

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 498

Representatives Callender, Ferguson

A BILL

To amend sections 109.572, 2925.02, 2925.03, 1
2925.04, 2925.11, 2925.12, 2925.14, 2925.36, 2
2925.38, 3796.01, 3796.02, 3796.03, 3796.032, 3
3796.05, 3796.06, 3796.061, 3796.07, 3796.08, 4
3796.09, 3796.10, 3796.11, 3796.12, 3796.13, 5
3796.14, 3796.15, 3796.16, 3796.17, 3796.18, 6
3796.19, 3796.20, 3796.21, 3796.22, 3796.23, 7
3796.24, 3796.27, 3796.28, 3796.29, 3796.30, 8
4123.34, 4510.17, 4729.24, 4729.75, 4729.772, 9
4729.80, 4729.84, 4729.85, 4729.86, 4731.30, 10
4731.301, 4776.01, 5739.01, 5739.02, 5739.021, 11
5739.023, 5739.026, 5739.21, 5741.01, 5741.02, 12
5741.021, 5741.022, 5741.023, and 5741.03; to 13
enact sections 3796.32, 3796.35, 3796.99, 14
4743.11, and 5739.214; and to repeal sections 15
2925.141, 3796.021, 3796.031, 3796.04, 4729.771, 16
and 4731.302 of the Revised Code to enact the 17
Ohio Adult Use Act and to levy a tax. 18

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

Section 1. That sections 109.572, 2925.02, 2925.03, 19
2925.04, 2925.11, 2925.12, 2925.14, 2925.36, 2925.38, 3796.01, 20

3796.02, 3796.03, 3796.032, 3796.05, 3796.06, 3796.061, 3796.07, 21
3796.08, 3796.09, 3796.10, 3796.11, 3796.12, 3796.13, 3796.14, 22
3796.15, 3796.16, 3796.17, 3796.18, 3796.19, 3796.20, 3796.21, 23
3796.22, 3796.23, 3796.24, 3796.27, 3796.28, 3796.29, 3796.30, 24
4123.34, 4510.17, 4729.24, 4729.75, 4729.772, 4729.80, 4729.84, 25
4729.85, 4729.86, 4731.30, 4731.301, 4776.01, 5739.01, 5739.02, 26
5739.021, 5739.023, 5739.026, 5739.21, 5741.01, 5741.02, 27
5741.021, 5741.022, 5741.023, and 5741.03 be amended and 28
sections 3796.32, 3796.35, 3796.99, 4743.11, and 5739.214 of the 29
Revised Code be enacted to read as follows: 30

Sec. 109.572. (A) (1) Upon receipt of a request pursuant to 31
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised 32
Code, a completed form prescribed pursuant to division (C) (1) of 33
this section, and a set of fingerprint impressions obtained in 34
the manner described in division (C) (2) of this section, the 35
superintendent of the bureau of criminal identification and 36
investigation shall conduct a criminal records check in the 37
manner described in division (B) of this section to determine 38
whether any information exists that indicates that the person 39
who is the subject of the request previously has been convicted 40
of or pleaded guilty to any of the following: 41

(a) A violation of section 2903.01, 2903.02, 2903.03, 42
2903.04, 2903.041, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 43
2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 44
2905.32, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 45
2907.08, 2907.09, 2907.19, 2907.21, 2907.22, 2907.23, 2907.25, 46
2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 47
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 48
2923.12, 2923.13, 2923.161, 2923.17, 2923.21, 2923.42, 2925.02, 49
2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.13, 2925.22, 50
2925.23, 2925.24, 2925.31, 2925.32, 2925.36, 2925.37, or 3716.11 51

of the Revised Code, felonious sexual penetration in violation 52
of former section 2907.12 of the Revised Code, a violation of 53
section 2905.04 of the Revised Code as it existed prior to July 54
1, 1996, a violation of section 2919.23 of the Revised Code that 55
would have been a violation of section 2905.04 of the Revised 56
Code as it existed prior to July 1, 1996, had the violation been 57
committed prior to that date, or a violation of section 2925.11 58
of the Revised Code that is not a minor drug possession offense; 59

(b) A violation of an existing or former law of this 60
state, any other state, or the United States that is 61
substantially equivalent to any of the offenses listed in 62
division (A) (1) (a) of this section; 63

(c) If the request is made pursuant to section 3319.39 of 64
the Revised Code for an applicant who is a teacher, any offense 65
specified under section 9.79 of the Revised Code or in section 66
3319.31 of the Revised Code. 67

(2) On receipt of a request pursuant to section 3712.09 or 68
3721.121 of the Revised Code, a completed form prescribed 69
pursuant to division (C) (1) of this section, and a set of 70
fingerprint impressions obtained in the manner described in 71
division (C) (2) of this section, the superintendent of the 72
bureau of criminal identification and investigation shall 73
conduct a criminal records check with respect to any person who 74
has applied for employment in a position for which a criminal 75
records check is required by those sections. The superintendent 76
shall conduct the criminal records check in the manner described 77
in division (B) of this section to determine whether any 78
information exists that indicates that the person who is the 79
subject of the request previously has been convicted of or 80
pleaded guilty to any of the following: 81

(a) A violation of section 2903.01, 2903.02, 2903.03, 82
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 83
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 84
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 85
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 86
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 87
2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 88
2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 89
2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code; 90

(b) An existing or former law of this state, any other 91
state, or the United States that is substantially equivalent to 92
any of the offenses listed in division (A)(2)(a) of this 93
section. 94

(3) On receipt of a request pursuant to section 173.27, 95
173.38, 173.381, 3740.11, 5119.34, 5164.34, 5164.341, 5164.342, 96
5123.081, or 5123.169 of the Revised Code, a completed form 97
prescribed pursuant to division (C)(1) of this section, and a 98
set of fingerprint impressions obtained in the manner described 99
in division (C)(2) of this section, the superintendent of the 100
bureau of criminal identification and investigation shall 101
conduct a criminal records check of the person for whom the 102
request is made. The superintendent shall conduct the criminal 103
records check in the manner described in division (B) of this 104
section to determine whether any information exists that 105
indicates that the person who is the subject of the request 106
previously has been convicted of, has pleaded guilty to, or 107
(except in the case of a request pursuant to section 5164.34, 108
5164.341, or 5164.342 of the Revised Code) has been found 109
eligible for intervention in lieu of conviction for any of the 110
following, regardless of the date of the conviction, the date of 111
entry of the guilty plea, or (except in the case of a request 112

pursuant to section 5164.34, 5164.341, or 5164.342 of the Revised Code) the date the person was found eligible for intervention in lieu of conviction:

(a) A violation of section 959.13, 959.131, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2905.32, 2905.33, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 2919.124, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.12, 2921.13, 2921.21, 2921.24, 2921.32, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 2925.11, 2925.13, 2925.14, ~~2925.141~~, 2925.22, 2925.23, 2925.24, 2925.36, 2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;

(b) Felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(c) A violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996;

(d) A violation of section 2923.01, 2923.02, or 2923.03 of the Revised Code when the underlying offense that is the object of the conspiracy, attempt, or complicity is one of the offenses

listed in divisions (A) (3) (a) to (c) of this section;	143
(e) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in divisions (A) (3) (a) to (d) of this section.	144 145 146 147
(4) On receipt of a request pursuant to section 2151.86 or 2151.904 of the Revised Code, a completed form prescribed pursuant to division (C) (1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C) (2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:	148 149 150 151 152 153 154 155 156 157 158
(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been	159 160 161 162 163 164 165 166 167 168 169 170 171 172

committed prior to that date, a violation of section 2925.11 of 173
the Revised Code that is not a minor drug possession offense, 174
two or more OVI or OVUAC violations committed within the three 175
years immediately preceding the submission of the application or 176
petition that is the basis of the request, or felonious sexual 177
penetration in violation of former section 2907.12 of the 178
Revised Code; 179

(b) A violation of an existing or former law of this 180
state, any other state, or the United States that is 181
substantially equivalent to any of the offenses listed in 182
division (A) (4) (a) of this section. 183

(5) Upon receipt of a request pursuant to section 5104.013 184
of the Revised Code, a completed form prescribed pursuant to 185
division (C) (1) of this section, and a set of fingerprint 186
impressions obtained in the manner described in division (C) (2) 187
of this section, the superintendent of the bureau of criminal 188
identification and investigation shall conduct a criminal 189
records check in the manner described in division (B) of this 190
section to determine whether any information exists that 191
indicates that the person who is the subject of the request has 192
been convicted of or pleaded guilty to any of the following: 193

(a) A violation of section 2151.421, 2903.01, 2903.02, 194
2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 195
2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.32, 196
2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 197
2907.09, 2907.19, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 198
2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 199
2909.03, 2909.04, 2909.05, 2911.01, 2911.02, 2911.11, 2911.12, 200
2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 201
2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.41, 202

2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 203
2913.48, 2913.49, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 204
2919.22, 2919.224, 2919.225, 2919.24, 2919.25, 2921.03, 2921.11, 205
2921.13, 2921.14, 2921.34, 2921.35, 2923.01, 2923.12, 2923.13, 206
2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 207
3716.11 of the Revised Code, felonious sexual penetration in 208
violation of former section 2907.12 of the Revised Code, a 209
violation of section 2905.04 of the Revised Code as it existed 210
prior to July 1, 1996, a violation of section 2919.23 of the 211
Revised Code that would have been a violation of section 2905.04 212
of the Revised Code as it existed prior to July 1, 1996, had the 213
violation been committed prior to that date, a violation of 214
section 2925.11 of the Revised Code that is not a minor drug 215
possession offense, a violation of section 2923.02 or 2923.03 of 216
the Revised Code that relates to a crime specified in this 217
division, or a second violation of section 4511.19 of the 218
Revised Code within five years of the date of application for 219
licensure or certification. 220

(b) A violation of an existing or former law of this 221
state, any other state, or the United States that is 222
substantially equivalent to any of the offenses or violations 223
described in division (A) (5) (a) of this section. 224

(6) Upon receipt of a request pursuant to section 5153.111 225
of the Revised Code, a completed form prescribed pursuant to 226
division (C) (1) of this section, and a set of fingerprint 227
impressions obtained in the manner described in division (C) (2) 228
of this section, the superintendent of the bureau of criminal 229
identification and investigation shall conduct a criminal 230
records check in the manner described in division (B) of this 231
section to determine whether any information exists that 232
indicates that the person who is the subject of the request 233

previously has been convicted of or pleaded guilty to any of the 234
following: 235

(a) A violation of section 2903.01, 2903.02, 2903.03, 236
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 237
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 238
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 239
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 240
2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 241
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 242
2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised 243
Code, felonious sexual penetration in violation of former 244
section 2907.12 of the Revised Code, a violation of section 245
2905.04 of the Revised Code as it existed prior to July 1, 1996, 246
a violation of section 2919.23 of the Revised Code that would 247
have been a violation of section 2905.04 of the Revised Code as 248
it existed prior to July 1, 1996, had the violation been 249
committed prior to that date, or a violation of section 2925.11 250
of the Revised Code that is not a minor drug possession offense; 251

(b) A violation of an existing or former law of this 252
state, any other state, or the United States that is 253
substantially equivalent to any of the offenses listed in 254
division (A) (6) (a) of this section. 255

