a fireworks sales showroom unless that person is accompanied by a parent, legal guardian, or other responsible adult. No person under 18 years of age shall touch or possess fireworks on a licensed premises without the consent of the licensee. A licensee may eject any person from a licensed premises that is in any way disruptive to the safe operation of the premises.

(E) No person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder shall possess 1.3G fireworks in this municipality.
(R.C. § 3743.65(A) - (E)) (Rev. 2009) Penalty, see § 91.99

Statutory reference:

Felony offense for disabling a fire suppression system, see R.C. § 3743.65(F)

§ 91.03 PERMIT TO USE FIREWORKS.

(A) An exhibitor of fireworks licensed under R.C. §§ 3743.50 through 3743.55 who wishes to conduct a public fireworks exhibition shall apply for approval to conduct the exhibition to the Fire Chief or fire prevention officer and to the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, having jurisdiction over the premises.

(B) The approval required by division (A) of this section shall be evidenced by the Fire Chief or fire prevention officer and by the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, signing a permit for the exhibition. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the State Fire Marshal or, if available, from the Fire Chief, a fire prevention officer, the Police Chief or other similar chief law enforcement officer, or a designee of the Police Chief or other similar chief law enforcement officer.

(C) Before a permit is signed and issued to a licensed exhibitor of fireworks, the Fire Chief or fire prevention officer, in consultation with the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, shall inspect the premises on which the exhibition will take place and shall determine that, in fact, the applicant for the permit is a licensed exhibitor of fireworks. Each applicant shall show his or her license as an exhibitor of fireworks to the Fire Chief or fire prevention officer.

(D) The Fire Chief or fire prevention officer and the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, shall give approval to conduct a public fireworks exhibition only if satisfied, based on the inspection, that the premises on which the exhibition will be conducted allow the exhibitor to comply with the rules adopted by the State Fire Marshal pursuant to R.C.

§ 3743.53(B) and (E) and that the applicant is, in fact, a licensed exhibitor of fireworks. The Fire Chief or fire prevention officer, in consultation with the Police Chief or other similar chief law enforcement officer or with the designee of the Police Chief or other similar chief law enforcement officer, may inspect the premises immediately prior to the exhibition to determine if the exhibitor has complied with the rules, and may revoke a permit for noncompliance with the rules.

(E) If the Legislative Authority has prescribed a fee for the issuance of a permit for a public fireworks exhibition, the Fire Chief or fire prevention officer and Police Chief or other similar chief law enforcement officer, or their designee, shall not issue a permit until the exhibitor pays the requisite fee.

(F) Each exhibitor shall provide an indemnity bond in the amount of at least one million dollars with surety satisfactory to the Fire Chief or fire prevention officer and to the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death, or loss to person or property emanating from the fireworks exhibitor, or proof of insurance coverage of at least one million dollars for liability arising from injury, death, or loss of persons or property emanating from the fireworks exhibition. The Legislative Authority may require the exhibitor to provide an indemnity bond or proof of insurance coverage in amounts greater than those required by this division. The Fire Chief or fire prevention officer and Police Chief or other similar chief law enforcement officer, or their designee, shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this division or by the Legislative Authority.

(G) Each permit for a fireworks exhibition issued by the Fire Chief or fire prevention officer and by the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, shall contain a distinct number, designate the municipality, and identify the certified fire safety inspector, Fire Chief, or fire prevention officer who will be present before, during and after the exhibition, where appropriate. A copy of each permit issued shall be forwarded by the Fire Chief or fire prevention officer and by the Police Chief or other similar chief law enforcement officer, or designee of the Police Chief or other similar chief law enforcement officer, issuing it to the State Fire Marshal. A permit is not transferable or assignable.

(H) The Fire Chief or fire prevention officer and Police Chief or other similar chief law enforcement officer, or designee of the Police Chief or other similar chief law enforcement officer, shall keep a record of issued permits for fireworks exhibitions. In this list, the Fire Chief, fire prevention officer, Police Chief or other similar chief law enforcement officer, or designee of the Police Chief or other

similar chief law enforcement officer, shall list the name of the exhibitor, his or her license number, the premises on which the exhibition will be conducted, the date and time of the exhibition, and the number and political subdivision designation of the permit issued to the exhibitor for the exhibition.

(I) The Legislative Authority shall require that a certified fire safety inspector, Fire Chief or fire prevention officer be present before, during and after the exhibition, and shall require the certified fire safety inspector, Fire Chief or fire prevention officer to inspect the premises where the exhibition is to take place and determine whether the exhibition is in compliance with this chapter and R.C. Chapter 3743.

(R.C. § 3743.54(B) - (F)) (Rev. 2002) Penalty, see § 91.99

Statutory reference:

Notice of fireworks incident, see R.C. § 3743.54I

§ 91.04 MANUFACTURING OR WHOLESALE SALE WITHOUT A LICENSE; PROHIBITIONS.

(A) No licensed manufacturer or licensed wholesaler of fireworks shall knowingly fail to comply with the rules adopted by the State Fire Marshal pursuant to R.C. §§ 3743.05 and 3743.18 or the requirements of R.C. §§ 3743.06 and 3743.19.

(B) No licensed manufacturer or licensed wholesaler of fireworks shall fail to maintain complete inventory, wholesale sale and retail records as required by R.C. §§ 3743.07 and 3743.20, or to permit an inspection of these records or the premises of a fireworks plant or the wholesaler pursuant to R.C. §§ 3743.08 and 3743.21.

(C) No licensed manufacturer or licensed wholesaler of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to R.C. §§ 3743.01(B)(1) and 3743.21(B)(1) within the specified period of time.

(D) No licensed manufacturer or licensed wholesaler of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to R.C. §§ 3743.08(B)(2) and 3743.21(B)(2) until the nonconformities are eliminated, corrected or otherwise remedied or the 72 hour period specified in those divisions has expired, whichever occurs first.

(E) No person shall smoke or shall carry a pipe, cigarette, or cigar, or a match, lighter, other flame-producing item, or open flame on, or shall carry a concealed source of ignition into, the premises of a fireworks plant or on the premises of a wholesaler of fireworks, except as smoking is authorized in specified lunchrooms or restrooms by a manufacturer or wholesaler pursuant to R.C. § 3743.06(C) or R.C. § 3743.19(D).

(F) No person shall have possession or control of, or be under the influence of, any intoxicating liquor, beer, or

controlled substance while on the premises of the fireworks plant or on the premises of a wholesaler of fireworks.

(R.C. §§ 3743.60(E) - (J), 3743.61(E) - (J)) (Rev. 1998) Penalty, see § 91.99

Statutory reference:

Felony provisions, see R.C. §§ 3743.60(A) through (D) and 3743.61(A) through (D)

§ 91.05 PURCHASERS TO COMPLY WITH LAW; UNAUTHORIZED PURCHASES.

(A) No person who resides in another state and purchases fireworks in this municipality shall obtain possession of the fireworks in this municipality unless the person complies with R.C. § 3743.44, provided that knowingly making a false statement on the fireworks purchasers form is not a violation of this section but is a violation of R.C. § 2921.13 (Falsification) or a substantially equivalent municipal ordinance.

(B) No person who resides in another state and who purchases fireworks in this municipality shall obtain possession of fireworks in this municipality other than from a licensed manufacturer or wholesaler, or fail, when transporting the fireworks, to transport them directly out of the state within 72 hours after the time of their purchase. No such person shall give or sell to any other person in this municipality fireworks that the person has acquired in this state.

(C) No person who resides in this state and purchases fireworks in this municipality shall obtain possession of the fireworks in this municipality unless the person complies with R.C. § 3743.45, provided that knowingly making a false statement on the fireworks purchasers form is not a violation of this section but is a violation of R.C. § 2921.13 (Falsification) or a substantially equivalent municipal ordinance.

(D) No person who resides in this state and who purchases fireworks in this municipality under R.C. § 3743.45 shall obtain possession of the fireworks in this municipality other than from a licensed manufacturer or licensed wholesaler, or fail, when transporting the fireworks, to transport them directly out of the state within 48 hours after the time of their purchase. No such person shall give or sell to any other person in this municipality fireworks that the person has acquired in this state. (R.C. § 3743.63) (Rev. 1999) Penalty, see § 91.99

§ 91.06 EXHIBITION WITHOUT A LICENSE; PROHIBITIONS FOR EXHIBITIONS.

(A) No licensed exhibitor of fireworks shall fail to comply with the applicable requirements of the rules adopted by the State Fire Marshal pursuant to R.C. § 3743.53(B) and (E) or to comply with R.C. § 3743.53(C) and (D).

(B) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to R.C. § 3743.54 or a substantially equivalent municipal ordinance, or if a permit so secured is revoked by a Fire Chief or fire prevention officer, in consultation with a Police Chief or other similar chief law enforcement officer, or with a designee of a Police Chief or other similar chief law enforcement officer, pursuant to those sections.

(C) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with R.C. §§ 3743.54 and 3743.55, or a substantially equivalent municipal ordinance.

(D) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have possession or control of, or be under the influence of, any intoxicating liquor, beer, or controlled substance while on the premises on which the exhibition is being conducted.

(E) No licensed exhibitor of fireworks shall permit an employee to assist the licensed exhibitor in conducting fireworks exhibitions unless the employee is registered with the State Fire Marshal under R.C. § 3743.56. (R.C. § 3743.64(C) - (G)) (Rev. 2002) Penalty, see § 91.99

Statutory reference:

Felony provisions, see R.C. § 3743.64(A), (B), and (H) Notice of fireworks incident, see R.C. § 3743.541

§ 91.07 UNAUTHORIZED TRANSPORTATION OR SHIPPING.

(A) No person shall transport fireworks in this municipality except in accordance with the rules adopted by the State Fire Marshal pursuant to R.C. § 3743.58.

(B) As used in this division, **FIREWORKS** includes only 1.3G and 1.4G fireworks. No person shall ship fireworks into this municipality by mail, parcel post, or common carrier unless the person possesses a valid shipping permit issued under R.C. § 3743.40, and the fireworks are shipped directly to the holder of a license issued under R.C. § 3743.03, 3743.16 or 3743.51.

(C) No person shall ship fireworks within this municipality by mail, parcel post, or common carrier unless the fireworks are shipped directly to the holder of a license issued under R.C. § 3743.01, 3743.16 or 3743.51. (R.C. § 3743.66) (Rev. 1998) Penalty, see § 91.99

§ 91.08 APPLICATION OF SUBCHAPTER.

This subchapter does not apply to the following:

(A) The manufacture, sale, possession, transportation, storage, or use in emergency situations of pyrotechnic

signaling devices and distress signals for marine, aviation, or highway use;

(B) The manufacture, sale, possession, transportation, storage or use of fuses, torpedoes, or other signals necessary for the safe operation of railroads;

(C) The manufacture, sale, possession, transportation, storage or use of blank cartridges in connection with theaters or shows, or in connection with athletics as signals for ceremonial purposes;

(D) The manufacture for, the transportation, storage, possession or use by, or the sale to the armed forces of the United States and the militia of this state of pyrotechnic devices;

(E) The manufacture, sale, possession, transportation, storage or use of toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing 0.25 grains or less of explosive material are used, provided that they are constructed so that a hand cannot come into contact with a cap when it is in place for explosion, or apply to the manufacture, sale, possession, transportation, storage or use of those caps;

(F) The manufacture, sale, possession, transportation, storage or use of novelties and trick noisemakers, auto burglar alarms, or model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models;

(G) The manufacture, sale, possession, transportation, storage or use of wire sparklers.

(H) The conduct of radio-controlled special effect exhibitions that use an explosive black powder charge of not more than one-quarter pound per charge, and that are not connected in any manner to propellant charges; provided, that the exhibition complies with all of the following:

(1) No explosive aerial display is conducted in the exhibition;

(2) The exhibition is separated from spectators by not less than 200 feet;

(3) The person conducting the exhibition complies with regulations of the Bureau of Alcohol, Tobacco and Firearms of the United States Department of the Treasury and the United States Department of Transportation with respect to the storage and transport of the explosive black powder used in the exhibition.
(R.C. § 3743.80) (Rev. 2008)

§ 91.09 ARREST OF OFFENDER; SEIZURE AND FORFEITURE OF FIREWORKS; DISTRIBUTION OF FINES.