(7) On receipt of a request for a criminal records check 256
from an individual pursuant to section 4749.03 or 4749.06 of the 257
Revised Code, accompanied by a completed copy of the form 258
prescribed in division (C) (1) of this section and a set of 259
fingerprint impressions obtained in a manner described in 260
division (C) (2) of this section, the superintendent of the 261
bureau of criminal identification and investigation shall 262
conduct a criminal records check in the manner described in 263

division (B) of this section to determine whether any 264
information exists indicating that the person who is the subject 265
of the request has been convicted of or pleaded guilty to any 266
criminal offense in this state or in any other state. If the 267
individual indicates that a firearm will be carried in the 268
course of business, the superintendent shall require information 269
from the federal bureau of investigation as described in 270
division (B) (2) of this section. Subject to division (F) of this 271
section, the superintendent shall report the findings of the 272
criminal records check and any information the federal bureau of 273
investigation provides to the director of public safety. 274

(8) On receipt of a request pursuant to section 1321.37, 275
1321.53, or 4763.05 of the Revised Code, a completed form 276
prescribed pursuant to division (C) (1) of this section, and a 277
set of fingerprint impressions obtained in the manner described 278
in division (C) (2) of this section, the superintendent of the 279
bureau of criminal identification and investigation shall 280
conduct a criminal records check with respect to any person who 281
has applied for a license, permit, or certification from the 282
department of commerce or a division in the department. The 283
superintendent shall conduct the criminal records check in the 284
manner described in division (B) of this section to determine 285
whether any information exists that indicates that the person 286
who is the subject of the request previously has been convicted 287
of or pleaded guilty to any criminal offense in this state, any 288
other state, or the United States. 289

(9) On receipt of a request for a criminal records check 290
from the treasurer of state under section 113.041 of the Revised 291
Code or from an individual under section 928.03, 4701.08, 292
4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4729.53, 293
4729.90, 4729.92, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 294

4731.171, 4731.222, 4731.281, 4731.531, 4732.091, 4734.202, 295
4740.061, 4741.10, 4747.051, 4751.20, 4751.201, 4751.202, 296
4751.21, 4753.061, 4755.70, 4757.101, 4759.061, 4760.032, 297
4760.06, 4761.051, 4762.031, 4762.06, 4774.031, 4774.06, 298
4776.021, 4778.04, 4778.07, 4779.091, or 4783.04 of the Revised 299
Code, accompanied by a completed form prescribed under division 300
(C) (1) of this section and a set of fingerprint impressions 301
obtained in the manner described in division (C) (2) of this 302
section, the superintendent of the bureau of criminal 303
identification and investigation shall conduct a criminal 304
records check in the manner described in division (B) of this 305
section to determine whether any information exists that 306
indicates that the person who is the subject of the request has 307
been convicted of or pleaded guilty to any criminal offense in 308
this state or any other state. Subject to division (F) of this 309
section, the superintendent shall send the results of a check 310
requested under section 113.041 of the Revised Code to the 311
treasurer of state and shall send the results of a check 312
requested under any of the other listed sections to the 313
licensing board specified by the individual in the request. 314

(10) On receipt of a request pursuant to section 124.74, 315
718.131, 1121.23, 1315.141, 1733.47, or 1761.26 of the Revised 316
Code, a completed form prescribed pursuant to division (C) (1) of 317
this section, and a set of fingerprint impressions obtained in 318
the manner described in division (C) (2) of this section, the 319
superintendent of the bureau of criminal identification and 320
investigation shall conduct a criminal records check in the 321
manner described in division (B) of this section to determine 322
whether any information exists that indicates that the person 323
who is the subject of the request previously has been convicted 324
of or pleaded guilty to any criminal offense under any existing 325

or former law of this state, any other state, or the United States. 326
327

(11) On receipt of a request for a criminal records check 328
from an appointing or licensing authority under section 3772.07 329
of the Revised Code, a completed form prescribed under division 330
(C) (1) of this section, and a set of fingerprint impressions 331
obtained in the manner prescribed in division (C) (2) of this 332
section, the superintendent of the bureau of criminal 333
identification and investigation shall conduct a criminal 334
records check in the manner described in division (B) of this 335
section to determine whether any information exists that 336
indicates that the person who is the subject of the request 337
previously has been convicted of or pleaded guilty or no contest 338
to any offense under any existing or former law of this state, 339
any other state, or the United States that is a disqualifying 340
offense as defined in section 3772.07 of the Revised Code or 341
substantially equivalent to such an offense. 342

(12) On receipt of a request pursuant to section 2151.33 343
or 2151.412 of the Revised Code, a completed form prescribed 344
pursuant to division (C) (1) of this section, and a set of 345
fingerprint impressions obtained in the manner described in 346
division (C) (2) of this section, the superintendent of the 347
bureau of criminal identification and investigation shall 348
conduct a criminal records check with respect to any person for 349
whom a criminal records check is required under that section. 350
The superintendent shall conduct the criminal records check in 351
the manner described in division (B) of this section to 352
determine whether any information exists that indicates that the 353
person who is the subject of the request previously has been 354
convicted of or pleaded guilty to any of the following: 355

(a) A violation of section 2903.01, 2903.02, 2903.03, 356
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 357
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 358
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 359
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 360
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 361
2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 362
2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 363
2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code; 364

(b) An existing or former law of this state, any other 365
state, or the United States that is substantially equivalent to 366
any of the offenses listed in division (A)(12)(a) of this 367
section. 368

(13) On receipt of a request pursuant to section 3796.12 369
of the Revised Code, a completed form prescribed pursuant to 370
division (C)(1) of this section, and a set of fingerprint 371
impressions obtained in a manner described in division (C)(2) of 372
this section, the superintendent of the bureau of criminal 373
identification and investigation shall conduct a criminal 374
records check in the manner described in division (B) of this 375
section to determine whether any information exists that 376
indicates that the person who is the subject of the request 377
previously has been convicted of or pleaded guilty to ~~the~~ 378
~~following:~~ 379

~~(a) A~~ a disqualifying offense as specified in rules 380
adopted under ~~section~~ sections 9.79 and ~~division (B)(2)(b) of~~ 381
~~section~~ 3796.03 of the Revised Code if the person who is the 382
subject of the request is an administrator or other person 383
responsible for the daily operation of, or an owner or 384
prospective owner, officer or prospective officer, or board 385

member or prospective board member of, an entity seeking a 386
license from the department of commerce under Chapter 3796. of 387
the Revised Code;— 388

~~(b) A disqualifying offense as specified in rules adopted 389
under section 9.79 and division (B) (2) (b) of section 3796.04 of 390
the Revised Code if the person who is the subject of the request 391
is an administrator or other person responsible for the daily 392
operation of, or an owner or prospective owner, officer or 393
prospective officer, or board member or prospective board member 394
of, an entity seeking a license from the state board of pharmacy 395
under Chapter 3796. of the Revised Code. 396~~

(14) On receipt of a request required by section 3796.13 397
of the Revised Code, a completed form prescribed pursuant to 398
division (C) (1) of this section, and a set of fingerprint 399
impressions obtained in a manner described in division (C) (2) of 400
this section, the superintendent of the bureau of criminal 401
identification and investigation shall conduct a criminal 402
records check in the manner described in division (B) of this 403
section to determine whether any information exists that 404
indicates that the person who is the subject of the request 405
previously has been convicted of or pleaded guilty to ~~the~~ 406
~~following:—~~ 407

~~(a) A a disqualifying offense as specified in rules 408
adopted under ~~division (B) (8) (a) of~~ section 3796.03 of the 409
Revised Code if the person who is the subject of the request is 410
seeking employment with an entity licensed by the department of 411
commerce under Chapter 3796. of the Revised Code;— 412~~

~~(b) A disqualifying offense as specified in rules adopted 413
under ~~division (B) (14) (a) of~~ section 3796.04 of the Revised Code 414
if the person who is the subject of the request is seeking— 415~~

~~employment with an entity licensed by the state board of~~ 416
~~pharmacy under Chapter 3796. of the Revised Code.~~ 417

(15) On receipt of a request pursuant to section 4768.06 418
of the Revised Code, a completed form prescribed under division 419
(C) (1) of this section, and a set of fingerprint impressions 420
obtained in the manner described in division (C) (2) of this 421
section, the superintendent of the bureau of criminal 422
identification and investigation shall conduct a criminal 423
records check in the manner described in division (B) of this 424
section to determine whether any information exists indicating 425
that the person who is the subject of the request has been 426
convicted of or pleaded guilty to any criminal offense in this 427
state or in any other state. 428

(16) On receipt of a request pursuant to division (B) of 429
section 4764.07 or division (A) of section 4735.143 of the 430
Revised Code, a completed form prescribed under division (C) (1) 431
of this section, and a set of fingerprint impressions obtained 432
in the manner described in division (C) (2) of this section, the 433
superintendent of the bureau of criminal identification and 434
investigation shall conduct a criminal records check in the 435
manner described in division (B) of this section to determine 436
whether any information exists indicating that the person who is 437
the subject of the request has been convicted of or pleaded 438
guilty to any criminal offense in any state or the United 439
States. 440

(17) On receipt of a request for a criminal records check 441
under section 147.022 of the Revised Code, a completed form 442
prescribed under division (C) (1) of this section, and a set of 443
fingerprint impressions obtained in the manner prescribed in 444
division (C) (2) of this section, the superintendent of the 445

bureau of criminal identification and investigation shall 446
conduct a criminal records check in the manner described in 447
division (B) of this section to determine whether any 448
information exists that indicates that the person who is the 449
subject of the request previously has been convicted of or 450
pleaded guilty or no contest to any criminal offense under any 451
existing or former law of this state, any other state, or the 452
United States. 453

(18) Upon receipt of a request pursuant to division (F) of 454
section 2915.081 or division (E) of section 2915.082 of the 455
Revised Code, a completed form prescribed under division (C) (1) 456
of this section, and a set of fingerprint impressions obtained 457
in the manner described in division (C) (2) of this section, the 458
superintendent of the bureau of criminal identification and 459
investigation shall conduct a criminal records check in the 460
manner described in division (B) of this section to determine 461
whether any information exists indicating that the person who is 462
the subject of the request has been convicted of or pleaded 463
guilty or no contest to any offense that is a violation of 464
Chapter 2915. of the Revised Code or to any offense under any 465
existing or former law of this state, any other state, or the 466
United States that is substantially equivalent to such an 467
offense. 468

(B) Subject to division (F) of this section, the 469
superintendent shall conduct any criminal records check to be 470
conducted under this section as follows: 471

(1) The superintendent shall review or cause to be 472
reviewed any relevant information gathered and compiled by the 473
bureau under division (A) of section 109.57 of the Revised Code 474
that relates to the person who is the subject of the criminal 475

records check, including, if the criminal records check was 476
requested under section 113.041, 121.08, 124.74, 173.27, 173.38, 477
173.381, 718.131, 928.03, 1121.23, 1315.141, 1321.37, 1321.53, 478
1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3740.11, 479
3712.09, 3721.121, 3772.07, 3796.12, 3796.13, 4729.071, 4729.53, 480
4729.90, 4729.92, 4749.03, 4749.06, 4763.05, 4764.07, 4768.06, 481
5104.013, 5164.34, 5164.341, 5164.342, 5123.081, 5123.169, or 482
5153.111 of the Revised Code, any relevant information contained 483
in records that have been sealed under section 2953.32 of the 484
Revised Code; 485

(2) If the request received by the superintendent asks for 486
information from the federal bureau of investigation, the 487
superintendent shall request from the federal bureau of 488
investigation any information it has with respect to the person 489
who is the subject of the criminal records check, including 490
fingerprint-based checks of national crime information databases 491
as described in 42 U.S.C. 671 if the request is made pursuant to 492
section 2151.86 or 5104.013 of the Revised Code or if any other 493
Revised Code section requires fingerprint-based checks of that 494
nature, and shall review or cause to be reviewed any information 495
the superintendent receives from that bureau. If a request under 496
section 3319.39 of the Revised Code asks only for information 497
from the federal bureau of investigation, the superintendent 498
shall not conduct the review prescribed by division (B)(1) of 499
this section. 500

(3) The superintendent or the superintendent's designee 501
may request criminal history records from other states or the 502
federal government pursuant to the national crime prevention and 503
privacy compact set forth in section 109.571 of the Revised 504
Code. 505

(4) The superintendent shall include in the results of the criminal records check a list or description of the offenses listed or described in the relevant provision of division (A) of this section. The superintendent shall exclude from the results any information the dissemination of which is prohibited by federal law.

(5) The superintendent shall send the results of the criminal records check to the person to whom it is to be sent not later than the following number of days after the date the superintendent receives the request for the criminal records check, the completed form prescribed under division (C) (1) of this section, and the set of fingerprint impressions obtained in the manner described in division (C) (2) of this section:

(a) If the superintendent is required by division (A) of this section (other than division (A) (3) of this section) to conduct the criminal records check, thirty;

(b) If the superintendent is required by division (A) (3) of this section to conduct the criminal records check, sixty.

(C) (1) The superintendent shall prescribe a form to obtain the information necessary to conduct a criminal records check from any person for whom a criminal records check is to be conducted under this section. The form that the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(2) The superintendent shall prescribe standard impression sheets to obtain the fingerprint impressions of any person for whom a criminal records check is to be conducted under this section. Any person for whom a records check is to be conducted

under this section shall obtain the fingerprint impressions at a 535
county sheriff's office, municipal police department, or any 536
other entity with the ability to make fingerprint impressions on 537
the standard impression sheets prescribed by the superintendent. 538
The office, department, or entity may charge the person a 539
reasonable fee for making the impressions. The standard 540
impression sheets the superintendent prescribes pursuant to this 541
division may be in a tangible format, in an electronic format, 542
or in both tangible and electronic formats. 543

(3) Subject to division (D) of this section, the 544
superintendent shall prescribe and charge a reasonable fee for 545
providing a criminal records check under this section. The 546
person requesting the criminal records check shall pay the fee 547
prescribed pursuant to this division. In the case of a request 548
under section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 549
1761.26, 2151.33, 2151.412, or 5164.34 of the Revised Code, the 550
fee shall be paid in the manner specified in that section. 551

(4) The superintendent of the bureau of criminal 552
identification and investigation may prescribe methods of 553
forwarding fingerprint impressions and information necessary to 554
conduct a criminal records check, which methods shall include, 555
but not be limited to, an electronic method. 556

(D) The results of a criminal records check conducted 557
under this section, other than a criminal records check 558
specified in division (A)(7) of this section, are valid for the 559
person who is the subject of the criminal records check for a 560
period of one year from the date upon which the superintendent 561
completes the criminal records check. If during that period the 562
superintendent receives another request for a criminal records 563
check to be conducted under this section for that person, the 564

superintendent shall provide the results from the previous 565
criminal records check of the person at a lower fee than the fee 566
prescribed for the initial criminal records check. 567

(E) When the superintendent receives a request for 568
information from a registered private provider, the 569
superintendent shall proceed as if the request was received from 570
a school district board of education under section 3319.39 of 571
the Revised Code. The superintendent shall apply division (A) (1) 572
(c) of this section to any such request for an applicant who is 573
a teacher. 574

(F) (1) Subject to division (F) (2) of this section, all 575
information regarding the results of a criminal records check 576
conducted under this section that the superintendent reports or 577
sends under division (A) (7) or (9) of this section to the 578
director of public safety, the treasurer of state, or the 579
person, board, or entity that made the request for the criminal 580
records check shall relate to the conviction of the subject 581
person, or the subject person's plea of guilty to, a criminal 582
offense. 583

(2) Division (F) (1) of this section does not limit, 584
restrict, or preclude the superintendent's release of 585
information that relates to the arrest of a person who is 586
eighteen years of age or older, to an adjudication of a child as 587
a delinquent child, or to a criminal conviction of a person 588
under eighteen years of age in circumstances in which a release 589
of that nature is authorized under division (E) (2), (3), or (4) 590
of section 109.57 of the Revised Code pursuant to a rule adopted 591
under division (E) (1) of that section. 592

(G) As used in this section: 593

(1) "Criminal records check" means any criminal records check conducted by the superintendent of the bureau of criminal identification and investigation in accordance with division (B) of this section.

(2) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

(3) "OVI or OVUAC violation" means a violation of section 4511.19 of the Revised Code or a violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to section 4511.19 of the Revised Code.

(4) "Registered private provider" means a nonpublic school or entity registered with the superintendent of public instruction under section 3310.41 of the Revised Code to participate in the autism scholarship program or section 3310.58 of the Revised Code to participate in the Jon Peterson special needs scholarship program.

Sec. 2925.02. (A) No person shall knowingly do any of the following:

(1) By force, threat, or deception, administer to another or induce or cause another to use a controlled substance;

(2) By any means, administer or furnish to another or induce or cause another to use a controlled substance with purpose to cause serious physical harm to the other person, or with purpose to cause the other person to become drug dependent;

(3) By any means, administer or furnish to another or induce or cause another to use a controlled substance, and thereby cause serious physical harm to the other person, or cause the other person to become drug dependent;

- (4) By any means, do any of the following: 623
- (a) Furnish or administer a controlled substance to a 624
juvenile who is at least two years the offender's junior, when 625
the offender knows the age of the juvenile or is reckless in 626
that regard; 627
- (b) Induce or cause a juvenile who is at least two years 628
the offender's junior to use a controlled substance, when the 629
offender knows the age of the juvenile or is reckless in that 630
regard; 631
- (c) Induce or cause a juvenile who is at least two years 632
the offender's junior to commit a felony drug abuse offense, 633
when the offender knows the age of the juvenile or is reckless 634
in that regard; 635
- (d) Use a juvenile, whether or not the offender knows the 636
age of the juvenile, to perform any surveillance activity that 637
is intended to prevent the detection of the offender or any 638
other person in the commission of a felony drug abuse offense or 639
to prevent the arrest of the offender or any other person for 640
the commission of a felony drug abuse offense. 641
- (5) By any means, furnish or administer a controlled 642
substance to a pregnant woman or induce or cause a pregnant 643
woman to use a controlled substance, when the offender knows 644
that the woman is pregnant or is reckless in that regard. 645
- (B) Division (A) (1), (3), (4), or (5) of this section does 646
not apply to manufacturers, wholesalers, licensed health 647
professionals authorized to prescribe drugs, pharmacists, owners 648
of pharmacies, cultivators, processors, testing laboratories, 649
registered patients, adult consumers, and other persons whose 650
conduct is in accordance with Chapters 3719., 3796., 4715., 651

4723., 4729., 4730., 4731., and 4741. of the Revised Code. 652

(C) Whoever violates this section is guilty of corrupting 653
another with drugs. The penalty for the offense shall be 654
determined as follows: 655

(1) If the offense is a violation of division (A) (1), (2), 656
(3), or (4) of this section and the drug involved is any 657
compound, mixture, preparation, or substance included in 658
schedule I or II, with the exception of marihuana, 1-Pentyl-3- 659
(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4- 660
morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1- 661
dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and 5- 662
(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, the 663
offender shall be punished as follows: 664

(a) Except as otherwise provided in division (C) (1) (b) of 665
this section, corrupting another with drugs committed in those 666
circumstances is a felony of the second degree and, subject to 667
division (E) of this section, the court shall impose as a 668
mandatory prison term a second degree felony mandatory prison 669
term. 670

(b) If the offense was committed in the vicinity of a 671
school, corrupting another with drugs committed in those 672
circumstances is a felony of the first degree, and, subject to 673
division (E) of this section, the court shall impose as a 674
mandatory prison term a first degree felony mandatory prison 675
term. 676

(2) If the offense is a violation of division (A) (1), (2), 677
(3), or (4) of this section and the drug involved is any 678
compound, mixture, preparation, or substance included in 679
schedule III, IV, or V, the offender shall be punished as 680

follows: 681

(a) Except as otherwise provided in division (C) (2) (b) of 682
this section, corrupting another with drugs committed in those 683
circumstances is a felony of the second degree and there is a 684
presumption for a prison term for the offense. 685

(b) If the offense was committed in the vicinity of a 686
school, corrupting another with drugs committed in those 687
circumstances is a felony of the second degree and the court 688
shall impose as a mandatory prison term a second degree felony 689
mandatory prison term. 690

(3) If the offense is a violation of division (A) (1), (2), 691
(3), or (4) of this section and the drug involved is marihuana, 692
1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 693
1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1- 694
dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, or 5- 695
(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, the 696
offender shall be punished as follows: 697

(a) Except as otherwise provided in division (C) (3) (b) of 698
this section, corrupting another with drugs committed in those 699
circumstances is a felony of the fourth degree and division (C) 700
of section 2929.13 of the Revised Code applies in determining 701
whether to impose a prison term on the offender. 702

(b) If the offense was committed in the vicinity of a 703
school, corrupting another with drugs committed in those 704
circumstances is a felony of the third degree and division (C) 705
of section 2929.13 of the Revised Code applies in determining 706
whether to impose a prison term on the offender. 707

(4) If the offense is a violation of division (A) (5) of 708
this section and the drug involved is any compound, mixture, 709

preparation, or substance included in schedule I or II, with the 710
exception of marihuana, 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl- 711
3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1- 712
naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3- 713
hydroxycyclohexyl]-phenol, and 5-(1,1-dimethyloctyl)-2-[(1R,3S)- 714
3-hydroxycyclohexyl]-phenol, corrupting another with drugs is a 715
felony of the first degree and, subject to division (E) of this 716
section, the court shall impose as a mandatory prison term a 717
first degree felony mandatory prison term. 718

(5) If the offense is a violation of division (A) (5) of 719
this section and the drug involved is any compound, mixture, 720
preparation, or substance included in schedule III, IV, or V, 721
corrupting another with drugs is a felony of the second degree 722
and the court shall impose as a mandatory prison term a second 723
degree felony mandatory prison term. 724

(6) If the offense is a violation of division (A) (5) of 725
this section and the drug involved is marihuana, 1-Pentyl-3-(1- 726
naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4- 727
morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1- 728
dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, or 5- 729
(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, 730
corrupting another with drugs is a felony of the third degree 731
and division (C) of section 2929.13 of the Revised Code applies 732
in determining whether to impose a prison term on the offender. 733