(A) The Fire Marshal, an assistant fire marshal, or a certified fire safety inspector may arrest, or may cause the arrest of, any person whom he or she finds in the act of violating, or who he or she has reasonable cause to believe has violated, any provision of this subchapter. Any arrest shall be made in accordance with statutory and constitutional provisions governing arrests by law enforcement officers.

(B) If the Fire Marshal, an assistant fire marshal, or certified fire safety inspector has probable cause to believe that fireworks are being manufactured, sold, possessed, transported, or used in violation of this subchapter, he or she may seize the fireworks. Any seizure of fireworks shall be made in accordance with statutory and constitutional provisions governing searches and seizures by law enforcement officers. The Fire Marshal's office or certified fire safety inspector's office shall impound at the site or safely keep seized fireworks pending the time they are no longer needed as evidence. A sample of the seized fireworks is sufficient for evidentiary purposes. The remainder of the seized fireworks may be disposed of pursuant to an order from a court of competent jurisdiction after notice and a hearing.

(C) Fireworks manufactured, sold, possessed, transported, or used in violation of this subchapter shall be forfeited by the offender. The Fire Marshal's office or certified fire safety inspector's office shall dispose of seized fireworks pursuant to the procedures specified in R.C. §§ 2981.11 to 2981.13 for the disposal of forfeited property by law enforcement agencies, and the Fire Marshal or that office is not liable for claims for the loss of or damages to the seized fireworks.

(D) This section does not affect the authority of peace officers, as defined in R.C. § 2935.01, to make arrests for violations of this subchapter or to seize fireworks manufactured, sold, possessed, transported, or used in violation of this subchapter.

(E) Any fines imposed for a violation of this subchapter relating to the sale, purchase, possession, or discharge of fireworks shall be distributed as set forth in R.C. § 3743.68(D).
(R.C. § 3743.68) (Rev. 2008)

§ 91.10 SAFETY REQUIREMENTS FOR FIREWORKS SHOWROOM STRUCTURES.

(A) (1) Except as described in division (A)(2) of this section, all retail sales of 1.4G fireworks by a licensed manufacturer or wholesaler shall only occur from an approved retail sales showroom on a licensed premises or from a representative sample showroom as described in this section on a licensed premises. For the purposes of this

section, a retail sale includes the transfer of the possession of the 1.4G fireworks from the licensed manufacturer or wholesaler to the purchaser of the fireworks.

(2) Sales of 1.4G fireworks to a licensed exhibitor for a properly permitted exhibition shall occur in accordance with the provisions of the Ohio Revised Code and rules adopted by the State Fire Marshal under R.C. Chapter 119. Such rules shall specify, at a minimum, that the licensed exhibitor holds a license under R.C. § 3743.51, that the exhibitor possesses a valid exhibition permit issued in accordance with R.C. § 3743.54, and that the fireworks shipped are to be used at the specifically permitted exhibition.

(B) All wholesale sales of fireworks by a licensed manufacturer or wholesaler shall only occur from a licensed premises to persons who intend to resell the fireworks purchased at wholesale. A wholesale sale by a licensed manufacturer or wholesaler may occur as follows:

(1) The direct sale and shipment of fireworks to a person outside of this state;

(2) From an approved retail sales showroom as described in this section;

(3) From a representative sample showroom as described in this section;

(4) By delivery of wholesale fireworks to a purchaser at a licensed premises outside of a structure or building on that premises. All other portions of the wholesale sales transaction may occur at any location on a licensed premises.

(5) Any other method as described in rules adopted by the Fire Marshal under R.C. Chapter 119.

(C) (1) A licensed manufacturer or wholesaler shall only sell 1.4G fireworks from a representative sample showroom or a retail sales showroom. Each licensed premises shall only contain one sales structure.

(2) A representative sample showroom shall consist of a structure constructed and maintained in accordance with the Nonresidential Building Code adopted under R.C. Chapter 3781 and the Fire Code adopted under R.C. § 3737.82 for a use and occupancy group that permits mercantile sales. A representative sample showroom shall not contain any pyrotechnics, pyrotechnic materials, fireworks, explosives, explosive materials, or any similar hazardous materials or substances. A representative sample showroom shall be used only for the public viewing of fireworks product representations, including paper materials, packaging materials, catalogs, photographs, or other similar product depictions. The delivery of product to a purchaser of fireworks at a licensed premises that has a representative sample structure shall not occur inside any structure on a licensed premises. Such product delivery shall occur on the licensed premises in a manner prescribed by

rules adopted by the State Fire Marshal pursuant to R.C. Chapter 119.

(3) If a manufacturer or wholesaler elects to conduct sales from a retail sales showroom, the showroom structures, to which the public may have any access and in which employees are required to work, on all licensed premises, shall comply with the following safety requirements:

(a) A fireworks showroom that is constructed or upon which expansion is undertaken on and after June 30, 1997, shall be equipped with interlinked fire detection, fire suppression, smoke exhaust, and smoke evacuation systems that are approved by the Superintendent of Labor in the Department of Commerce.

(b) A fireworks showroom that first begins to operate on or after June 30, 1997, and to which the public has access for retail purposes shall not exceed 5,000 square feet in floor area.

(c) A newly constructed or an existing fireworks showroom structure that exists on September 23, 2008, but that, on or after September 23, 2008, is altered or added to in a manner requiring the submission of plans, drawings, specifications, or data pursuant to R.C. § 3791.04, shall comply with a graphic floor plan layout that is approved by the State Fire Marshal and Superintendent of Labor showing width of aisles, parallel arrangement of aisles to exits, number of exits per wall, maximum occupancy load, evacuation plan for occupants, height of storage or display of merchandise, and other information as may be required by the State Fire Marshal and Superintendent of Labor.

(d) A fireworks showroom structure that exists on June 30, 1997, shall be in compliance on or after June 30, 1997, with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the State Fire Marshal and Superintendent of Labor, and that are submitted under seal as required by R.C. § 3791.04.

(D) The safety requirements established in division (C) of this section are not subject to any variance, waiver, or exclusion pursuant to this chapter or any applicable building code.

(R.C. § 3743.25) (Rev. 2010) Penalty, see § 91.99

§ 91.11 STORAGE OF EXPLOSIVES.

It shall be unlawful to store at any time within the municipality a quantity of gunpowder or other similar explosive weighing in excess of 100 pounds.

Penalty, see § 91.99

Statutory reference:

Illegal manufacture or processing of explosives, felony provisions, see R.C. § 2923.17

§ 91.12 BLASTING PERMIT.

No person shall cause a blast to occur within the municipality without making application in writing beforehand, setting forth the exact nature of the intended operation, and receiving a permit to blast from the Mayor or other proper municipal officer. The Mayor or other proper municipal officer before granting such permit may require the applicant to provide a bond to indemnify the municipality and all other persons against injury or damages which might result from the proposed blasting.
Penalty, see § 91.99

FIRE PREVENTION**§ 91.30 REMOVAL OF FLAMMABLE MATERIALS OR OBSTRUCTIONS.**

Any flammable or combustible materials not arranged or stored in such a manner as to afford reasonable safety against the danger of fire, or any matter stored or arranged in such a manner as to impede or prevent access to, or exit from, any premises in case of fire, shall be ordered by the Fire Chief to be removed or rearranged in such manner as to eliminate any fire hazard. The order shall be in writing and delivered to the owner, lessee, or occupant of the premises.
Penalty, see § 91.99

§ 91.31 PROTECTIVE APPLIANCES.

If the Fire Chief finds upon inspection that the appliances for protection against fire are wholly wanting or are inadequate in number, condition, size, arrangement, or efficiency for the reasonable protection of the premises against fire, he or she shall cause an order in writing to be delivered to the owner, lessee, or occupant requiring the installation, replacement, or repair of appliances adequate for the reasonable protection of the premises in case of fire.
Penalty, see § 91.99

§ 91.32 COMPLIANCE WITH ORDER.

An order to correct the hazardous conditions specified in either § 91.30 or 91.31 shall be directed to the owner, lessee, or occupant of the premises, building, or structure, or to the person in control of the articles, material, goods, wares, or merchandise, or to the owner thereof, as the circumstances may require. It is made the duty of the owner, lessee, or occupant of the premises, building, or structure, and of the person in control of such articles, materials, goods, wares, and merchandise, or the owner thereof, to comply with the order with all reasonable dispatch and diligence.
Penalty, see § 91.99

§ 91.33 WASTE RECEPTACLES.

Waste paper, ashes, oil rags, waste rags, excelsior, or any material of a similar hazardous nature shall not be accumulated in any cellar or any other portion of any building of any kind. Proper fireproof receptacles shall be provided for such hazardous materials.
Penalty, see § 91.99

§ 91.34 HOTEL TO HAVE FIRE WARNING DEVICE PRODUCING VISIBLE SIGNAL.

(A) Every hotel shall have available at least one operational single station automatic fire warning device approved by the Fire Chief that produces a visible warning signal when activated by every product of combustion. The device, at the discretion of the owner, may also be activated by an early warning fire protection system. Hotels having fewer than 75 rooms shall have at least one warning device available for its guests. Hotels having more than 75 rooms shall have available for its guests one device for every group of 75 rooms. Upon the request of a guest, such a device, if available, shall be installed in the guest's room.

(B) As used in this section, *HOTEL* means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests in which five or more rooms are used for accommodation of such guests, whether the rooms are in one or several structures, except as otherwise provided in R.C. § 5739.09(G).
(R.C. §§ 3781.107, 5739.01(M)) (Rev. 2010)

(C) Whoever violates the provisions of this section shall be fined not more than \$1,000.
(R.C. §§ 3791.02, 3791.03)

§ 91.35 FIRE SUPPRESSION SYSTEMS.

(A) Every building constructed in this municipality with floors used for human occupancy located more than 75 feet in height above the lower level of fire department vehicle access shall have a fire suppression system installed and in operation in conformity with the rules of the state Board of Building Standards adopted pursuant to R.C. § 3781.10.

(B) As used in this section:

FIRE SUPPRESSION SYSTEM. Means a system that includes devices and equipment to detect a fire, actuates an alarm, and suppress or control a fire.

HUMAN OCCUPANCY. Does not include floors of buildings where occupancy by humans is limited to ingress, egress, and limited access for maintenance and repair.
(R.C. § 3781.108(A), (B))

(C) Whoever violates the provisions of this section shall be fined not more than \$1,000.
(R.C. §§ 3791.02, 3791.03)

§ 91.36 VIOLATIONS OF STATE FIRE CODE PROHIBITED.

(A) No person shall knowingly violate any provision of the State Fire Code or any order made pursuant to it.
(R.C. § 3737.51(A))

(B) Except as a violation of R.C. § 2923.17, regarding the felonies of unlawful possession of a dangerous ordnance and illegal manufacture or processing of explosives, involves subject matter covered by the State Fire Code, whoever violates division (A) of this section is guilty of a misdemeanor of the first degree.

(R.C. § 3737.99(B))

Statutory reference:

*Fire Code violations, see R.C. §§ 3737.41 et seq.
Ohio Fire Code, see O.A.C. Chapter 1301:7-7*

§ 91.37 POSTING ARSON NOTICES IN HOTELS, MOTELS AND OTHER PLACES.

(A) The owner, operator or lessee of any hotel, motel or transient residential building shall post the provisions of R.C. §§ 2909.02 and 2909.03, regarding aggravated arson and arson, in a conspicuous place in each room occupied by guests in such building. The owner, operator or lessee of any nontransient residential building, institution, school or place of assembly shall post the provisions of such sections in conspicuous places upon such premises. No person shall fail to comply with this section.
(R.C. § 3737.61)

(B) Whoever violates division (A) of this section is guilty of a minor misdemeanor.
(R.C. § 3737.99(C))

§ 91.38 NEGLIGENT BURNING.