(D) In addition to any prison term authorized or required 734
by division (C) or (E) of this section and sections 2929.13 and 735
2929.14 of the Revised Code and in addition to any other 736
sanction imposed for the offense under this section or sections 737
2929.11 to 2929.18 of the Revised Code, the court that sentences 738
an offender who is convicted of or pleads guilty to a violation 739

of division (A) of this section may suspend for not more than 740
five years the offender's driver's or commercial driver's 741
license or permit. However, if the offender pleaded guilty to or 742
was convicted of a violation of section 4511.19 of the Revised 743
Code or a substantially similar municipal ordinance or the law 744
of another state or the United States arising out of the same 745
set of circumstances as the violation, the court shall suspend 746
the offender's driver's or commercial driver's license or permit 747
for not more than five years. The court also shall do all of the 748
following that are applicable regarding the offender: 749

(1) (a) If the violation is a felony of the first, second, 750
or third degree, the court shall impose upon the offender the 751
mandatory fine specified for the offense under division (B) (1) 752
of section 2929.18 of the Revised Code unless, as specified in 753
that division, the court determines that the offender is 754
indigent. 755

(b) Notwithstanding any contrary provision of section 756
3719.21 of the Revised Code, any mandatory fine imposed pursuant 757
to division (D) (1) (a) of this section and any fine imposed for a 758
violation of this section pursuant to division (A) of section 759
2929.18 of the Revised Code shall be paid by the clerk of the 760
court in accordance with and subject to the requirements of, and 761
shall be used as specified in, division (F) of section 2925.03 762
of the Revised Code. 763

(c) If a person is charged with any violation of this 764
section that is a felony of the first, second, or third degree, 765
posts bail, and forfeits the bail, the forfeited bail shall be 766
paid by the clerk of the court pursuant to division (D) (1) (b) of 767
this section as if it were a fine imposed for a violation of 768
this section. 769

(2) If the offender is a professionally licensed person, 770
in addition to any other sanction imposed for a violation of 771
this section, the court immediately shall comply with section 772
2925.38 of the Revised Code. 773

(E) Notwithstanding the prison term otherwise authorized 774
or required for the offense under division (C) of this section 775
and sections 2929.13 and 2929.14 of the Revised Code, if the 776
violation of division (A) of this section involves the sale, 777
offer to sell, or possession of a schedule I or II controlled 778
substance, with the exception of marihuana, 1-Pentyl-3-(1- 779
naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4- 780
morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1- 781
dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and 5- 782
(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and 783
if the court imposing sentence upon the offender finds that the 784
offender as a result of the violation is a major drug offender 785
and is guilty of a specification of the type described in 786
division (A) of section 2941.1410 of the Revised Code, the 787
court, in lieu of the prison term that otherwise is authorized 788
or required, shall impose upon the offender the mandatory prison 789
term specified in division (B) (3) (a) of section 2929.14 of the 790
Revised Code. 791

(F) (1) If the sentencing court suspends the offender's 792
driver's or commercial driver's license or permit under division 793
(D) of this section, the offender, at any time after the 794
expiration of two years from the day on which the offender's 795
sentence was imposed or from the day on which the offender 796
finally was released from a prison term under the sentence, 797
whichever is later, may file a motion with the sentencing court 798
requesting termination of the suspension. Upon the filing of the 799
motion and the court's finding of good cause for the 800

determination, the court may terminate the suspension. 801

(2) Any offender who received a mandatory suspension of 802
the offender's driver's or commercial driver's license or permit 803
under this section prior to September 13, 2016, may file a 804
motion with the sentencing court requesting the termination of 805
the suspension. However, an offender who pleaded guilty to or 806
was convicted of a violation of section 4511.19 of the Revised 807
Code or a substantially similar municipal ordinance or law of 808
another state or the United States that arose out of the same 809
set of circumstances as the violation for which the offender's 810
license or permit was suspended under this section shall not 811
file such a motion. 812

Upon the filing of a motion under division (F)(2) of this 813
section, the sentencing court, in its discretion, may terminate 814
the suspension. 815

Sec. 2925.03. (A) No person shall knowingly do any of the 816
following: 817

(1) Sell or offer to sell a controlled substance or a 818
controlled substance analog; 819

(2) Prepare for shipment, ship, transport, deliver, 820
prepare for distribution, or distribute a controlled substance 821
or a controlled substance analog, when the offender knows or has 822
reasonable cause to believe that the controlled substance or a 823
controlled substance analog is intended for sale or resale by 824
the offender or another person. 825

(B) This section does not apply to any of the following: 826

(1) Manufacturers, licensed health professionals 827
authorized to prescribe drugs, pharmacists, owners of 828
pharmacies, cultivators, processors, testing laboratories, 829

registered patients, adult consumers, and other persons whose 830
conduct is in accordance with Chapters 3719., 3796., 4715., 831
4723., 4729., 4730., 4731., and 4741. of the Revised Code; 832

(2) If the offense involves an anabolic steroid, any 833
person who is conducting or participating in a research project 834
involving the use of an anabolic steroid if the project has been 835
approved by the United States food and drug administration; 836

(3) Any person who sells, offers for sale, prescribes, 837
dispenses, or administers for livestock or other nonhuman 838
species an anabolic steroid that is expressly intended for 839
administration through implants to livestock or other nonhuman 840
species and approved for that purpose under the "Federal Food, 841
Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, 842
as amended, and is sold, offered for sale, prescribed, 843
dispensed, or administered for that purpose in accordance with 844
that act. 845

(C) Whoever violates division (A) of this section is 846
guilty of one of the following: 847

(1) If the drug involved in the violation is any compound, 848
mixture, preparation, or substance included in schedule I or 849
schedule II, with the exception of marihuana, cocaine, L.S.D., 850
heroin, any fentanyl-related compound, hashish, and any 851
controlled substance analog, whoever violates division (A) of 852
this section is guilty of aggravated trafficking in drugs. The 853
penalty for the offense shall be determined as follows: 854

(a) Except as otherwise provided in division (C) (1) (b), 855
(c), (d), (e), or (f) of this section, aggravated trafficking in 856
drugs is a felony of the fourth degree, and division (C) of 857
section 2929.13 of the Revised Code applies in determining 858

whether to impose a prison term on the offender. 859

(b) Except as otherwise provided in division (C) (1) (c), 860
(d), (e), or (f) of this section, if the offense was committed 861
in the vicinity of a school or in the vicinity of a juvenile, 862
aggravated trafficking in drugs is a felony of the third degree, 863
and division (C) of section 2929.13 of the Revised Code applies 864
in determining whether to impose a prison term on the offender. 865

(c) Except as otherwise provided in this division, if the 866
amount of the drug involved equals or exceeds the bulk amount 867
but is less than five times the bulk amount, aggravated 868
trafficking in drugs is a felony of the third degree, and, 869
except as otherwise provided in this division, there is a 870
presumption for a prison term for the offense. If aggravated 871
trafficking in drugs is a felony of the third degree under this 872
division and if the offender two or more times previously has 873
been convicted of or pleaded guilty to a felony drug abuse 874
offense, the court shall impose as a mandatory prison term one 875
of the prison terms prescribed for a felony of the third degree. 876
If the amount of the drug involved is within that range and if 877
the offense was committed in the vicinity of a school or in the 878
vicinity of a juvenile, aggravated trafficking in drugs is a 879
felony of the second degree, and the court shall impose as a 880
mandatory prison term a second degree felony mandatory prison 881
term. 882

(d) Except as otherwise provided in this division, if the 883
amount of the drug involved equals or exceeds five times the 884
bulk amount but is less than fifty times the bulk amount, 885
aggravated trafficking in drugs is a felony of the second 886
degree, and the court shall impose as a mandatory prison term a 887
second degree felony mandatory prison term. If the amount of the 888

drug involved is within that range and if the offense was 889
committed in the vicinity of a school or in the vicinity of a 890
juvenile, aggravated trafficking in drugs is a felony of the 891
first degree, and the court shall impose as a mandatory prison 892
term a first degree felony mandatory prison term. 893

(e) If the amount of the drug involved equals or exceeds 894
fifty times the bulk amount but is less than one hundred times 895
the bulk amount and regardless of whether the offense was 896
committed in the vicinity of a school or in the vicinity of a 897
juvenile, aggravated trafficking in drugs is a felony of the 898
first degree, and the court shall impose as a mandatory prison 899
term a first degree felony mandatory prison term. 900

(f) If the amount of the drug involved equals or exceeds 901
one hundred times the bulk amount and regardless of whether the 902
offense was committed in the vicinity of a school or in the 903
vicinity of a juvenile, aggravated trafficking in drugs is a 904
felony of the first degree, the offender is a major drug 905
offender, and the court shall impose as a mandatory prison term 906
a maximum first degree felony mandatory prison term. 907

(2) If the drug involved in the violation is any compound, 908
mixture, preparation, or substance included in schedule III, IV, 909
or V, whoever violates division (A) of this section is guilty of 910
trafficking in drugs. The penalty for the offense shall be 911
determined as follows: 912

(a) Except as otherwise provided in division (C) (2) (b), 913
(c), (d), or (e) of this section, trafficking in drugs is a 914
felony of the fifth degree, and division (B) of section 2929.13 915
of the Revised Code applies in determining whether to impose a 916
prison term on the offender. 917

(b) Except as otherwise provided in division (C) (2) (c), 918
(d), or (e) of this section, if the offense was committed in the 919
vicinity of a school or in the vicinity of a juvenile, 920
trafficking in drugs is a felony of the fourth degree, and 921
division (C) of section 2929.13 of the Revised Code applies in 922
determining whether to impose a prison term on the offender. 923

(c) Except as otherwise provided in this division, if the 924
amount of the drug involved equals or exceeds the bulk amount 925
but is less than five times the bulk amount, trafficking in 926
drugs is a felony of the fourth degree, and division (B) of 927
section 2929.13 of the Revised Code applies in determining 928
whether to impose a prison term for the offense. If the amount 929
of the drug involved is within that range and if the offense was 930
committed in the vicinity of a school or in the vicinity of a 931
juvenile, trafficking in drugs is a felony of the third degree, 932
and there is a presumption for a prison term for the offense. 933

(d) Except as otherwise provided in this division, if the 934
amount of the drug involved equals or exceeds five times the 935
bulk amount but is less than fifty times the bulk amount, 936
trafficking in drugs is a felony of the third degree, and there 937
is a presumption for a prison term for the offense. If the 938
amount of the drug involved is within that range and if the 939
offense was committed in the vicinity of a school or in the 940
vicinity of a juvenile, trafficking in drugs is a felony of the 941
second degree, and there is a presumption for a prison term for 942
the offense. 943

(e) Except as otherwise provided in this division, if the 944
amount of the drug involved equals or exceeds fifty times the 945
bulk amount, trafficking in drugs is a felony of the second 946
degree, and the court shall impose as a mandatory prison term a 947

second degree felony mandatory prison term. If the amount of the 948
drug involved equals or exceeds fifty times the bulk amount and 949
if the offense was committed in the vicinity of a school or in 950
the vicinity of a juvenile, trafficking in drugs is a felony of 951
the first degree, and the court shall impose as a mandatory 952
prison term a first degree felony mandatory prison term. 953