(A) No person shall set, kindle, or cause to be set or kindled any fire which, through his or her negligence, spreads beyond its immediate confines to any structure, field or wooded lot.
(R.C. § 3737.62)

(B) Whoever violates division (A) of this section is guilty of a misdemeanor of the fourth degree.
(R.C. § 3737.99(D))

Cross-reference:

Arson, see § 131.02

§ 91.39 SPREADING ALARM OF UNFRIENDLY FIRE.

(A) The owner, operator or lessee, an employee of any owner, operator or lessee, an occupant, and any person in direct control of any building regulated under the state building code, upon the discovery of an unfriendly fire, or upon receiving information that there is an unfriendly fire upon the premises, shall immediately, and with all reasonable dispatch and diligence, call or otherwise notify the fire department concerning the fire, and shall spread an alarm immediately to all occupants of the building.

(B) As used in this section, **UNFRIENDLY FIRE** means a fire of a destructive nature as distinguished from a controlled fire intended for a beneficial purpose.

(R.C. § 3737.63)

(C) Whoever violates this section is guilty of a misdemeanor of the third degree.

(R.C. § 3737.99(E))

§ 91.40 UNVENTED HEATERS.

(A) The use of a brazier, salamander, space heater, room heater, furnace, water heater, or other burner or heater using wood, coal, coke, fuel oil, kerosene, gasoline, natural gas, liquid petroleum gas or similar fuel, and tending to give off carbon monoxide or other harmful gases must comply with the following provisions;

(1) When used in living quarters, or in any enclosed building or space in which persons are usually present, shall be used with a flue or vent so designed, installed, and maintained as to vent the products of combustion outdoors; except in storage, factory, or industrial buildings which are provided with sufficient ventilation to avoid the danger of carbon monoxide poisoning.

(2) When used as a portable or temporary burner or heater at a construction site, or in a warehouse, shed, or structure in which persons are temporarily present, shall be vented as provided in division (A)(1) or used with sufficient ventilation to avoid the danger of carbon monoxide poisoning.

(B) This section does not apply to domestic ranges, laundry stoves, gas logs installed in a fireplace with an adequate flue, or hot plates, unless the same are used as space or room heaters.

(C) No person shall negligently use, or, being the owner, person in charge, or occupant of premises, negligently permit the use of a burner or heater in violation of the standards for venting and ventilation provided in this section.

(D) Division (A) above does not apply to any kerosene-fired space or room heater that is equipped with an automatic extinguishing tip-over device, or to any natural gas-fired or liquid petroleum gas-fired space or room heater that is equipped with an oxygen depletion safety shut-off system, and that has its fuel piped from a source outside the building in which it is located, that are approved by an authoritative source recognized by the State Fire Marshal in the State Fire Code adopted by him or her under R.C. § 3737.82.

(E) The State Fire Marshal may make rules to ensure the safe use of unvented kerosene, natural gas, or liquid petroleum gas heaters exempted from division (A) above when used in assembly buildings, business buildings, high hazard buildings, institutional buildings, mercantile buildings, and type R-1 and R-2 residential buildings, as these groups of buildings are defined in rules adopted by the Board of Building Standards under R.C. § 3781.10. No person shall negligently use, or, being the owner, person in charge or occupant of premises, negligently permit the use of a heater in violation of any rules adopted under this division.

(F) The State Fire Marshal may make rules prescribing standards for written instructions containing ventilation requirements and warning of any potential fire hazards that may occur in using a kerosene, natural gas, or liquid petroleum gas heater. No person shall sell or offer for sale any kerosene, natural gas, or liquid petroleum gas heater unless the manufacturer provides with the heater written instructions that comply with any rules adopted under this division.

(G) No product labeled as a fuel additive for kerosene heaters and having a flash point below 100°F or 37.8°C shall be sold, offered for sale, or used in any kerosene space heater.

(H) No device that prohibits any safety feature on a kerosene, natural gas, or liquid petroleum gas space heater from operating shall be sold, offered for sale, or used in connection with any kerosene, natural gas, or liquid petroleum gas space heater.

(I) No person shall sell or offer for sale any kerosene-fired, natural gas, or liquid petroleum gas-fired heater that is not exempt from division (A) above, unless it is marked conspicuously by the manufacturer on the container with the phrase "Not Approved For Home Use".

(J) No person shall use a cabinet-type, liquid petroleum gas-fired heater having a fuel source within the heater, inside any building, except as permitted by the State Fire Marshal in the State Fire Code adopted by him or her under R.C. § 3737.82.
(R.C. § 3701.82)

(K) Whoever violates this section is guilty of a misdemeanor of the first degree.
(R.C. § 3701.99(B)) (Rev. 2005)

OPEN BURNING

§ 91.55 DEFINITIONS.

(A) *General definitions.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGRICULTURAL WASTE. Any waste material generated by crop, horticultural, or livestock production practices, and includes such items as woody debris and plant matter from stream flooding, bags, cartons, structural materials, and landscape wastes that are generated in agricultural activities, but does not include land clearing waste; buildings; garbage; dead animals; animal waste; motor vehicles and parts thereof; nor economic poisons and containers thereof, unless the manufacturer has identified open burning as a safe disposal procedure.

ECONOMIC POISONS. Include but are not restricted to pesticides such as insecticides, fungicides, rodenticides, miticides, nematocides and fumigants; herbicides; seed disinfectants; and defoliant.

EMERGENCY BURNING. The burning of clean wood waste or deceased animals caused by a natural disaster or an uncontrolled event such as the following:

- (a) A tornado;
- (b) High winds;
- (c) An earthquake;
- (d) An explosion;
- (e) A flood;
- (f) A hail storm, a rain storm, or an ice storm.

GARBAGE. Any waste material resulting from the handling, processing, preparation, cooking and consumption of food or food products.

LAND CLEARING WASTE. Plant waste material which is removed from land, including plant waste material removed from stream banks during projects involving more than one property owner, for the purpose of rendering the land useful for residential, commercial, or industrial development. Land clearing waste also includes the plant waste material generated during the clearing of land for new agricultural development.

LANDSCAPE WASTE. Any plant waste material, except garbage, including trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, yard trimmings, and crop residues.

OHIO EPA. The Ohio Environmental Protection Agency Director or agencies delegated authority by the Director of the Ohio Environmental Protection Agency pursuant to R.C. § 3704.03 or the Chief of any Ohio Environmental Protection Agency District Office.

OPEN BURNING. The burning of any materials wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney. The term includes the burning of any refuse or salvageable material in any device not subject to or designed specifically to comply with the requirements of O.A.C. 3745-17-09 or 3745-17-10.

RESIDENTIAL WASTE. Any waste material, including landscape wastes, generated on a one-, two- or three-family residence as a result of residential activities, but not including garbage.

RESTRICTED AREA.

(a) Except as provided in division (b) of this definition, the area within the boundary of any municipal corporation established in accordance with the provisions of R.C. Title 7, plus a zone extending 1,000 feet beyond the boundaries of any such municipal corporation having a population of 1,000 to 10,000 persons and a zone extending one mile beyond any such municipal corporation having a population of 10,000 persons or more according to the latest Federal Census.

(b) The term shall not include any municipal corporation the territory of which is located on an island in Lake Erie except that, during the yearly period between Memorial Day and Labor Day, any such municipal corporation shall be required to comply with the requirements of § 91.57.

UNRESTRICTED AREA. All areas outside the boundaries of a "restricted area" as defined above.

(B) *Incorporation by reference.* This subchapter includes references to certain matter or materials. The text of the incorporated materials is not included in the regulations contained in this subchapter. The materials are hereby made a part of the regulations in this subchapter. For materials subject to change, only the specific version specified in the regulation are incorporated. Material is incorporated as it exists on the effective date of this subchapter. Except for subsequent annual publication of existing (unmodified) Code of Federal Regulation compilations, any amendment or revision to a referenced document is not incorporated unless and until this rule has been amended to specify the new dates.

(1) *Availability.* The materials incorporated by reference are available as follows: National Fire Protection Association - Information on the National Protection Association codes may be obtained by contacting association at 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, 617-770-3000. Codes may be ordered online

at: www.nfpa.org/catalog/home/index.asp. Copies of the code are available at most public libraries and at the State Library of Ohio.

(2) *Incorporated materials.* The following material is incorporated: NFPA publication 1403, *Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures*, November 2001 Edition. (O.A.C. § 3745-19-01) (Rev. 2007)

§ 91.56 RELATIONS TO OTHER PROHIBITIONS.

(A) Notwithstanding any provision in O.A.C. Chapter 3745-19, no open burning shall be conducted in an area where an air alert, warning or emergency under O.A.C. Chapter 3745-25 is in effect.

(B) No provisions of O.A.C. Chapter 3745-19 permitting open burning, and no permission to open burn granted by the Ohio EPA, shall exempt any person from compliance with any section of the Ohio Revised Code, or any regulation of any state department, or any local ordinance or regulation dealing with open burning. (O.A.C. § 3745-19-02) (Rev. 1999) Penalty, see § 91.99

§ 91.57 OPEN BURNING IN RESTRICTED AREAS.

(A) No person or property owner shall cause or allow open burning in a restricted area except as provided in divisions (B) to (D) of this section or in R.C. § 3704.11.

(B) Open burning shall be allowed for the following purposes without notification to or permission from the Ohio EPA:

(1) Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers and strikers, smudge pots and similar occupational needs.

(2) Bonfires, campfires and outdoor fireplace equipment, whether for cooking food for human consumption, pleasure, religious, ceremonial, warmth, recreational, or similar purposes, if the following conditions are met:

(a) They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood;

(b) They are not used for waste disposal purposes; and

(c) They shall have a total fuel area of three feet or less in diameter and two feet or less in height.

(3) Disposal of hazardous explosive materials, military munitions or explosive devices that require

immediate action to prevent endangerment of human health, public safety, property or the environment and that are excluded from the requirement to obtain a hazardous waste permit pursuant to O.A.C. 3745-50-45(D)(1)(d).

(4) Recognized training in the use of fire extinguishers for commercial or industrial fire prevention.

(5) Fires allowed by divisions (B)(1), (B)(2), and (B)(4) of this section shall not be used for waste disposal purposes and shall be of minimum size sufficient for their intended purpose; the fuel shall be chosen to minimize the generation and emission of air contaminants.

(C) Open burning shall be allowed for the following purposes with prior notification to the Ohio EPA in accordance with § 91.58(B):

(1) Prevention or control of disease or pests, with written or verbal verification to the Ohio EPA from the local health department, cooperative extension service, Ohio Department of Agriculture, or U.S. Department of Agriculture, that open burning is the only appropriate disposal method.

(2) Bonfires or campfires used for ceremonial purposes that do not meet the requirements of division (B)(2) of this section, provided the following conditions are met:

(a) They have a total fuel area no greater than five feet in diameter by five feet in height and burn no longer than three hours;

(b) They are not used for waste disposal purposes; and

(c) They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood.

(3) Disposal of agricultural waste generated on the premises if the following conditions are observed:

(a) The fire is set only when atmospheric conditions will readily dissipate contaminants;

(b) The fire does not create a visibility hazard on the roadways, railroad tracks, or air fields;

(c) The fire is located at a point on the premises no less than 1,000 feet from any inhabited building not located on said premises;

(d) The wastes are stacked and dried to provide the best practicable condition for efficient burning; and

(e) No materials are burned which contain rubber, grease, asphalt or liquid petroleum products.

(D) Open burning shall be allowed for the following purposes upon receipt of written permission from the Ohio EPA, in accordance with § 91.58(A), provided that any conditions specified in the permission are followed:

(1) Disposal of ignitable or explosive materials where the Ohio EPA determines that there is no practical alternate method of disposal, excluding those materials identified in division (B)(3) of this section;

(2) Instruction in methods of fire fighting or for research in the control of fires as recognized by the State Fire Marshal Division of the Ohio Department of Commerce and the guidelines set forth in the National Fire Protection Association's (NFPA) publication 1403, *Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures*, provided that the application required in § 91.58(A)(1) is submitted by the commercial or public entity responsible for the instruction;

(3) In emergency or other extraordinary circumstances for any purpose determined to be necessary by the Director and performed as identified in the appendix to O.A.C. 3745-19-03. If deemed necessary, the open burning may be authorized with prior oral approval by the Director followed by the issuance of a written permission to open burn within seven working days of the oral approval;

(4) Recognized horticultural, silvicultural, range, or wildlife management practices; and

(5) Fires and/or pyrotechnic effects, for purposes other than waste disposal, set as part of commercial film-making or video production activities for motion pictures and television.

(O.A.C. § 3745-19-03) (Rev. 2007) Penalty, see § 91.99

§ 91.58 PERMISSION AND NOTICE TO OPEN BURN.

(A) Permission.

(1) An application for permission to open burn shall be submitted in writing at least 10 working days before the fire is to be set. Saturday, Sunday, and legal holidays shall not be considered a working day. It shall be in such form and contain such information as required by the Ohio EPA.

(2) Except as provided in divisions (A)(6) and (A)(7) of this section, such applications shall contain, as a minimum, information regarding:

(a) The purpose of the proposed burning;

(b) The nature of quantities of material to be burned;

(c) The date or dates when such burning will take place;

(d) The location of the burning site, including a map showing distances to residences, populated areas, roadways, air fields, and other pertinent landmarks; and

(e) The methods or actions which will be taken to reduce the emissions of air contaminants.

(3) Permission to open burn shall not be granted unless the applicant demonstrates to the satisfaction of the Ohio EPA that open burning is necessary to the public interest; will be conducted in a time, place, and manner as to minimize the emission of air contaminants; and will have no serious detrimental effect upon adjacent properties or the occupants thereof. The Ohio EPA may impose such conditions as may be necessary to accomplish the purpose of O.A.C. Chapter 3745-19.

(4) Except as provided in division (A)(6) of this section, permission to open burn must be obtained for each specific project. In emergencies where public health or environmental quality will be seriously threatened by delay while written permission is sought, the fire may be set with oral permission of the Ohio EPA.

(5) Violations of any of the conditions set forth by the Ohio EPA in granting permission to open burn shall be grounds for revocation of such permission and refusal to grant future permission, as well as for the imposition of other sanctions provided by law.

(6) The Ohio Department of Commerce, Division of State Fire Marshal, may request permission to open burn on an annual basis for the purpose of training firefighters on pre-flashover conditions using the Ohio Fire Academy's mobile training laboratory at either the academy or at other training sites in Ohio. The annual application required pursuant to division (A)(1) of this section shall contain information as required in division (A)(2) of this section, except the information required in divisions (A)(2)(c) and (A)(2)(d) of this section need not be provided unless it is available at the time of submittal of the application. The Academy shall contact the appropriate Ohio EPA District Office or local air agency at least five working days before each training session of the date or dates when the training session will take place and its location. Saturday, Sunday, and legal holidays shall not be considered a working day.

(7) For open burning defined under paragraph § 91.57(D)(2) and O.A.C. 3745-19-04(C)(2), permission to open burn shall not be granted unless the applicant provides proof of written notice of intent to demolish received by the appropriate Ohio EPA field office in accordance with O.A.C. 3745-20-03.

(B) *Notification.*

(1) Notification shall be submitted in writing at least 10 working days before the fire is to be set. Saturday, Sunday, and legal holidays shall not be considered a

working day. It shall be in such form and contain such information as shall be required by the Ohio EPA.

(2) Such notification shall inform the Ohio EPA regarding:

- (a) The purpose of the proposed burning;
- (b) The nature and quantities of materials to be burned;
- (c) The date or dates when such burning will take place; and
- (d) The location of the burning site.

(3) The Ohio EPA, after receiving notification, may determine that the open burning is not allowed under O.A.C. Chapter 3745-19 and the Ohio EPA shall notify the applicant to this effect.

(O.A.C. § 3745-19-05) (Rev. 2007) Penalty, see § 91.99

§ 91.99 PENALTY.

(A) Whoever violates any provision of this chapter for which another penalty is not specifically provided shall be subject to the penalty as provided in § 10.99.

(B) (1) Except as otherwise provided in division (B)(2) or (B)(3) of this section, whoever violates any provisions of §§ 91.01 through 91.08 is guilty of a misdemeanor of the first degree.

(2) If the offender previously has been convicted of or pleaded guilty to a violation of R.C. § 3743.60(I) or R.C. § 3743.61(I), or a substantially equivalent municipal ordinance, a violation of § 91.04(E) is a felony to be prosecuted under appropriate state law.

(3) Whoever violates § 91.06(A) is guilty of a misdemeanor of the first degree. In addition to any other penalties that may be imposed on a licensed exhibitor of fireworks under this division and unless the third sentence of this division applies, the person's license as an exhibitor of fireworks or as an assistant exhibitor of fireworks shall be suspended, and the person is ineligible to apply for either type of licence, for a period of five years. If the violation of § 91.06(A) results in serious physical harm to persons or serious physical harm to property, the person's license as an exhibitor of fireworks or as an assistant exhibitor of fireworks shall be revoked, and that person is ineligible to apply for a license as or to be licensed as an exhibitor of fireworks or as an assistant exhibitor of fireworks in this state.

(R.C. § 3743.99(C), (D)) (Rev. 2002)

Statutory reference:

Civil penalties for violations of State Fire Code, see R.C. § 3737.51(B) through (H)

CHAPTER 92: INTOXICATING LIQUORS

Section

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- 92.21 Keeping place where beer or intoxicating liquors are sold in violation of law
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- 92.29 Affirmative defenses

- 92.99 Penalty

Cross-reference:

Driving while intoxicated or drugged, implied consent, see §§ 73.01, 73.02, 96.12 and 96.13

Statutory reference:

Liquor permits, see R.C. Chapter 4303
Local option elections, see R.C. §§ 4301.32 et seq.
Use of license to violate liquor laws; suspension; procedures, see R.C. § 4510.33

§ 92.01 DEFINITIONS.

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

ALCOHOL. Ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. The term does not include denatured alcohol and wood alcohol.

AT RETAIL. For use or consumption by the purchaser and not for resale.

BEER. Includes all beverages brewed or fermented wholly or in part from malt products and containing 0.5% or more, but not more than 12%, of alcohol by volume.

CIDER. All liquids that are fit to use for beverage purposes that contain 0.5% of alcohol by volume, but not more than 6% of alcohol by weight that are made through the normal alcoholic fermentation of the juice of sound, ripe apples, including, without limitation, flavored, sparkling, or carbonated cider and cider made from pure condensed apple must.

CLUB. A corporation or association of individuals organized in good faith for social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purposes, which is the owner, lessor, or occupant of a permanent building or part of a permanent building operated solely for such purposes, membership in which entails the prepayment of regular dues, and includes the place so operated.

COMMUNITY FACILITY. Means either of the following:

- (1) Any convention, sports or entertainment facility or complex, or any combination of these, that is used by or accessible to the general public and that is owned or operated in whole or in part by the state, a state agency, or a political subdivision of the state or that is leased from, or located on property owned by or leased from, the state, a state agency, a political subdivision of the state, or a

convention facilities authority created pursuant to R.C. § 351.02;

(2) An area designated as a community entertainment district pursuant to R.C. § 4301.80.

CONTROLLED ACCESS ALCOHOL AND BEVERAGE CABINET. A closed container, either refrigerated, in whole or in part, or nonrefrigerated, access to the interior of which is restricted by means of a device that requires the use of a key, magnetic card, or similar device and from which beer, intoxicating liquor, other beverages, or food may be sold.

HOTEL. The same meaning as in R.C. § 3731.01, subject to the exceptions mentioned in R.C. § 3731.03.

INTOXICATING LIQUOR and LIQUOR. All liquids and compounds, other than beer, containing 0.5% or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether they are medicated, proprietary, or patented. The terms include wine even if it contains less than 4% of alcohol by volume, mixed beverages even if they contain less than 4% of alcohol by volume, cider, alcohol, and all solids and confections which contain any alcohol.

LOW-ALCOHOL BEVERAGE. Any brewed or fermented malt product or any product made from the fermented juices of grapes, fruits, or other agricultural products that contains either no alcohol or less than 0.5% of alcohol by volume. The beverages described in this definition do not include a soft drink such as root beer, birch beer, or ginger beer.

MANUFACTURE. All processes by which beer or intoxicating liquor is produced, whether by distillation, rectifying, fortifying, blending, fermentation, brewing, or in any other manner.

MANUFACTURER. Any person engaged in the business of manufacturing beer or intoxicating liquor.

MIXED BEVERAGES. Bottled and prepared cordials, cocktails, and highballs, produced by mixing any type of whiskey, neutral spirits, brandy, gin or other distilled spirits with, or over, carbonated or plain water, pure juices from flowers and plants, and other flavoring materials. The completed product shall contain not less than 0.5% of alcohol by volume and not more than 21% of alcohol by volume.

NIGHTCLUB. A place habitually operated for profit, where food is served for consumption on the premises, and one or more forms of amusement are provided or permitted for a consideration that may be in the form of a cover charge or may be included in the price of the food and beverages, or both, purchased by patrons.

PERSON. Includes firms and corporations.

PHARMACY. An establishment as defined in R.C. § 4729.01, that is under the management or control of a licensed pharmacist in accordance with R.C. § 4729.27.

RESTAURANT. A place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold, and served at noon and evening, as the principal business of the place. The term does not include pharmacies, confectionery stores, lunch stands, nightclubs, and filling stations.

SALE and SELL. The exchange, barter, gift, offer for sale, sale, distribution, and delivery of any kind, and the transfer of title or possession of beer and intoxicating liquor either by constructive or actual delivery by any means or devices whatever, including the sale of beer or intoxicating liquor by means of a controlled access alcohol and beverage cabinet pursuant to R.C. § 4301.21. Such terms do not include the mere solicitation of orders for beer or intoxicating liquor from the holders of permits issued by the Division of Liquor Control authorizing the sale of the beer or intoxicating liquor, but no solicitor shall solicit any orders until the solicitor has been registered with the Division pursuant to R.C. § 4303.25.

SALES AREA OR TERRITORY. An exclusive geographic area or territory that is assigned to a particular A or B permit holder and that either has one or more political subdivisions as its boundaries or consists of an area of land with readily identifiable geographic boundaries. The term does not include, however, any particular retail location in an exclusive geographic area or territory that had been assigned to another A or B permit holder before April 9, 2001.

SEALED CONTAINER. Any container having a capacity of not more than 128 fluid ounces, the opening of which is closed to prevent the entrance of air.

SPIRITUOUS LIQUOR. All intoxicating liquors containing more than 21% of alcohol by volume.

VEHICLE. All means of transportation by land, by water, or by air, and everything made use of in any way for such transportation.

WHOLESALE DISTRIBUTOR and DISTRIBUTOR. A person engaged in the business of selling to retail dealers for purposes of resale.

WINE. All liquids fit to use for beverage purposes containing not less than 0.5% of alcohol by volume and not more than 21% of alcohol by volume, which is made from the fermented juices of grapes, fruits, or other agricultural products. Except as provided in R.C. § 4301.01(B)(3), the term does not include cider.
(R.C. § 4301.01) (Rev. 2007)

§ 92.02 EXEMPTIONS FROM CHAPTER.

The provisions of this chapter do not prevent the following:

(A) The storage of intoxicating liquor in bonded warehouses, established in accordance with the Acts of Congress and under the regulation of the United States, located in the municipality, or the transportation of intoxicating liquor to or from bonded warehouses of the United States wherever located.

(B) A bona fide resident of this state who is the owner of a warehouse receipt from obtaining or transporting to the resident's residence for the resident's own consumption and not for resale spirituous liquor stored in a government bonded warehouse in this state or in another state prior to December 1933, subject to such terms as are prescribed by the Division of Liquor Control.

(C) The manufacture of cider from fruit for the purpose of making vinegar, and nonintoxicating cider and fruit juices for use and sale.

(D) A licensed physician or dentist from administering or dispensing intoxicating liquor or alcohol to a patient in good faith in the actual course of the practice of the physician's or dentist's profession.

(E) The sale of alcohol to physicians, dentists, druggists, veterinary surgeons, manufacturers, hospitals, infirmaries, or medical or educational institutions using the alcohol for medicinal, mechanical, chemical or scientific purposes.