(3) If the drug involved in the violation is marihuana or 954
a compound, mixture, preparation, or substance containing 955
marihuana other than hashish, whoever violates division (A) of 956
this section is guilty of trafficking in marihuana. The penalty 957
for the offense shall be determined as follows: 958

(a) Except as otherwise provided in division (C) (3) (b), 959
(c), (d), (e), (f), (g), or (h) of this section, trafficking in 960
marihuana is a felony of the fifth degree, and division (B) of 961
section 2929.13 of the Revised Code applies in determining 962
whether to impose a prison term on the offender. 963

(b) Except as otherwise provided in division (C) (3) (c), 964
(d), (e), (f), (g), or (h) of this section, if the offense was 965
committed in the vicinity of a school or in the vicinity of a 966
juvenile, trafficking in marihuana is a felony of the fourth 967
degree, and division (B) of section 2929.13 of the Revised Code 968
applies in determining whether to impose a prison term on the 969
offender. 970

(c) Except as otherwise provided in this division, if the 971
amount of the drug involved equals or exceeds two hundred grams 972
but is less than one thousand grams, trafficking in marihuana is 973
a felony of the fourth degree, and division (B) of section 974
2929.13 of the Revised Code applies in determining whether to 975
impose a prison term on the offender. If the amount of the drug 976
involved is within that range and if the offense was committed 977

in the vicinity of a school or in the vicinity of a juvenile, 978
trafficking in marihuana is a felony of the third degree, and 979
division (C) of section 2929.13 of the Revised Code applies in 980
determining whether to impose a prison term on the offender. 981

(d) Except as otherwise provided in this division, if the 982
amount of the drug involved equals or exceeds one thousand grams 983
but is less than five thousand grams, trafficking in marihuana 984
is a felony of the third degree, and division (C) of section 985
2929.13 of the Revised Code applies in determining whether to 986
impose a prison term on the offender. If the amount of the drug 987
involved is within that range and if the offense was committed 988
in the vicinity of a school or in the vicinity of a juvenile, 989
trafficking in marihuana is a felony of the second degree, and 990
there is a presumption that a prison term shall be imposed for 991
the offense. 992

(e) Except as otherwise provided in this division, if the 993
amount of the drug involved equals or exceeds five thousand 994
grams but is less than twenty thousand grams, trafficking in 995
marihuana is a felony of the third degree, and there is a 996
presumption that a prison term shall be imposed for the offense. 997
If the amount of the drug involved is within that range and if 998
the offense was committed in the vicinity of a school or in the 999
vicinity of a juvenile, trafficking in marihuana is a felony of 1000
the second degree, and there is a presumption that a prison term 1001
shall be imposed for the offense. 1002

(f) Except as otherwise provided in this division, if the 1003
amount of the drug involved equals or exceeds twenty thousand 1004
grams but is less than forty thousand grams, trafficking in 1005
marihuana is a felony of the second degree, and the court shall 1006
impose as a mandatory prison term a second degree felony 1007

mandatory prison term of five, six, seven, or eight years. If 1008
the amount of the drug involved is within that range and if the 1009
offense was committed in the vicinity of a school or in the 1010
vicinity of a juvenile, trafficking in marihuana is a felony of 1011
the first degree, and the court shall impose as a mandatory 1012
prison term a maximum first degree felony mandatory prison term. 1013

(g) Except as otherwise provided in this division, if the 1014
amount of the drug involved equals or exceeds forty thousand 1015
grams, trafficking in marihuana is a felony of the second 1016
degree, and the court shall impose as a mandatory prison term a 1017
maximum second degree felony mandatory prison term. If the 1018
amount of the drug involved equals or exceeds forty thousand 1019
grams and if the offense was committed in the vicinity of a 1020
school or in the vicinity of a juvenile, trafficking in 1021
marihuana is a felony of the first degree, and the court shall 1022
impose as a mandatory prison term a maximum first degree felony 1023
mandatory prison term. 1024

(h) Except as otherwise provided in this division, if the 1025
offense involves a gift of twenty grams or less of marihuana, 1026
trafficking in marihuana is a minor misdemeanor upon a first 1027
offense and a misdemeanor of the third degree upon a subsequent 1028
offense. If the offense involves a gift of twenty grams or less 1029
of marihuana and if the offense was committed in the vicinity of 1030
a school or in the vicinity of a juvenile, trafficking in 1031
marihuana is a misdemeanor of the third degree. 1032

(4) If the drug involved in the violation is cocaine or a 1033
compound, mixture, preparation, or substance containing cocaine, 1034
whoever violates division (A) of this section is guilty of 1035
trafficking in cocaine. The penalty for the offense shall be 1036
determined as follows: 1037

(a) Except as otherwise provided in division (C) (4) (b), 1038
(c), (d), (e), (f), or (g) of this section, trafficking in 1039
cocaine is a felony of the fifth degree, and division (B) of 1040
section 2929.13 of the Revised Code applies in determining 1041
whether to impose a prison term on the offender. 1042

(b) Except as otherwise provided in division (C) (4) (c), 1043
(d), (e), (f), or (g) of this section, if the offense was 1044
committed in the vicinity of a school or in the vicinity of a 1045
juvenile, trafficking in cocaine is a felony of the fourth 1046
degree, and division (C) of section 2929.13 of the Revised Code 1047
applies in determining whether to impose a prison term on the 1048
offender. 1049

(c) Except as otherwise provided in this division, if the 1050
amount of the drug involved equals or exceeds five grams but is 1051
less than ten grams of cocaine, trafficking in cocaine is a 1052
felony of the fourth degree, and division (B) of section 2929.13 1053
of the Revised Code applies in determining whether to impose a 1054
prison term for the offense. If the amount of the drug involved 1055
is within that range and if the offense was committed in the 1056
vicinity of a school or in the vicinity of a juvenile, 1057
trafficking in cocaine is a felony of the third degree, and 1058
there is a presumption for a prison term for the offense. 1059

(d) Except as otherwise provided in this division, if the 1060
amount of the drug involved equals or exceeds ten grams but is 1061
less than twenty grams of cocaine, trafficking in cocaine is a 1062
felony of the third degree, and, except as otherwise provided in 1063
this division, there is a presumption for a prison term for the 1064
offense. If trafficking in cocaine is a felony of the third 1065
degree under this division and if the offender two or more times 1066
previously has been convicted of or pleaded guilty to a felony 1067

drug abuse offense, the court shall impose as a mandatory prison 1068
term one of the prison terms prescribed for a felony of the 1069
third degree. If the amount of the drug involved is within that 1070
range and if the offense was committed in the vicinity of a 1071
school or in the vicinity of a juvenile, trafficking in cocaine 1072
is a felony of the second degree, and the court shall impose as 1073
a mandatory prison term a second degree felony mandatory prison 1074
term. 1075

(e) Except as otherwise provided in this division, if the 1076
amount of the drug involved equals or exceeds twenty grams but 1077
is less than twenty-seven grams of cocaine, trafficking in 1078
cocaine is a felony of the second degree, and the court shall 1079
impose as a mandatory prison term a second degree felony 1080
mandatory prison term. If the amount of the drug involved is 1081
within that range and if the offense was committed in the 1082
vicinity of a school or in the vicinity of a juvenile, 1083
trafficking in cocaine is a felony of the first degree, and the 1084
court shall impose as a mandatory prison term a first degree 1085
felony mandatory prison term. 1086

(f) If the amount of the drug involved equals or exceeds 1087
twenty-seven grams but is less than one hundred grams of cocaine 1088
and regardless of whether the offense was committed in the 1089
vicinity of a school or in the vicinity of a juvenile, 1090
trafficking in cocaine is a felony of the first degree, and the 1091
court shall impose as a mandatory prison term a first degree 1092
felony mandatory prison term. 1093

(g) If the amount of the drug involved equals or exceeds 1094
one hundred grams of cocaine and regardless of whether the 1095
offense was committed in the vicinity of a school or in the 1096
vicinity of a juvenile, trafficking in cocaine is a felony of 1097

the first degree, the offender is a major drug offender, and the 1098
court shall impose as a mandatory prison term a maximum first 1099
degree felony mandatory prison term. 1100

(5) If the drug involved in the violation is L.S.D. or a 1101
compound, mixture, preparation, or substance containing L.S.D., 1102
whoever violates division (A) of this section is guilty of 1103
trafficking in L.S.D. The penalty for the offense shall be 1104
determined as follows: 1105

(a) Except as otherwise provided in division (C) (5) (b), 1106
(c), (d), (e), (f), or (g) of this section, trafficking in 1107
L.S.D. is a felony of the fifth degree, and division (B) of 1108
section 2929.13 of the Revised Code applies in determining 1109
whether to impose a prison term on the offender. 1110

(b) Except as otherwise provided in division (C) (5) (c), 1111
(d), (e), (f), or (g) of this section, if the offense was 1112
committed in the vicinity of a school or in the vicinity of a 1113
juvenile, trafficking in L.S.D. is a felony of the fourth 1114
degree, and division (C) of section 2929.13 of the Revised Code 1115
applies in determining whether to impose a prison term on the 1116
offender. 1117

(c) Except as otherwise provided in this division, if the 1118
amount of the drug involved equals or exceeds ten unit doses but 1119
is less than fifty unit doses of L.S.D. in a solid form or 1120
equals or exceeds one gram but is less than five grams of L.S.D. 1121
in a liquid concentrate, liquid extract, or liquid distillate 1122
form, trafficking in L.S.D. is a felony of the fourth degree, 1123
and division (B) of section 2929.13 of the Revised Code applies 1124
in determining whether to impose a prison term for the offense. 1125
If the amount of the drug involved is within that range and if 1126
the offense was committed in the vicinity of a school or in the 1127

vicinity of a juvenile, trafficking in L.S.D. is a felony of the 1128
third degree, and there is a presumption for a prison term for 1129
the offense. 1130

(d) Except as otherwise provided in this division, if the 1131
amount of the drug involved equals or exceeds fifty unit doses 1132
but is less than two hundred fifty unit doses of L.S.D. in a 1133
solid form or equals or exceeds five grams but is less than 1134
twenty-five grams of L.S.D. in a liquid concentrate, liquid 1135
extract, or liquid distillate form, trafficking in L.S.D. is a 1136
felony of the third degree, and, except as otherwise provided in 1137
this division, there is a presumption for a prison term for the 1138
offense. If trafficking in L.S.D. is a felony of the third 1139
degree under this division and if the offender two or more times 1140
previously has been convicted of or pleaded guilty to a felony 1141
drug abuse offense, the court shall impose as a mandatory prison 1142
term one of the prison terms prescribed for a felony of the 1143
third degree. If the amount of the drug involved is within that 1144
range and if the offense was committed in the vicinity of a 1145
school or in the vicinity of a juvenile, trafficking in L.S.D. 1146
is a felony of the second degree, and the court shall impose as 1147
a mandatory prison term a second degree felony mandatory prison 1148
term. 1149

(e) Except as otherwise provided in this division, if the 1150
amount of the drug involved equals or exceeds two hundred fifty 1151
unit doses but is less than one thousand unit doses of L.S.D. in 1152
a solid form or equals or exceeds twenty-five grams but is less 1153
than one hundred grams of L.S.D. in a liquid concentrate, liquid 1154
extract, or liquid distillate form, trafficking in L.S.D. is a 1155
felony of the second degree, and the court shall impose as a 1156
mandatory prison term a second degree felony mandatory prison 1157
term. If the amount of the drug involved is within that range 1158

and if the offense was committed in the vicinity of a school or 1159
in the vicinity of a juvenile, trafficking in L.S.D. is a felony 1160
of the first degree, and the court shall impose as a mandatory 1161
prison term a first degree felony mandatory prison term. 1162

(f) If the amount of the drug involved equals or exceeds 1163
one thousand unit doses but is less than five thousand unit 1164
doses of L.S.D. in a solid form or equals or exceeds one hundred 1165
grams but is less than five hundred grams of L.S.D. in a liquid 1166
concentrate, liquid extract, or liquid distillate form and 1167
regardless of whether the offense was committed in the vicinity 1168
of a school or in the vicinity of a juvenile, trafficking in 1169
L.S.D. is a felony of the first degree, and the court shall 1170
impose as a mandatory prison term a first degree felony 1171
mandatory prison term. 1172

(g) If the amount of the drug involved equals or exceeds 1173
five thousand unit doses of L.S.D. in a solid form or equals or 1174
exceeds five hundred grams of L.S.D. in a liquid concentrate, 1175
liquid extract, or liquid distillate form and regardless of 1176
whether the offense was committed in the vicinity of a school or 1177
in the vicinity of a juvenile, trafficking in L.S.D. is a felony 1178
of the first degree, the offender is a major drug offender, and 1179
the court shall impose as a mandatory prison term a maximum 1180
first degree felony mandatory prison term. 1181

(6) If the drug involved in the violation is heroin or a 1182
compound, mixture, preparation, or substance containing heroin, 1183
whoever violates division (A) of this section is guilty of 1184
trafficking in heroin. The penalty for the offense shall be 1185
determined as follows: 1186

(a) Except as otherwise provided in division (C) (6) (b), 1187
(c), (d), (e), (f), or (g) of this section, trafficking in 1188

heroin is a felony of the fifth degree, and division (B) of 1189
section 2929.13 of the Revised Code applies in determining 1190
whether to impose a prison term on the offender. 1191

(b) Except as otherwise provided in division (C) (6) (c), 1192
(d), (e), (f), or (g) of this section, if the offense was 1193
committed in the vicinity of a school or in the vicinity of a 1194
juvenile, trafficking in heroin is a felony of the fourth 1195
degree, and division (C) of section 2929.13 of the Revised Code 1196
applies in determining whether to impose a prison term on the 1197
offender. 1198

(c) Except as otherwise provided in this division, if the 1199
amount of the drug involved equals or exceeds ten unit doses but 1200
is less than fifty unit doses or equals or exceeds one gram but 1201
is less than five grams, trafficking in heroin is a felony of 1202
the fourth degree, and division (B) of section 2929.13 of the 1203
Revised Code applies in determining whether to impose a prison 1204
term for the offense. If the amount of the drug involved is 1205
within that range and if the offense was committed in the 1206
vicinity of a school or in the vicinity of a juvenile, 1207
trafficking in heroin is a felony of the third degree, and there 1208
is a presumption for a prison term for the offense. 1209

(d) Except as otherwise provided in this division, if the 1210
amount of the drug involved equals or exceeds fifty unit doses 1211
but is less than one hundred unit doses or equals or exceeds 1212
five grams but is less than ten grams, trafficking in heroin is 1213
a felony of the third degree, and there is a presumption for a 1214
prison term for the offense. If the amount of the drug involved 1215
is within that range and if the offense was committed in the 1216
vicinity of a school or in the vicinity of a juvenile, 1217
trafficking in heroin is a felony of the second degree, and 1218

there is a presumption for a prison term for the offense. 1219

(e) Except as otherwise provided in this division, if the 1220
amount of the drug involved equals or exceeds one hundred unit 1221
doses but is less than five hundred unit doses or equals or 1222
exceeds ten grams but is less than fifty grams, trafficking in 1223
heroin is a felony of the second degree, and the court shall 1224
impose as a mandatory prison term a second degree felony 1225
mandatory prison term. If the amount of the drug involved is 1226
within that range and if the offense was committed in the 1227
vicinity of a school or in the vicinity of a juvenile, 1228
trafficking in heroin is a felony of the first degree, and the 1229
court shall impose as a mandatory prison term a first degree 1230
felony mandatory prison term. 1231

(f) If the amount of the drug involved equals or exceeds 1232
five hundred unit doses but is less than one thousand unit doses 1233
or equals or exceeds fifty grams but is less than one hundred 1234
grams and regardless of whether the offense was committed in the 1235
vicinity of a school or in the vicinity of a juvenile, 1236
trafficking in heroin is a felony of the first degree, and the 1237
court shall impose as a mandatory prison term a first degree 1238
felony mandatory prison term. 1239

(g) If the amount of the drug involved equals or exceeds 1240
one thousand unit doses or equals or exceeds one hundred grams 1241
and regardless of whether the offense was committed in the 1242
vicinity of a school or in the vicinity of a juvenile, 1243
trafficking in heroin is a felony of the first degree, the 1244
offender is a major drug offender, and the court shall impose as 1245
a mandatory prison term a maximum first degree felony mandatory 1246
prison term. 1247

(7) If the drug involved in the violation is hashish or a 1248

compound, mixture, preparation, or substance containing hashish, 1249
whoever violates division (A) of this section is guilty of 1250
trafficking in hashish. The penalty for the offense shall be 1251
determined as follows: 1252

(a) Except as otherwise provided in division (C) (7) (b), 1253
(c), (d), (e), (f), or (g) of this section, trafficking in 1254
hashish is a felony of the fifth degree, and division (B) of 1255
section 2929.13 of the Revised Code applies in determining 1256
whether to impose a prison term on the offender. 1257

(b) Except as otherwise provided in division (C) (7) (c), 1258
(d), (e), (f), or (g) of this section, if the offense was 1259
committed in the vicinity of a school or in the vicinity of a 1260
juvenile, trafficking in hashish is a felony of the fourth 1261
degree, and division (B) of section 2929.13 of the Revised Code 1262
applies in determining whether to impose a prison term on the 1263
offender. 1264

(c) Except as otherwise provided in this division, if the 1265
amount of the drug involved equals or exceeds ten grams but is 1266
less than fifty grams of hashish in a solid form or equals or 1267
exceeds two grams but is less than ten grams of hashish in a 1268
liquid concentrate, liquid extract, or liquid distillate form, 1269
trafficking in hashish is a felony of the fourth degree, and 1270
division (B) of section 2929.13 of the Revised Code applies in 1271
determining whether to impose a prison term on the offender. If 1272
the amount of the drug involved is within that range and if the 1273
offense was committed in the vicinity of a school or in the 1274
vicinity of a juvenile, trafficking in hashish is a felony of 1275
the third degree, and division (C) of section 2929.13 of the 1276
Revised Code applies in determining whether to impose a prison 1277
term on the offender. 1278

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds fifty grams but is less than two hundred fifty grams of hashish in a solid form or equals or exceeds ten grams but is less than fifty grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds two hundred fifty grams but is less than one thousand grams of hashish in a solid form or equals or exceeds fifty grams but is less than two hundred grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, trafficking in hashish is a felony of the third degree, and there is a presumption that a prison term shall be imposed for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in hashish is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(f) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one thousand grams but is less than two thousand grams of hashish in a solid form or equals or exceeds two hundred grams but is less than four hundred grams of hashish in a liquid concentrate, liquid

extract, or liquid distillate form, trafficking in hashish is a 1310
felony of the second degree, and the court shall impose as a 1311
mandatory prison term a second degree felony mandatory prison 1312
term of five, six, seven, or eight years. If the amount of the 1313
drug involved is within that range and if the offense was 1314
committed in the vicinity of a school or in the vicinity of a 1315
juvenile, trafficking in hashish is a felony of the first 1316
degree, and the court shall impose as a mandatory prison term a 1317
maximum first degree felony mandatory prison term. 1318

(g) Except as otherwise provided in this division, if the 1319
amount of the drug involved equals or exceeds two thousand grams 1320
of hashish in a solid form or equals or exceeds four hundred 1321
grams of hashish in a liquid concentrate, liquid extract, or 1322
liquid distillate form, trafficking in hashish is a felony of 1323
the second degree, and the court shall impose as a mandatory 1324
prison term a maximum second degree felony mandatory prison 1325
term. If the amount of the drug involved equals or exceeds two 1326
thousand grams of hashish in a solid form or equals or exceeds 1327
four hundred grams of hashish in a liquid concentrate, liquid 1328
extract, or liquid distillate form and if the offense was 1329
committed in the vicinity of a school or in the vicinity of a 1330
juvenile, trafficking in hashish is a felony of the first 1331
degree, and the court shall impose as a mandatory prison term a 1332
maximum first degree felony mandatory prison term. 1333

(8) If the drug involved in the violation is a controlled 1334
substance analog or compound, mixture, preparation, or substance 1335
that contains a controlled substance analog, whoever violates 1336
division (A) of this section is guilty of trafficking in a 1337
controlled substance analog. The penalty for the offense shall 1338
be determined as follows: 1339

(a) Except as otherwise provided in division (C) (8) (b), 1340
(c), (d), (e), (f), or (g) of this section, trafficking in a 1341
controlled substance analog is a felony of the fifth degree, and 1342
division (C) of section 2929.13 of the Revised Code applies in 1343
determining whether to impose a prison term on the offender. 1344

(b) Except as otherwise provided in division (C) (8) (c), 1345
(d), (e), (f), or (g) of this section, if the offense was 1346
committed in the vicinity of a school or in the vicinity of a 1347
juvenile, trafficking in a controlled substance analog is a 1348
felony of the fourth degree, and division (C) of section 2929.13 1349
of the Revised Code applies in determining whether to impose a 1350
prison term on the offender. 1351

(c) Except as otherwise provided in this division, if the 1352
amount of the drug involved equals or exceeds ten grams but is 1353
less than twenty grams, trafficking in a controlled substance 1354
analog is a felony of the fourth degree, and division (B) of 1355
section 2929.13 of the Revised Code applies in determining 1356
whether to impose a prison term for the offense. If the amount 1357
of the drug involved is within that range and if the offense was 1358
committed in the vicinity of a school or in the vicinity of a 1359
juvenile, trafficking in a controlled substance analog is a 1360
felony of the third degree, and there is a presumption for a 1361
prison term for the offense. 1362

(d) Except as otherwise provided in this division, if the 1363
amount of the drug involved equals or exceeds twenty grams but 1364
is less than thirty grams, trafficking in a controlled substance 1365
analog is a felony of the third degree, and there is a 1366
presumption for a prison term for the offense. If the amount of 1367
the drug involved is within that range and if the offense was 1368
committed in the vicinity of a school or in the vicinity of a 1369

juvenile, trafficking in a controlled substance analog is a 1370
felony of the second degree, and there is a presumption for a 1371
prison term for the offense. 1372