(F) The sale, gift, or keeping for sale by druggists and others of any of the medicinal preparations manufactured in accordance with the formulas prescribed by the United States Pharmacopoeia and National Formulary, patent or proprietary preparations, and other bona fide medicinal and technical preparations, which contain no more alcohol than is necessary to hold the medicinal agents in solution and to preserve the same, which are manufactured and sold as medicines and not as beverages, are unfit for use for beverage purposes, and the sale of which does not require the payment of a United States liquor dealer's tax.

(G) The manufacture and sale of tinctures or of toilet, medicinal and antiseptic preparations and solutions not intended for internal human use nor to be sold as beverages, and which are unfit for beverage purposes, if upon the outside of each bottle, box, or package of which there is printed in English, conspicuously and legibly, the quantity by volume of alcohol in the preparation or solution.

(H) The manufacture and keeping for sale of the food products known as flavoring extracts when manufactured and sold for cooking, culinary or flavoring purposes, and which are unfit for use for beverage purposes.

(I) The lawful sale of wood alcohol or of ethyl alcohol for external use when combined with other substances as to make it unfit for internal use.

(J) The manufacture, sale, and transport of ethanol or ethyl alcohol for use as fuel. As used in this division, *ETHANOL* has the same meaning as in R.C. § 5733.46.

(K) The purchase and importation into the municipality or the purchase at wholesale from A or B permit holders in this state of beer and intoxicating liquor for use in manufacturing processes of nonbeverage food products under terms prescribed by the Division, provided that the terms prescribed by the Division shall not increase the cost of the beer or intoxicating liquor to any person, firm or corporation purchasing and importing it into this municipality or purchasing it from an A or B permit holder for that use.

(L) Any resident of this state or any member of the armed forces of the United States who has attained the age of 21 years from bringing into this municipality for personal use and not for resale not more than one liter of spirituous liquor, 4.5 liters of wine, or 288 ounces of beer in any 30-day period, and the same is free of any tax consent fee when the resident or member of the armed forces physically possesses and accompanies the spirituous liquor, wine or beer on returning from a foreign country, another state, or an insular possession of the United States.

(M) Persons at least 21 years of age who collect ceramic commemorative bottles containing spirituous liquor that have unbroken federal tax stamps on them from selling or trading the bottles to other collectors. The bottles shall originally have been purchased at retail from the Division, legally imported under division (L) of this section, or legally imported pursuant to a supplier registration issued by the Division. The sales shall be for the purpose of exchanging a ceramic commemorative bottle between private collectors and shall not be for the purpose of selling the spirituous liquor for personal consumption. The sale or exchange authorized by this division shall not occur on the premises of any permit holder, shall not be made in connection with the business of any permit holder, and shall not be made in connection with any mercantile business.

(N) The sale of beer or intoxicating liquor without a liquor permit at a private residence, not more than five times per calendar year at a residence address, at an event that has the following characteristics:

(1) The event is for a charitable, benevolent, or political purpose, but shall not include any event the proceeds of which are for the profit or gain of any individual;

(2) The event has in attendance not more than 50 people;

(3) The event shall be for a period not to exceed 12 hours;

(4) The sale of beer and intoxicating liquor at the event shall not take place between 2:30 a.m. and 5:30 a.m.;

(5) No person under 21 years of age shall purchase or consume beer or intoxicating liquor at the event and no beer or intoxicating liquor shall be sold to any person under 21 years of age at the event; and

(6) No person at the event shall sell or furnish beer or intoxicating liquor to an intoxicated person.
(R.C. § 4301.20) (Rev. 2012)

§ 92.03 RESTRICTIONS APPLICABLE TO SALE OF BEER AND INTOXICATING LIQUOR FOR CONSUMPTION ON THE PREMISES.

(A) The sale of beer or intoxicating liquor for consumption on the premises is subject to the following restrictions, in addition to those imposed by the rules and orders of the Division of Liquor Control:

(1) Except as otherwise provided in this chapter or in R.C. Chapter 4301, beer or intoxicating liquor may be served to a person not seated at a table unless there is reason to believe that the beer or intoxicating liquor so served will be consumed by a person under 21 years of age.

(2) Beer or intoxicating liquor may be served by a hotel in the room of a bona fide guest, and may be sold by a hotel holding a D-5a permit, or a hotel holding a D-3 or D-5 permit that otherwise meets all of the requirements for holding a D-5a permit, by means of a controlled access alcohol and beverage cabinet that shall be located only in the hotel room of a registered guest. A hotel may sell beer or intoxicating liquor as authorized by its permit to a registered guest by means of a controlled access alcohol and beverage cabinet in accordance with the following requirements:

(a) Only a person 21 years of age or older who is a guest registered to stay in a guestroom shall be provided a key, magnetic card, or other similar device necessary to obtain access to the contents of a controlled access alcohol and beverage cabinet in that guestroom.

(b) The hotel shall comply with R.C. § 4301.22, or a substantially equivalent municipal ordinance, in connection with the handling, restocking, and replenishing of the beer and intoxicating liquor in the controlled access alcohol and beverage cabinet.

(c) The hotel shall replenish or restock beer and intoxicating liquor in any controlled access alcohol and beverage cabinet only during the hours during which the hotel may serve or sell beer and intoxicating liquor.

(d) The registered guest shall verify in writing that the guest has read and understands the language that shall be posted on the controlled access alcohol and beverage cabinet as required by division (A)(2)(e) of this section.

(e) A hotel authorized to sell beer and intoxicating liquor pursuant to division (A)(2) of this section shall post on the controlled access alcohol and beverage cabinet, in conspicuous language, the following notice:

The alcoholic beverages contained in this cabinet shall not be removed from the premises.

(f) The hotel shall maintain a record of each sale of beer or intoxicating liquor made by the hotel by means of a controlled access alcohol and beverage cabinet for any period in which the permit holder is authorized to hold the permit pursuant to R.C. §§ 4303.26 and 4303.27 and any additional period during which an applicant exercises its right to appeal a rejection by the Division of Liquor Control to renew a permit pursuant to R.C. § 4303.271. The records maintained by the hotel shall comply with both of the following:

1. Include the name, address, age, and signature of each hotel guest who is provided access by the hotel to a controlled access alcohol and beverage cabinet pursuant to division (A)(2)(a) of this section;

2. Be made available during business hours to authorized agents of the Division of Liquor Control pursuant to R.C. § 4301.10(A)(6) or to enforcement agents of the Department of Public Safety pursuant to R.C. §§ 5502.13 through 5502.19.

(g) The hotel shall observe all other applicable rules adopted by the Division of Liquor Control and the Liquor Control Commission.

(3) The seller shall not require the purchase of food with the purchase of beer or intoxicating liquor; nor shall the seller of beer or intoxicating liquor give away food of any kind in connection with the sale of beer or intoxicating liquor, except as authorized by rule of the state Liquor Control Commission.

(4) The seller shall not permit the purchaser to remove beer or intoxicating liquor so sold from the premises.

(5) A hotel authorized to sell beer and intoxicating liquor pursuant to division (A)(2) of this section shall provide a registered guest with the opportunity to refuse to accept a key, magnetic card, or other similar device necessary to obtain access to the contents of a controlled access alcohol and beverage cabinet in that guest room. If a registered guest refuses to accept such key, magnetic card, or other similar device, the hotel shall not

assess any charges on the registered guest for use of the controlled access alcohol and beverage cabinet in that guest room.

(R.C. § 4301.21) (Rev. 2000)

(B) Whoever violates division (A)(4) of this section is guilty of a misdemeanor of the first degree.

(R.C. § 4301.99(C))

§ 92.04 RESTRICTIONS ON SALE OF BEER AND LIQUOR.

(A) *Restrictions on sales.* Sales of beer and intoxicating liquor under all classes of permits and from liquor stores are subject to the following restrictions, in addition to those imposed by the rules or orders of the state Division of Liquor Control.

(1) (a) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no beer or intoxicating liquor shall be sold to any person under 21 years of age.

(b) No low-alcohol beverage shall be sold to any person under 18 years of age. No permit issued by the Division shall be suspended, revoked, or cancelled because of a violation of this division (A)(1)(b).

(c) No intoxicating liquor shall be handled by any person under 21 years of age, except that a person 18 years of age or older employed by a permit holder may handle or sell beer or intoxicating liquor in sealed containers in connection with wholesale or retail sales, and any person 19 years of age or older employed by a permit holder may handle intoxicating liquor in open containers when acting in the capacity of a server in a hotel, restaurant, club, or night club, as defined in R.C. § 4301.01, or in the premises of a D-7 permit holder. This section does not authorize persons under 21 years of age to sell intoxicating liquor across a bar. Any person employed by a permit holder may handle beer or intoxicating liquor in sealed containers in connection with manufacturing, storage, warehousing, placement, stocking, bagging, loading, or unloading, and may handle beer or intoxicating liquor in open containers in connection with cleaning tables or handling empty bottles or glasses.

(2) No permit holder and no agent or employee of a permit holder shall sell or furnish beer or intoxicating liquor to an intoxicated person.

(3) (a) No sales of intoxicating liquor shall be made after 2:30 a.m. on Sunday, except under either of the following circumstances:

1. Intoxicating liquor may be sold on Sunday under authority of a permit that authorizes Sunday sale.

2. Spiritous liquor may be sold on Sunday by any person awarded an agency contract under R.C. § 4301.17 if the sale of spiritous liquor is authorized

in the applicable precinct as the result of an election on question (B)(1) or (B)(2) of R.C. § 4301.351 and if the agency contract authorizes the sale of spiritous liquor on Sunday.

(b) This section does not prevent the municipality from adopting a closing hour for the sale of intoxicating liquor earlier than 2:30 a.m. on Sunday or to provide that no intoxicating liquor may be sold prior to that hour on Sunday.

(4) No holder of a permit shall give away any beer or intoxicating liquor of any kind at any time in connection with the permit holder's business.

(5) Except as otherwise provided in this division, no retail permit holder shall display or permit the display on the outside of any licensed retail premises, on any lot of ground on which the licensed premises are situated, or on the exterior of any building of which the licensed premises are a part, any sign, illustration, or advertisement bearing the name, brand name, trade name, trademark, designation, or other emblem of, or indicating the manufacturer, producer, distributor, place of manufacture, production, or distribution of, any beer or intoxicating liquor. Signs, illustrations, or advertisements bearing the name, brand name, trade name, trademark, designation, or other emblem of or indicating the manufacturer, producer, distributor, place of manufacture, production, or distribution of beer or intoxicating liquor may be displayed and permitted to be displayed on the interior or in the show windows of any licensed premises, if the particular brand or type of product so advertised is actually available for sale on the premises at the time of that display. The Liquor Control Commission shall determine by rule the size and character of those signs, illustrations, or advertisements.

(6) No retail permit holder shall possess on the licensed premises any barrel or other container from which beer is drawn, unless there is attached to the spigot or other dispensing apparatus the name of the manufacturer of the product contained in the barrel or other container, provided that, if the beer is served at a bar, the manufacturer's name or brand shall appear in full view of the purchaser. The Commission shall regulate the size and character of the devices provided for in this section.

(7) Except as otherwise provided in this division, no sale of any gift certificate shall be permitted whereby beer or intoxicating liquor of any kind is to be exchanged for the certificate, unless the gift certificate can be exchanged only for food, and beer or intoxicating liquor, for on-premises consumption and the value of the beer or intoxicating liquor does not exceed more than 30% of the total value of the gift certificate. The sale of gift certificates for the purchase of beer, wine, or mixed beverages shall be permitted for the purchase of beer, wine, or mixed beverages for off-premises consumption. Limitations on the use of a gift certificate for the purchase of beer, wine, or mixed beverages for off-premises consumption may be expressed by clearly stamping or typing on the face of the

certificate that the certificate may not be used for the purchase of beer, wine, or mixed beverages for on-premises consumption.

(R.C. § 4301.22) (Rev. 2005)

(B) *Division (A)(1) not modified or affected.* The provisions of R.C. §§ 4301.633 through 4301.637, or substantially equivalent municipal ordinances, shall not be deemed to modify or affect division (A)(1) of this section or R.C. § 4301.22(A).