(e) Except as otherwise provided in this division, if the 1373
amount of the drug involved equals or exceeds thirty grams but 1374
is less than forty grams, trafficking in a controlled substance 1375
analog is a felony of the second degree, and the court shall 1376
impose as a mandatory prison term a second degree felony 1377
mandatory prison term. If the amount of the drug involved is 1378
within that range and if the offense was committed in the 1379
vicinity of a school or in the vicinity of a juvenile, 1380
trafficking in a controlled substance analog is a felony of the 1381
first degree, and the court shall impose as a mandatory prison 1382
term a first degree felony mandatory prison term. 1383

(f) If the amount of the drug involved equals or exceeds 1384
forty grams but is less than fifty grams and regardless of 1385
whether the offense was committed in the vicinity of a school or 1386
in the vicinity of a juvenile, trafficking in a controlled 1387
substance analog is a felony of the first degree, and the court 1388
shall impose as a mandatory prison term a first degree felony 1389
mandatory prison term. 1390

(g) If the amount of the drug involved equals or exceeds 1391
fifty grams and regardless of whether the offense was committed 1392
in the vicinity of a school or in the vicinity of a juvenile, 1393
trafficking in a controlled substance analog is a felony of the 1394
first degree, the offender is a major drug offender, and the 1395
court shall impose as a mandatory prison term a maximum first 1396
degree felony mandatory prison term. 1397

(9) If the drug involved in the violation is a fentanyl- 1398
related compound or a compound, mixture, preparation, or 1399

substance containing a fentanyl-related compound and division 1400
(C) (10) (a) of this section does not apply to the drug involved, 1401
whoever violates division (A) of this section is guilty of 1402
trafficking in a fentanyl-related compound. The penalty for the 1403
offense shall be determined as follows: 1404

(a) Except as otherwise provided in division (C) (9) (b), 1405
(c), (d), (e), (f), (g), or (h) of this section, trafficking in 1406
a fentanyl-related compound is a felony of the fifth degree, and 1407
division (B) of section 2929.13 of the Revised Code applies in 1408
determining whether to impose a prison term on the offender. 1409

(b) Except as otherwise provided in division (C) (9) (c), 1410
(d), (e), (f), (g), or (h) of this section, if the offense was 1411
committed in the vicinity of a school or in the vicinity of a 1412
juvenile, trafficking in a fentanyl-related compound is a felony 1413
of the fourth degree, and division (C) of section 2929.13 of the 1414
Revised Code applies in determining whether to impose a prison 1415
term on the offender. 1416

(c) Except as otherwise provided in this division, if the 1417
amount of the drug involved equals or exceeds ten unit doses but 1418
is less than fifty unit doses or equals or exceeds one gram but 1419
is less than five grams, trafficking in a fentanyl-related 1420
compound is a felony of the fourth degree, and division (B) of 1421
section 2929.13 of the Revised Code applies in determining 1422
whether to impose a prison term for the offense. If the amount 1423
of the drug involved is within that range and if the offense was 1424
committed in the vicinity of a school or in the vicinity of a 1425
juvenile, trafficking in a fentanyl-related compound is a felony 1426
of the third degree, and there is a presumption for a prison 1427
term for the offense. 1428

(d) Except as otherwise provided in this division, if the 1429

amount of the drug involved equals or exceeds fifty unit doses 1430
but is less than one hundred unit doses or equals or exceeds 1431
five grams but is less than ten grams, trafficking in a 1432
fentanyl-related compound is a felony of the third degree, and 1433
there is a presumption for a prison term for the offense. If the 1434
amount of the drug involved is within that range and if the 1435
offense was committed in the vicinity of a school or in the 1436
vicinity of a juvenile, trafficking in a fentanyl-related 1437
compound is a felony of the second degree, and there is a 1438
presumption for a prison term for the offense. 1439

(e) Except as otherwise provided in this division, if the 1440
amount of the drug involved equals or exceeds one hundred unit 1441
doses but is less than two hundred unit doses or equals or 1442
exceeds ten grams but is less than twenty grams, trafficking in 1443
a fentanyl-related compound is a felony of the second degree, 1444
and the court shall impose as a mandatory prison term one of the 1445
prison terms prescribed for a felony of the second degree. If 1446
the amount of the drug involved is within that range and if the 1447
offense was committed in the vicinity of a school or in the 1448
vicinity of a juvenile, trafficking in a fentanyl-related 1449
compound is a felony of the first degree, and the court shall 1450
impose as a mandatory prison term one of the prison terms 1451
prescribed for a felony of the first degree. 1452

(f) If the amount of the drug involved equals or exceeds 1453
two hundred unit doses but is less than five hundred unit doses 1454
or equals or exceeds twenty grams but is less than fifty grams 1455
and regardless of whether the offense was committed in the 1456
vicinity of a school or in the vicinity of a juvenile, 1457
trafficking in a fentanyl-related compound is a felony of the 1458
first degree, and the court shall impose as a mandatory prison 1459
term one of the prison terms prescribed for a felony of the 1460

first degree. 1461

(g) If the amount of the drug involved equals or exceeds 1462
five hundred unit doses but is less than one thousand unit doses 1463
or equals or exceeds fifty grams but is less than one hundred 1464
grams and regardless of whether the offense was committed in the 1465
vicinity of a school or in the vicinity of a juvenile, 1466
trafficking in a fentanyl-related compound is a felony of the 1467
first degree, and the court shall impose as a mandatory prison 1468
term the maximum prison term prescribed for a felony of the 1469
first degree. 1470

(h) If the amount of the drug involved equals or exceeds 1471
one thousand unit doses or equals or exceeds one hundred grams 1472
and regardless of whether the offense was committed in the 1473
vicinity of a school or in the vicinity of a juvenile, 1474
trafficking in a fentanyl-related compound is a felony of the 1475
first degree, the offender is a major drug offender, and the 1476
court shall impose as a mandatory prison term the maximum prison 1477
term prescribed for a felony of the first degree. 1478

(10) If the drug involved in the violation is a compound, 1479
mixture, preparation, or substance that is a combination of a 1480
fentanyl-related compound and marihuana, one of the following 1481
applies: 1482

(a) Except as otherwise provided in division (C)(10)(b) of 1483
this section, the offender is guilty of trafficking in marihuana 1484
and shall be punished under division (C)(3) of this section. The 1485
offender is not guilty of trafficking in a fentanyl-related 1486
compound and shall not be charged with, convicted of, or 1487
punished under division (C)(9) of this section for trafficking 1488
in a fentanyl-related compound. 1489

(b) If the offender knows or has reason to know that the compound, mixture, preparation, or substance that is the drug involved contains a fentanyl-related compound, the offender is guilty of trafficking in a fentanyl-related compound and shall be punished under division (C) (9) of this section.

(D) In addition to any prison term authorized or required by division (C) of this section and sections 2929.13 and 2929.14 of the Revised Code, and in addition to any other sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section may suspend the driver's or commercial driver's license or permit of the offender in accordance with division (G) of this section. However, if the offender pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit in accordance with division (G) of this section. If applicable, the court also shall do the following:

(1) If the violation of division (A) of this section is a felony of the first, second, or third degree, the court shall impose upon the offender the mandatory fine specified for the offense under division (B) (1) of section 2929.18 of the Revised Code unless, as specified in that division, the court determines that the offender is indigent. Except as otherwise provided in division (H) (1) of this section, a mandatory fine or any other fine imposed for a violation of this section is subject to division (F) of this section. If a person is charged with a

violation of this section that is a felony of the first, second, 1521
or third degree, posts bail, and forfeits the bail, the clerk of 1522
the court shall pay the forfeited bail pursuant to divisions (D) 1523
(1) and (F) of this section, as if the forfeited bail was a fine 1524
imposed for a violation of this section. If any amount of the 1525
forfeited bail remains after that payment and if a fine is 1526
imposed under division (H) (1) of this section, the clerk of the 1527
court shall pay the remaining amount of the forfeited bail 1528
pursuant to divisions (H) (2) and (3) of this section, as if that 1529
remaining amount was a fine imposed under division (H) (1) of 1530
this section. 1531

(2) If the offender is a professionally licensed person, 1532
the court immediately shall comply with section 2925.38 of the 1533
Revised Code. 1534

(E) When a person is charged with the sale of or offer to 1535
sell a bulk amount or a multiple of a bulk amount of a 1536
controlled substance, the jury, or the court trying the accused, 1537
shall determine the amount of the controlled substance involved 1538
at the time of the offense and, if a guilty verdict is returned, 1539
shall return the findings as part of the verdict. In any such 1540
case, it is unnecessary to find and return the exact amount of 1541
the controlled substance involved, and it is sufficient if the 1542
finding and return is to the effect that the amount of the 1543
controlled substance involved is the requisite amount, or that 1544
the amount of the controlled substance involved is less than the 1545
requisite amount. 1546

(F) (1) Notwithstanding any contrary provision of section 1547
3719.21 of the Revised Code and except as provided in division 1548
(H) of this section, the clerk of the court shall pay any 1549
mandatory fine imposed pursuant to division (D) (1) of this 1550

section and any fine other than a mandatory fine that is imposed 1551
for a violation of this section pursuant to division (A) or (B) 1552
(5) of section 2929.18 of the Revised Code to the county, 1553
township, municipal corporation, park district, as created 1554
pursuant to section 511.18 or 1545.04 of the Revised Code, or 1555
state law enforcement agencies in this state that primarily were 1556
responsible for or involved in making the arrest of, and in 1557
prosecuting, the offender. However, the clerk shall not pay a 1558
mandatory fine so imposed to a law enforcement agency unless the 1559
agency has adopted a written internal control policy under 1560
division (F) (2) of this section that addresses the use of the 1561
fine moneys that it receives. Each agency shall use the 1562
mandatory fines so paid to subsidize the agency's law 1563
enforcement efforts that pertain to drug offenses, in accordance 1564
with the written internal control policy adopted by the 1565
recipient agency under division (F) (2) of this section. 1566

(2) Prior to receiving any fine moneys under division (F) 1567
(1) of this section or division (B) of section 2925.42 of the 1568
Revised Code, a law enforcement agency shall adopt a written 1569
internal control policy that addresses the agency's use and 1570
disposition of all fine moneys so received and that provides for 1571
the keeping of detailed financial records of the receipts of 1572
those fine moneys, the general types of expenditures made out of 1573
those fine moneys, and the specific amount of each general type 1574
of expenditure. The policy shall not provide for or permit the 1575
identification of any specific expenditure that is made in an 1576
ongoing investigation. All financial records of the receipts of 1577
those fine moneys, the general types of expenditures made out of 1578
those fine moneys, and the specific amount of each general type 1579
of expenditure by an agency are public records open for 1580
inspection under section 149.43 of the Revised Code. 1581

Additionally, a written internal control policy adopted under 1582
this division is such a public record, and the agency that 1583
adopted it shall comply with it. 1584

(3) As used in division (F) of this section: 1585

(a) "Law enforcement agencies" includes, but is not 1586
limited to, the state board of pharmacy and the office of a 1587
prosecutor. 1588

(b) "Prosecutor" has the same meaning as in section 1589
2935.01 of the Revised Code. 1590