(R.C. § 4301.638) (Rev. 2003)

(C) *Penalties.*

(1) Whoever violates divisions (A)(1)(b) or (A)(3) of this section is guilty of a misdemeanor of the fourth degree.

(R.C. § 4301.99(B))

(2) Whoever violates divisions (A)(1)(a), (A)(1)(c) or (A)(2) of this section is guilty of a misdemeanor of the third degree.

(R.C. § 4301.99(D), (H)) (Rev. 2005)

Statutory reference:

Suspension of beer and liquor sales during emergency, see R.C. § 4301.251

§ 92.05 PERMIT REQUIRED; ACTIVITIES PROHIBITED WITHOUT PERMIT.

(A) *Permit required.*

(1) No person personally or by the person's clerk, agent, or employee, shall manufacture, manufacture for sale, offer, keep, or possess for sale, furnish or sell, or solicit the purchase or sale of any beer or intoxicating liquor in this state, or transport, import, or cause to be transported or imported any beer, intoxicating liquor, or alcohol in or into this municipality for delivery, use or sale, unless the person has fully complied with R.C. Chapters 4301 and 4303 or is the holder of a permit issued by the Division of Liquor Control and in force at the time.

(2) No manufacturer, supplier, wholesale distributor, broker, or retailer of beer or intoxicating liquor, or other person shall employ, retain, or otherwise utilize any person in this state to act as an employee, agent, solicitor, or salesperson, or act in any other representative capacity to sell, solicit, take orders, or receive offers to purchase or expressions of interest to purchase beer or intoxicating liquor from any person, at any location other than a liquor permit premises, except as specifically authorized by R.C. Chapter 4301 or R.C. Chapter 4303 or rules adopted thereunder. No function, event, or party shall take place at any location other than a liquor permit premises where any person acts in any manner to sell, solicit, take orders, or receive offers to purchase or expressions of intent to purchase beer or intoxicating liquor to or from any person, except as specifically authorized by

R.C. Chapter 4301 or R.C. Chapter 4303 or rules adopted thereunder.

(R.C. § 4303.25) (Rev. 2009)

(B) *Activities prohibited without permit.*

(1) No person, personally or by the person's clerk, agent, or employee, who is not the holder of an A permit issued by the Division of Liquor Control, in force at the time, and authorizing the manufacture of beer or intoxicating liquor, or who is not an agent or employee of the Department authorized to manufacture beer or intoxicating liquor, shall manufacture any beer or intoxicating liquor for sale, or shall manufacture spirituous liquor.

(2) No person, personally or by the person's clerk, agent, or employee, who is not the holder of an A, B, C, D, E, F, G, I, or S permit issued by the Department, in force at the time, and authorizing the sale of beer, intoxicating liquor, or alcohol, or who is not an agent or employee of the Department or the Tax Commissioner authorized to sell beer, intoxicating liquor, or alcohol, shall sell, keep, or possess beer, intoxicating liquor, or alcohol for sale to any persons other than those authorized by this chapter and R.C. Chapters 4301 and 4303 to purchase any beer or intoxicating liquor, or sell any alcohol at retail. This division does not apply to or affect the sale or possession for sale of any low-alcohol beverage.

(3) No person, personally or by the person's clerk, agent, or employee, who is the holder of a permit issued by the Department, shall sell, keep, or possess for sale any intoxicating liquor not purchased from the Department or from the holder of a permit issued by the Department authorizing the sale of intoxicating liquor, unless the same has been purchased with the special consent of the Department. The Department shall revoke the permit of any person convicted of a violation of this division.

(R.C. § 4301.58) (Rev. 2009)

(C) *Penalty.* Whoever violates division (B) of this section is guilty of a misdemeanor of the first degree.

(R.C. § 4301.99(C)) (Rev. 1999)

§ 92.06 ILLEGAL TRANSPORTATION PROHIBITED.

(A) No person, who is not the holder of an H permit shall transport beer, intoxicating liquor, or alcohol in this municipality. This section does not apply to the transportation and delivery of beer, alcohol, or intoxicating liquor purchased or to be purchased from the holder of a permit issued by the Division of Liquor Control, in force at the time, and authorizing the sale and delivery of the beer, alcohol, or intoxicating liquor so transported, or to the transportation and delivery of beer, intoxicating liquor, or alcohol purchased from the Department or the Tax Commissioner, or purchased by the holder of an A or B

permit outside this state, and transported within this municipality by them in their own trucks for the purpose of sale under their permits.
(R.C. § 4301.60)

(B) Whoever violates this section is guilty of a misdemeanor of the first degree.
(R.C. § 4301.99(C))

**§ 92.07 OPEN CONTAINER PROHIBITED;
EXCEPTION.**

(A) As used in this section:

CHAUFFEURED LIMOUSINE. Means a vehicle registered under R.C. § 4503.24.

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

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

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

(B) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:

(1) In a state liquor store;

(2) Except as provided in division (C) of this section, on the premises of the holder of any permit issued by the Division of Liquor Control;

(3) In any other public place;

(4) Except as provided in division (D) or (E) of this section, while operating or being a passenger in or on a motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking;

(5) Except as provided in division (D) or (E) of this section, while being in or on a stationary motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

(C) (1) A person may have in the person's possession an opened container of any of the following:

(a) Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7, or F-8 permit;

(b) Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;

(c) Beer or intoxicating liquor consumed on the premises of a convention facility as provided in R.C. § 4303.201;

(d) Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Liquor Control Commission.

(2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this division (C)(2), **MUSIC FESTIVAL** means a series of outdoor live musical performances extending for a period of at least three consecutive days and located on an area of land of at least 40 acres.

(3) (a) A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.

(b) As used in division (C)(3)(a) of this section:

ORCHESTRAL PERFORMANCE. Means a concert comprised of a group of not fewer than 40 musicians playing various musical instruments.

OUTDOOR PERFORMING ARTS CENTER. Means an outdoor performing arts center that is located on not less than 150 acres of land and that is open for performances from the first day of April to the last day of October of each year.

(4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in division (C)(3)(b) of this section if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.

(D) This section does not apply to a person who pays all or a portion of the fee imposed for use of a chauffeured

limousine pursuant to a prearranged contract or the guest of the person, when all of the following apply:

(1) The person or guest is a passenger in the limousine.

(2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located.

(3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

(E) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply:

(1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.

(2) The opened bottle of wine that is resealed in accordance with division (E)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.

(R.C. § 4301.62) (Rev. 2012)

(F) Whoever violates this section is guilty of a minor misdemeanor.

(R.C. § 4301.99(A))

§ 92.08 UNDERAGE PERSON SHALL NOT PURCHASE INTOXICATING LIQUOR OR BEER.

(A) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no person under the age of 21 years shall purchase beer or intoxicating liquor.

(R.C. § 4301.63)

(B) Whoever violates this section shall be fined not less than \$25 nor more than \$100. The court imposing a fine for a violation of this section may order that the fine be paid by the performance of public work at a reasonable hour rate established by the court. The court shall designate the time within which the public work shall be completed.

(R.C. § 4301.99(E))

§ 92.09 PROHIBITIONS; MINORS UNDER 18 YEARS; LOW-ALCOHOL BEVERAGES.

(A) As used in this section, *UNDERAGE PERSON* means a person under 18 years of age.

(B) No underage person shall purchase any low-alcohol beverage.

(C) No underage person shall order, pay for, share the cost of, or attempt to purchase any low-alcohol beverage.

(D) No person shall knowingly furnish any false information as to the name, age, or other identification of any underage person for the purpose of obtaining or with the intent to obtain any low-alcohol beverage for an underage person, by purchase or as a gift.

(E) No underage person shall knowingly show or give false information concerning his or her name, age, or other identification for the purpose of purchasing or otherwise obtaining any low-alcohol beverage in any place in this municipality.

(F) No person shall sell or furnish any low-alcohol beverage to, or buy any low-alcohol beverage for, an underage person, unless given by a physician in the regular line of his or her practice or given for established religious purposes, or unless the underage person is accompanied by a parent, spouse who is not an underage person, or legal guardian.

(G) (1) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming any low-alcohol beverage, unless the low-alcohol beverage is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian, and the parent, spouse who is not an underage person, or legal guardian is present when the person possesses or consumes the low-alcohol beverage.

(2) An owner of a public or private place is not liable for acts or omissions in violation of division (G)(1) that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(H) No permit issued by the Division of Liquor Control shall be suspended, revoked, or cancelled because of a violation of either division (F) or (G).

(I) No underage person shall knowingly possess or consume any low-alcohol beverage in any public or private place, unless he or she is accompanied by a parent, spouse who is not an underage person, or legal guardian, or unless the low-alcohol beverage is given by a physician in the regular line of his or her practice or given for established religious purposes.

(J) No parent, spouse who is not an underage person, or legal guardian of an underage person shall knowingly permit the underage person to violate this section.
(R.C. § 4301.631)

(K) (1) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the fourth degree.
(R.C. § 4301.99(B))

(2) Whoever violates division (B) of this section shall be fined not less than \$25 nor more than \$100. The court imposing a fine for a violation of division (B) of this section may order that the fine be paid by the performance of public work at a reasonable hour rate established by the court. The court shall designate the time within which the public work shall be completed.
(R.C. § 4301.99(E))

§ 92.10 ALCOHOL VAPORIZING DEVICES PROHIBITED.

(A) As used in this section, *ALCOHOL VAPORIZING DEVICE* means a machine or other device that mixes beer or intoxicating liquor with pure oxygen or any other gas to produce a vaporized product for the purpose of consumption by inhalation.

(B) No person shall sell or offer for sale an alcohol vaporizing device.

(C) No person shall purchase or use an alcohol vaporizing device.
(R.C. § 4301.65)

(D) (1) Whoever violates division (B) of this section is guilty of misdemeanor of the third degree. For a second or subsequent violation occurring within a period of five consecutive years after the first violation, a person is guilty of a misdemeanor of the first degree.
(R.C. § 4301.99(J))

(2) Whoever violates division (C) of this section is guilty of a minor misdemeanor.
(R.C. § 4301.99(A)) (Rev. 2007)

§ 92.11 MISREPRESENTATION TO OBTAIN ALCOHOLIC BEVERAGE FOR A MINOR PROHIBITED.

(A) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no person shall knowingly furnish any false information as to the name, age, or other identification of any person under 21 years of age, for the purpose of obtaining, or with the intent to obtain, beer or intoxicating liquor for a person under 21 years of age, by purchase, or as a gift.
(R.C. § 4301.633)

(B) Whoever violates this section is guilty of a misdemeanor of the first degree.
(R.C. § 4301.99(C))

§ 92.12 MISREPRESENTATION BY A MINOR UNDER 21 YEARS.

(A) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no person under the age of 21 years shall knowingly show or give false information concerning his or her name, age, or other identification for the purpose of purchasing or otherwise obtaining beer or intoxicating liquor in any place in this municipality where beer or intoxicating liquor is sold under a permit issued by the Division of Liquor Control, or sold by the Division of Liquor Control.
(R.C. § 4301.634)

(B) (1) Whoever violates division (A) of this section is guilty of a misdemeanor of the first degree. If, in committing a first violation of division (A), the offender presented to the permit holder or his or her employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than \$250 and not more than \$1,000, and may be sentenced to a term of imprisonment of not more than six months.

(2) On a second violation in which, for the second time, the offender presented to the permit holder or his or her employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than \$500 nor more than \$1,000, and may be sentenced to a term of imprisonment of not more than six months. The court also may impose a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operation privilege from the range specified in R.C. § 4510.02(A)(7).

(3) On a third or subsequent violation in which, for the third or subsequent time, the offender presented to the permit holder or his or her employee or agent a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than \$500 nor more than \$1,000, and may be sentenced to a term of imprisonment of not more than six months. The court also shall impose a class six suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in R.C. § 4510.02(A)(6), and the court may order that the suspension or denial remain in effect until the offender attains the age of 21 years. The court also may

order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform.
(R.C. § 4301.99(F)) (Rev. 2004)

§ 92.13 SALE TO UNDERAGE PERSONS PROHIBITED.

(A) Except as otherwise provided in this chapter or in R.C. Chapter 4301, no person shall sell beer or intoxicating liquor to an underage person, shall buy beer or intoxicating liquor for an underage person, or shall furnish it to an underage person unless given by a physician in the regular line of the physician's practice or given for established religious purposes or unless the underage person is supervised by a parent, spouse who is not an underage person, or legal guardian. In proceedings before the Liquor Control Commission, no permit holder, or no employee or agent of a permit holder, charged with a violation of this division shall be charged, for the same offense, with a violation of R.C. § 4301.22(A)(1) or a substantially equivalent municipal ordinance.

(B) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming beer or intoxicating liquor, unless the intoxicating liquor or beer is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian and the parent, spouse who is not an underage person, or legal guardian is present at the time of the person's possession or consumption of the beer or intoxicating liquor. An owner of a public or private place is not liable for acts or omissions in violation of this division that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(C) No person shall engage or use accommodations at a hotel, inn, cabin, campground, or restaurant when the person knows or has reason to know either of the following:

(1) That beer or intoxicating liquor will be consumed by an underage person on the premises of the accommodations that the person engages or uses, unless the person engaging or using the accommodations is the spouse of the underage person and who is not an underage person, or is the parent or legal guardian of all of the underage persons, who consume beer or intoxicating liquor on the premises and that person is on the premises at all times when beer or intoxicating liquor is being consumed by an underage person.

(2) That a drug of abuse will be consumed on the premises of the accommodations by any person, except a person who obtained the drug of abuse pursuant to a prescription issued by a licensed health professionals authorized to prescribe drugs and has the drug of abuse in

the original container in which it was dispensed to the person.

(D) (1) No person is required to permit the engagement of accommodations at any hotel, inn, cabin, or campground by an underage person or for an underage person, if the person engaging the accommodations knows or has reason to know that the underage person is intoxicated, or that the underage person possesses any beer or intoxicating liquor and is not supervised by a parent, spouse who is not an underage person, or legal guardian who is or will be present at all times when the beer or intoxicating liquor is being consumed by the underage person.

(2) No underage person shall knowingly engage or attempt to engage accommodations at any hotel, inn, cabin, or campground by presenting identification that falsely indicates that the underage person is 21 years of age or older for the purpose of violating this section.

(E) (1) No underage person shall knowingly order, pay for, share the cost of, attempt to purchase, possess, or consume any beer or intoxicating liquor in any public or private place. No underage person shall knowingly be under the influence of any beer or intoxicating liquor in any public place. The prohibitions set forth in this division against an underage person knowingly possessing, consuming, or being under the influence of any beer or intoxicating liquor shall not apply if the underage person is supervised by a parent, spouse who is not an underage person, or legal guardian, or the beer or intoxicating liquor is given by a physician in the regular line of the physician's practice or given for established religious purposes.

(2) (a) If a person is charged with violating division (E)(1) of this section in a complaint filed under R.C. § 2151.27, the court may order the child into a diversion program specified by the court and hold the complaint in abeyance pending successful completion of the diversion program. A child is ineligible to enter into a diversion program under this division if the child previously has been diverted pursuant to this division. If the child completes the diversion program to the satisfaction of the court, the court shall dismiss the complaint and order the child's record in the case sealed under R.C. §§ 2151.356 through 2151.358. If the child fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.

(b) If a person is charged in a criminal complaint with violating division (E)(1) of this section, R.C. § 2935.36 shall apply to the offense, except that a person is ineligible for diversion under that section if the person previously has been diverted pursuant to divisions (E)(2)(a) or (E)(2)(b) of this section. If the person completes the diversion program to the satisfaction of the court, the court shall dismiss the complaint and order the record in the case sealed under R.C. § 2953.52. If the person fails to satisfactorily complete the diversion program, the court shall proceed with the complaint.

(F) No parent, spouse who is not an underage person, or legal guardian of a minor shall knowingly permit the minor to violate this section or R.C. § 4301.63, 4301.633, or 4301.634, or any substantially equivalent municipal ordinance.

(G) The operator of any hotel, inn, cabin, or campground shall make the provisions of this section available in writing to any person engaging or using accommodations at the hotel, inn, cabin, or campground.

(H) As used in this section:

DRUG OF ABUSE. Has the same meaning as in R.C. § 3719.011.

HOTEL. Has the same meaning as in R.C. § 3731.01.

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

MINOR. Means a person under the age of 18 years.

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

UNDERAGE PERSON. Means a person under the age of 21 years.
(R.C. § 4301.69) (Rev. 2007)

(I) The provisions of R.C. §§ 4301.633 through 4301.637, or substantially equivalent municipal ordinances, shall not be deemed to modify or affect divisions (A) through (H) of this section or R.C. § 4301.69.
(R.C. § 4301.638) (Rev. 2003)

(J) (1) Except as provided in division (J)(2) of this section, whoever violates this section is guilty of a misdemeanor of the first degree. If an offender who violates division (E)(1) of this section was under the age of 18 years at the time of the offense and the offense occurred while the offender was the operator of or a passenger in a motor vehicle, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit or probationary driver's license for a period of six months. If the offender is 15 years and six months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of six months. If the offender has not attained the age of 15 years and six months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of 16 years.
(R.C. § 4301.99(C)) (Rev. 2003)

(2) Whoever violates division (A) of this section is guilty of a misdemeanor, shall be fined not less than \$500

nor more than \$1,000, and in addition to the fine, may be imprisoned for a definite term of not more than six months.
(R.C. § 4301.99(I)) (Rev. 1999)

Statutory reference:

Changes to law if federal uniform drinking age repealed or declared unconstitutional, see R.C. § 4301.691

§ 92.14 POSTING OF CARD.

(A) (1) Except as otherwise provided in R.C. § 4301.691, every place in this municipality where beer, intoxicating liquor, or any low-alcohol beverage is sold for beverage purposes shall display at all times, in a prominent place on the premises thereof, a printed card, which shall be furnished by the Division of Liquor Control and which shall read substantially as follows:

WARNING TO PERSONS UNDER AGE

If you are under the age of 21
Under the statutes of the state of Ohio, if you order, pay for, share the cost of, or attempt to purchase, or possess or consume beer or intoxicating liquor in any public place, or furnish false information as to name, age, or other identification, you are subject to a fine of up to \$1,000, or imprisonment up to 6 months, or both.

If you are under the age of 18
Under the statutes of the state of Ohio, if you order, pay for, share the cost of, or attempt to purchase, or possess or consume, any type of beer or wine that contains either no alcohol or less than one-half of one per cent of alcohol by volume in any public place, or furnish false information as to the name, age, or other identification, you are subject to a fine of up to \$250 or to imprisonment up to 30 days, or both.

(2) No person shall be subject to any criminal prosecution or any proceedings before the Department or the Liquor Control Commission for failing to display this card. No permit issued by the Department shall be suspended, revoked, or canceled because of the failure of the permit holder to display this card.

(B) (1) Every place in this municipality for which a D permit has been issued under R.C. Chapter 4303 shall be issued a printed card by the Division of Liquor Control that shall read substantially as follows:

WARNING

If you are carrying a firearm
Under the statutes of Ohio, if you possess a firearm in any room in which liquor is being dispensed in premises for which a D permit has been issued under Chapter 4303 of the Revised Code, you may be guilty of a felony and may be subjected to a prison term of up to one year.

(2) No person shall be subject to any criminal prosecution or any proceedings before the Division of Liquor Control or the Liquor Control Commission for failing to display this card. No permit issued by the Department shall be suspended, revoked, or canceled because of the failure of the permit holder to display this card.

(R.C. § 4301.637) Penalty, see § 92.99

Statutory reference:

Carrying concealed weapon, felony, see R.C. § 2923.12

Possessing firearm in liquor permit premises, exceptions, defenses, see R.C. § 2923.121

§ 92.15 GOOD FAITH ACCEPTANCES OF SPURIOUS IDENTIFICATION.

(A) No permit holder, agent or employee of a permit holder, or any other person may be found guilty of a violation of any section of this chapter in which age is any element of the offense, if any court of record finds all of the following:

(1) That the person buying, at the time of so doing, exhibited to the permit holder, the agent or employee of the permit holder, or the other person a driver's or commercial driver's license or an identification card issued under R.C. §§ 4507.50 through 4507.52, or a military identification card issued by the United States Department of Defense, that displays a picture of the individual for whom the license or card was issued and shows that the person buying was then at least 21 years of age if the person was buying beer as defined in R.C. § 4301.01 or intoxicating liquor, or that the person was then at least 18 years of age if the person was buying any low-alcohol beverage;

(2) That the permit holder, the agent or employee of the permit holder, or the other person made a bona fide effort to ascertain the true age of the person buying by checking the identification presented at the time of the purchase to ascertain that the description on the identification compared with the appearance of the buyer and that the identification presented had not been altered in any way.

(3) That the permit holder, the agent or employee of the permit holder, or the other person had reason to believe that the person buying was of legal age.

(B) The defense provided by division (A) of this section is in addition to the affirmative defense provided by § 92.29.

(R.C. § 4301.639(A), (C)) (Rev. 2009)

§ 92.16 CONSUMPTION IN MOTOR VEHICLE PROHIBITED.

(A) No person shall consume any beer or intoxicating liquor in a motor vehicle. This section does not apply to persons described in R.C. § 4301.62(D) or a substantially equivalent municipal ordinance.

(R.C. § 4301.64) (Rev. 1999)

(B) Whoever violates this section is guilty of a misdemeanor of the fourth degree. If an offender who violates this section was under the age of 18 years at the time of the offense, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit, probationary driver's license or driver's license for a period of not less than six months and not more than one year. If the offender is 15 years and six months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of six months. If the offender has not attained the age of 15 years and six months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of 16 years.

(R.C. § 4301.99(B)) (Rev. 2004)

§ 92.17 HOURS OF SALE OR CONSUMPTION.

(A) This section shall apply to the retail sale of beer, wine, mixed beverages, or spirituous liquor.

(B) (1) No beer, wine, mixed beverages, or spirituous liquor shall be sold or delivered by an A-1, A-2, B-1, B-2, B-4, B-5, C-1, C-2, C-2X, D-1, D-2, D-2X, D-3 when issued without a D-3A, D-3X, D-4, D-5G, D-5H, D-5K, D-8, F, F-1, F-2, F-3, F-4, F-5, F-6, G, or I permit holder from Monday to Saturday between the hours of 1:00 a.m. and 5:30 a.m. and on Sunday between the hours of 1:00 a.m. and Sunday midnight, unless statutorily authorized otherwise.

(2) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages, or spirituous liquor for on-premises consumption.

(C) (1) No beer, wine, mixed beverages, or spirituous liquor shall be sold or delivered by an A-1A, D-3 when issued with a D-3A, D-4A, D-5, D-5A, D-5B, D-5C, D-5D, D-5E, D-5F, D-5I, D-5J, or D-7 permit holder from Monday to Saturday between the hours of 2:30 a.m. and 5:30 a.m. and on Sunday between the hours of 2:30 a.m. and Sunday midnight, unless statutorily authorized otherwise.

(2) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the

above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages, or spirituous liquor for on-premises consumption.

(D) Permit holders authorized to sell beer, wine, mixed beverages, or spirituous liquor at retail who are not specifically identified in divisions (B) or (C) above shall be subject to the provisions of division (B), unless statutorily authorized otherwise.

(E) The hours on Sunday during which sales, delivery, or consumption of alcoholic beverages may take place are established by statute, but in no event shall they begin prior to 5:30 a.m.
(O.A.C. § 4301:1-1-49) (Rev. 2007)

(F) No association, corporation, local unit of an association or corporation, or D permit holder who holds an F-2 permit shall sell beer or intoxicating liquor beyond the hours of sale allowed by the permit. This division imposes strict liability on the holder of such permit and on any officer, agent or employee of such permit holder.
(R.C. § 4303.202(B))

(G) No F-8 permit holder shall sell beer or intoxicating liquor beyond the hours of sale allowed by the permit. This division imposes strict liability on the holder of an F-8 permit and on any officer, agent or employee of that permit holder.
(R.C. § 4303.208(C)) (Rev. 2008)

(H) Whoever violates divisions (F) or (G) of this section is guilty of a misdemeanor of the fourth degree.
(R.C. § 4303.99(D)) (Rev. 2008) Penalty, see § 92.99

§ 92.18 OBSTRUCTING SEARCH OF PREMISES PROHIBITED.

(A) No person shall hinder or obstruct any agent or employee of the Division of Liquor Control, any enforcement agent of the Department of Public Safety or any officer of the law from making an inspection or search of any place, other than a bona fide private residence, where beer or intoxicating liquor is possessed, kept, sold, or given away.
(R.C. § 4301.66) (Rev. 2000)

(B) Whoever violates this section is guilty of a misdemeanor of the first degree.
(R.C. § 4301.99(C))

(C) It is a defense to prosecution under this section that the hindrance, obstruction, resistance, or interference alleged consisted of constitutionally protected speech only.

§ 92.19 ILLEGAL POSSESSION OF INTOXICATING LIQUOR PROHIBITED.

(A) No person shall have possession of any spirituous liquor, in excess of one liter, in one or more containers, which was not purchased at wholesale or retail from the Division of Liquor Control or otherwise lawfully acquired pursuant to this chapter, R.C. Chapters 4301 and 4303, or any other intoxicating liquor or beer, in one or more containers, which was not lawfully acquired pursuant to those chapters.
(R.C. § 4301.67)

(B) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
(R.C. § 4301.99(B))

§ 92.20 SALE OR POSSESSION OF DILUTED LIQUOR AND REFILLED CONTAINERS PROHIBITED.

(A) No person shall sell, offer for sale, or possess with the intent to sell intoxicating liquor in any original container which has been diluted, refilled, or partly refilled.
(R.C. § 4301.68)

(B) Whoever violates this section is guilty of a misdemeanor of the first degree.
(R.C. § 4301.99(C))

§ 92.21 KEEPING PLACE WHERE BEER OR INTOXICATING LIQUORS ARE SOLD IN VIOLATION OF LAW.

(A) No person shall keep a place where beer or intoxicating liquors are sold, furnished, or given away in violation of law. The court, on conviction for a subsequent violation of this section, shall order the place where the beer or intoxicating liquor is sold, furnished, or given away to be abated as a nuisance or shall order the person so convicted to give bond payable to the state in the sum of \$1,000, with sureties to the acceptance of the court, that the person will not sell, furnish, or give away beer or intoxicating liquor in violation of law and will pay all fines, costs, and damages assessed against the person for that subsequent violation of this section. The giving away of beer or intoxicating liquors, or any other device to evade this section, constitutes unlawful selling.

(B) As used in this section, *BEER* has the same meaning as in R.C. § 4301.01.

(C) Division (A) of this section does not apply to any premises for which a permit has been issued under R.C. Chapter 4303 while that permit is in effect.
(R.C. § 4399.09) (Rev. 2003)

(D) Whoever violates this section shall be fined not less than \$100 nor more than \$500 on a first offense and

shall be fined not less than \$200 nor more than \$500 on each subsequent offense.
(R.C. § 4399.99(B)) (Rev. 1999)

§ 92.22 INTOXICATING LIQUORS SHALL NOT BE SOLD IN BROTHELS.

(A) No person shall sell, exchange, or give away intoxicating liquor in a brothel.
(R.C. § 4399.10)

(B) Whoever violates this section shall be fined not less than \$100 nor more than \$500 and imprisoned not less than one nor more than six months.
(R.C. § 4399.99(C)) (Rev. 1999)

§ 92.23 USE OF INTOXICATING LIQUOR IN A PUBLIC DANCE HALL PROHIBITED; EXCEPTIONS.

(A) (1) Except as otherwise provided in division (A)(2) of this section, no person who is the proprietor of, or who conducts, manages, or is in charge of any public dance hall shall allow the use of any intoxicating liquor or the presence of intoxicated persons in the public dance hall or on the premises on which it is located.

(2) The prohibition against the use of any intoxicating liquor contained in division (A)(1) of this section does not apply to establishments that are holders of a D-1, D-2, D-3, D-4, or D-5 permit whose principal business consists of conducting a hotel, a restaurant, a club, or a nightclub, all as defined in R.C. § 4301.01.
(R.C. § 4399.14) (Rev. 2007)

(B) Whoever violates this section shall be fined not less than \$25 nor more than \$500, imprisoned not more than six months, or both.
(R.C. § 4399.99(D)) (Rev. 1999)

§ 92.24 POISONOUSLY ADULTERATED LIQUORS.

(A) No person, for the purpose of sale, shall adulterate spirituous liquor, alcoholic liquor, or beer used or intended for drink or medicinal or mechanical purposes, with *cocculus indicus*, vitriol, grains of paradise, opium, alum, capsicum, copperas, laurel water, logwood, brazilwood, cochineal, sugar of lead, aloes, glucose, tannic acid, or any other substance that is poisonous or injurious to health, or with a substance not a necessary ingredient in the manufacture of the spirituous liquor, alcoholic liquor, or beer, or sell, offer, or keep for sale spirituous liquor, alcoholic liquor, or beer that is so adulterated.

(B) In addition to the penalties provided in division (C) of this section, a person convicted of violating this

section shall pay all necessary costs and expenses incurred in inspecting and analyzing spirituous liquor, alcoholic liquor, or beer that is so adulterated, sold, kept, or offered for sale.
(R.C. § 4399.15) (Rev. 2003)

(C) Whoever violates this section shall be fined not less than \$20 nor more than \$100, imprisoned not less than 20 nor more than 60 days, or both.
(R.C. § 4399.99(E)) (Rev. 1999)

§ 92.25 TAVERN KEEPER PERMITTING RIOTING OR DRUNKENNESS.

(A) No tavern keeper shall permit rioting, intoxication, or drunkenness in or on his or her premises.
(R.C. § 4399.16)

(B) Whoever violates this section shall be fined not less than \$5 nor more than \$100.
(R.C. § 4399.99(A)) (Rev. 1999)

§ 92.26 NOTICE OF ACTION TO PROHIBIT LIQUOR BUSINESS.

Any party bringing an action to prohibit the operation of a business under a liquor permit issued pursuant to R.C. Chapter 4303 shall, upon filing the complaint in the action, notify the Division of Liquor Control of the filing of the complaint.
(R.C. § 4303.40) (Rev. 1999)

§ 92.27 PROCEDURE WHEN INJUNCTION VIOLATED.

(A) Any person subject to an injunction, temporary or permanent, granted pursuant to R.C. § 3767.05(D) or (E) involving a condition described in division (3) of the definition of "nuisance" in R.C. § 3767.01, or a substantially equivalent municipal ordinance, shall obey the injunction. If the person violates the injunction, the court, or in vacation a judge thereof, may summarily try and punish the violator. The proceedings for punishment for contempt shall be commenced by filing with the Clerk of the Court from which the injunction issued, information under oath setting out the alleged facts constituting the violation, whereupon the court shall cause a warrant to issue under which the defendant shall be arrested. The trial may be had upon affidavits, or either party may demand the production and oral examination of the witnesses.
(R.C. § 4301.74)

(B) Whoever violates this section is guilty of a misdemeanor of the first degree.
(R.C. § 4301.99(C)) (Rev. 1999)

§ 92.28 LIQUOR TRANSACTION SCANS.

(A) As used in this section and § 92.29:

CARD HOLDER. Means any person who presents a driver's or commercial driver's license or an identification card to a permit holder, or an agent or employee of a permit holder, for either of the purposes listed in under divisions (a) or (b) of the definition for "transaction scan" in this section.

IDENTIFICATION CARD. Means an identification card issued under R.C. §§ 4507.50 through 4507.52.

PERMIT HOLDER. Means the holder of a permit issued under R.C. Chapter 4303.

TRANSACTION SCAN. Means the process by which a permit holder or an agent or employee of a permit holder 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 doing either of the following:

(a) Purchasing any beer, intoxicating liquor, or low-alcohol beverage;

(b) Gaining admission to a premises that has been issued a liquor permit authorizing the sale of beer or intoxicating liquor for consumption on the premises where sold, and where admission is restricted to persons 21 years of age or older.

TRANSACTION SCAN DEVICE. Means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver's or commercial driver's license or an identification card.

(B) (1) A permit holder or an agent or employee of a permit holder 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 for either of the purposes listed in divisions (a) or (b) of the definition for "transaction scan" in this section.

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

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

(C) The Registrar of Motor Vehicles, with the approval of the Liquor Control Commission, shall adopt, and may amend or rescind, rules in accordance with R.C. Chapter 119 that do both of the following:

(1) Govern the recording and maintenance of information described in R.C. § 4301.61(D)(1)(a) and (D)(1)(b), R.C. § 2925.57(D)(1)(a) and (D)(1)(b), and R.C. § 2927.021(D)(1)(a) and (D)(1)(b);

(2) Ensure quality control in the use of transaction scan devices under R.C. §§ 2925.57, 2925.58, 2927.021, 2927.022, 4301.61, and 4301.611.

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

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

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

(2) No permit holder or agent or employee of a permit holder shall use the information that is derived from a transaction scan or that is permitted to be recorded and maintained under division (D)(1) of this section, except for purposes of R.C. § 4301.611, or a substantially equivalent municipal ordinance.

(3) No permit holder or agent or employee of a permit holder shall use a transaction scan device for a purpose other than a purpose listed in divisions (a) or (b) of the definition for "transaction scan" in this section.

(4) No permit holder or agent or employee of a permit holder shall sell or otherwise disseminate the information derived from a transaction scan to any third party, including but not limited to selling or otherwise disseminating that information for any marketing, advertising, or promotional activities, but a seller or agent or employee of a seller may release that information pursuant to a court order or as specifically authorized by R.C. § 4301.611, or a substantially equivalent municipal ordinance, or another section of this code or the Ohio Revised Code.

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

(F) Whoever violates division (B)(2) or (D) of this section is guilty of an illegal liquor transaction scan, and the court may impose upon the offender a civil penalty of up to \$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. § 4301.61) (Rev. 2007)

§ 92.29 AFFIRMATIVE DEFENSES.

(A) A permit holder or an agent or employee of a permit holder may not be found guilty of a charge of a violation of this chapter or any rule of the Liquor Control Commission in which the age of the purchaser of any beer, intoxicating liquor, or low-alcohol beverage is an element of the alleged violation, if the permit holder, agent, or employee raises and proves as an affirmative defense that all of the following occurred:

(1) A card holder attempting to purchase any beer, intoxicating liquor, or low-alcohol beverage presented a driver's or commercial driver's license or an identification card.

(2) 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.

(3) The beer, intoxicating liquor, or low-alcohol beverage was sold to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.

(B) In determining whether a permit holder or an agent or employee of a permit holder has proven the affirmative defense provided by division (A) of this section, the Liquor Control Commission or the trier of fact in a court of record shall consider any written policy that the permit holder has adopted and implemented and that is intended to prevent violations of R.C. §§ 4301.22(A)(1) or (A)(2), 4301.63 through 4301.636, 4301.69, and 4301.691, or any substantially equivalent municipal ordinances. For purposes of division (A)(3) of this section, the Commission or trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a permit holder or an agent or employee of a permit holder to exercise reasonable diligence to determine, and that the use of a transaction scan device does not excuse a permit holder or an agent or employee of a permit holder from exercising reasonable diligence to determine, the following:

(1) Whether a person to whom the permit holder or agent or employee of a permit holder sells any beer or intoxicating liquor is 21 years of age or older or sells low-alcohol beverage is 18 years of age or older;

(2) 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.

(C) The affirmative defense provided by division (A) of this section is in addition to the defense provided by R.C. § 4301.639, or any substantially equivalent municipal ordinance.

(D) In any hearing before the Liquor Control Commission and in any criminal action in which the affirmative defense provided by division (A) 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 hearing or action.
(R.C. § 4301.611) (Rev. 2001)

§ 92.99 PENALTY.

Whoever violates any provision of this chapter for which no other penalty has been provided is guilty of a minor misdemeanor.
(R.C. §§ 4301.70, 4301.99(A))

Statutory reference:

Liquor Director to be notified of court decision regarding permit holder, employee or agent, see R.C. § 4301.991