(G) (1) If the sentencing court suspends the offender's 1591
driver's or commercial driver's license or permit under division 1592
(D) of this section or any other provision of this chapter, the 1593
court shall suspend the license, by order, for not more than 1594
five years. If an offender's driver's or commercial driver's 1595
license or permit is suspended pursuant to this division, the 1596
offender, at any time after the expiration of two years from the 1597
day on which the offender's sentence was imposed or from the day 1598
on which the offender finally was released from a prison term 1599
under the sentence, whichever is later, may file a motion with 1600
the sentencing court requesting termination of the suspension; 1601
upon the filing of such a motion and the court's finding of good 1602
cause for the termination, the court may terminate the 1603
suspension. 1604

(2) Any offender who received a mandatory suspension of 1605
the offender's driver's or commercial driver's license or permit 1606
under this section prior to September 13, 2016, may file a 1607
motion with the sentencing court requesting the termination of 1608
the suspension. However, an offender who pleaded guilty to or 1609
was convicted of a violation of section 4511.19 of the Revised 1610

Code or a substantially similar municipal ordinance or law of 1611
another state or the United States that arose out of the same 1612
set of circumstances as the violation for which the offender's 1613
license or permit was suspended under this section shall not 1614
file such a motion. 1615

Upon the filing of a motion under division (G) (2) of this 1616
section, the sentencing court, in its discretion, may terminate 1617
the suspension. 1618

(H) (1) In addition to any prison term authorized or 1619
required by division (C) of this section and sections 2929.13 1620
and 2929.14 of the Revised Code, in addition to any other 1621
penalty or sanction imposed for the offense under this section 1622
or sections 2929.11 to 2929.18 of the Revised Code, and in 1623
addition to the forfeiture of property in connection with the 1624
offense as prescribed in Chapter 2981. of the Revised Code, the 1625
court that sentences an offender who is convicted of or pleads 1626
guilty to a violation of division (A) of this section may impose 1627
upon the offender an additional fine specified for the offense 1628
in division (B) (4) of section 2929.18 of the Revised Code. A 1629
fine imposed under division (H) (1) of this section is not 1630
subject to division (F) of this section and shall be used solely 1631
for the support of one or more eligible community addiction 1632
services providers in accordance with divisions (H) (2) and (3) 1633
of this section. 1634

(2) The court that imposes a fine under division (H) (1) of 1635
this section shall specify in the judgment that imposes the fine 1636
one or more eligible community addiction services providers for 1637
the support of which the fine money is to be used. No community 1638
addiction services provider shall receive or use money paid or 1639
collected in satisfaction of a fine imposed under division (H) 1640

(1) of this section unless the services provider is specified in 1641
the judgment that imposes the fine. No community addiction 1642
services provider shall be specified in the judgment unless the 1643
services provider is an eligible community addiction services 1644
provider and, except as otherwise provided in division (H) (2) of 1645
this section, unless the services provider is located in the 1646
county in which the court that imposes the fine is located or in 1647
a county that is immediately contiguous to the county in which 1648
that court is located. If no eligible community addiction 1649
services provider is located in any of those counties, the 1650
judgment may specify an eligible community addiction services 1651
provider that is located anywhere within this state. 1652

(3) Notwithstanding any contrary provision of section 1653
3719.21 of the Revised Code, the clerk of the court shall pay 1654
any fine imposed under division (H) (1) of this section to the 1655
eligible community addiction services provider specified 1656
pursuant to division (H) (2) of this section in the judgment. The 1657
eligible community addiction services provider that receives the 1658
fine moneys shall use the moneys only for the alcohol and drug 1659
addiction services identified in the application for 1660
certification of services under section 5119.36 of the Revised 1661
Code or in the application for a license under section 5119.37 1662
of the Revised Code filed with the department of mental health 1663
and addiction services by the community addiction services 1664
provider specified in the judgment. 1665

(4) Each community addiction services provider that 1666
receives in a calendar year any fine moneys under division (H) 1667
(3) of this section shall file an annual report covering that 1668
calendar year with the court of common pleas and the board of 1669
county commissioners of the county in which the services 1670
provider is located, with the court of common pleas and the 1671

board of county commissioners of each county from which the 1672
services provider received the moneys if that county is 1673
different from the county in which the services provider is 1674
located, and with the attorney general. The community addiction 1675
services provider shall file the report no later than the first 1676
day of March in the calendar year following the calendar year in 1677
which the services provider received the fine moneys. The report 1678
shall include statistics on the number of persons served by the 1679
community addiction services provider, identify the types of 1680
alcohol and drug addiction services provided to those persons, 1681
and include a specific accounting of the purposes for which the 1682
fine moneys received were used. No information contained in the 1683
report shall identify, or enable a person to determine the 1684
identity of, any person served by the community addiction 1685
services provider. Each report received by a court of common 1686
pleas, a board of county commissioners, or the attorney general 1687
is a public record open for inspection under section 149.43 of 1688
the Revised Code. 1689

(5) As used in divisions (H) (1) to (5) of this section: 1690

(a) "Community addiction services provider" and "alcohol 1691
and drug addiction services" have the same meanings as in 1692
section 5119.01 of the Revised Code. 1693

(b) "Eligible community addiction services provider" means 1694
a community addiction services provider, including a community 1695
addiction services provider that operates an opioid treatment 1696
program licensed under section 5119.37 of the Revised Code. 1697

(I) As used in this section, "drug" includes any substance 1698
that is represented to be a drug. 1699

(J) It is an affirmative defense to a charge of 1700

trafficking in a controlled substance analog under division (C) 1701
(8) of this section that the person charged with violating that 1702
offense sold or offered to sell, or prepared for shipment, 1703
shipped, transported, delivered, prepared for distribution, or 1704
distributed one of the following items that are excluded from 1705
the meaning of "controlled substance analog" under section 1706
3719.01 of the Revised Code: 1707

(1) A controlled substance; 1708

(2) Any substance for which there is an approved new drug 1709
application; 1710

(3) With respect to a particular person, any substance if 1711
an exemption is in effect for investigational use for that 1712
person pursuant to federal law to the extent that conduct with 1713
respect to that substance is pursuant to that exemption. 1714

Sec. 2925.04. (A) No person shall knowingly cultivate 1715
marihuana or knowingly manufacture or otherwise engage in any 1716
part of the production of a controlled substance. 1717

(B) This section does not apply to any of the following: 1718

(1) Cultivators, processors, testing laboratories, 1719
registered patients, and adult consumers engaging in any 1720
activity in accordance with Chapter 3796. of the Revised Code. 1721

(2) A person listed in division (B) (1), (2), or (3) of 1722
section 2925.03 of the Revised Code to the extent and under the 1723
circumstances described in those divisions. 1724

(C) (1) Whoever commits a violation of division (A) of this 1725
section that involves any drug other than marihuana is guilty of 1726
illegal manufacture of drugs, and whoever commits a violation of 1727
division (A) of this section that involves marihuana is guilty 1728

of illegal cultivation of marihuana. 1729

(2) Except as otherwise provided in this division, if the 1730
drug involved in the violation of division (A) of this section 1731
is any compound, mixture, preparation, or substance included in 1732
schedule I or II, with the exception of methamphetamine or 1733
marihuana, illegal manufacture of drugs is a felony of the 1734
second degree, and, subject to division (E) of this section, the 1735
court shall impose as a mandatory prison term a second degree 1736
felony mandatory prison term. 1737

If the drug involved in the violation is any compound, 1738
mixture, preparation, or substance included in schedule I or II, 1739
with the exception of methamphetamine or marihuana, and if the 1740
offense was committed in the vicinity of a juvenile or in the 1741
vicinity of a school, illegal manufacture of drugs is a felony 1742
of the first degree, and, subject to division (E) of this 1743
section, the court shall impose as a mandatory prison term a 1744
first degree felony mandatory prison term. 1745

(3) If the drug involved in the violation of division (A) 1746
of this section is methamphetamine, the penalty for the 1747
violation shall be determined as follows: 1748

(a) Except as otherwise provided in division (C) (3) (b) of 1749
this section, if the drug involved in the violation is 1750
methamphetamine, illegal manufacture of drugs is a felony of the 1751
second degree, and, subject to division (E) of this section, the 1752
court shall impose a mandatory prison term on the offender 1753
determined in accordance with this division. Except as otherwise 1754
provided in this division, the court shall impose as a mandatory 1755
prison term a second degree felony mandatory prison term that is 1756
not less than three years. If the offender previously has been 1757
convicted of or pleaded guilty to a violation of division (A) of 1758

this section, a violation of division (B) (6) of section 2919.22 1759
of the Revised Code, or a violation of division (A) of section 1760
2925.041 of the Revised Code, the court shall impose as a 1761
mandatory prison term a second degree felony mandatory prison 1762
term that is not less than five years. 1763

(b) If the drug involved in the violation is 1764
methamphetamine and if the offense was committed in the vicinity 1765
of a juvenile, in the vicinity of a school, or on public 1766
premises, illegal manufacture of drugs is a felony of the first 1767
degree, and, subject to division (E) of this section, the court 1768
shall impose a mandatory prison term on the offender determined 1769
in accordance with this division. Except as otherwise provided 1770
in this division, the court shall impose as a mandatory prison 1771
term a first degree felony mandatory prison term that is not 1772
less than four years. If the offender previously has been 1773
convicted of or pleaded guilty to a violation of division (A) of 1774
this section, a violation of division (B) (6) of section 2919.22 1775
of the Revised Code, or a violation of division (A) of section 1776
2925.041 of the Revised Code, the court shall impose as a 1777
mandatory prison term a first degree felony mandatory prison 1778
term that is not less than five years. 1779

(4) If the drug involved in the violation of division (A) 1780
of this section is any compound, mixture, preparation, or 1781
substance included in schedule III, IV, or V, illegal 1782
manufacture of drugs is a felony of the third degree or, if the 1783
offense was committed in the vicinity of a school or in the 1784
vicinity of a juvenile, a felony of the second degree, and there 1785
is a presumption for a prison term for the offense. 1786

(5) If the drug involved in the violation is marihuana, 1787
the penalty for the offense shall be determined as follows: 1788

(a) Except as otherwise provided in division (C) (5) (b), 1789
(c), (d), (e), or (f) of this section, illegal cultivation of 1790
marihuana is a minor misdemeanor or, if the offense was 1791
committed in the vicinity of a school or in the vicinity of a 1792
juvenile, a misdemeanor of the fourth degree. 1793

(b) If the amount of marihuana involved equals or exceeds 1794
one hundred grams but is less than two hundred grams, illegal 1795
cultivation of marihuana is a misdemeanor of the fourth degree 1796
or, if the offense was committed in the vicinity of a school or 1797
in the vicinity of a juvenile, a misdemeanor of the third 1798
degree. 1799

(c) If the amount of marihuana involved equals or exceeds 1800
two hundred grams but is less than one thousand grams, illegal 1801
cultivation of marihuana is a felony of the fifth degree or, if 1802
the offense was committed in the vicinity of a school or in the 1803
vicinity of a juvenile, a felony of the fourth degree, and 1804
division (B) of section 2929.13 of the Revised Code applies in 1805
determining whether to impose a prison term on the offender. 1806

(d) If the amount of marihuana involved equals or exceeds 1807
one thousand grams but is less than five thousand grams, illegal 1808
cultivation of marihuana is a felony of the third degree or, if 1809
the offense was committed in the vicinity of a school or in the 1810
vicinity of a juvenile, a felony of the second degree, and 1811
division (C) of section 2929.13 of the Revised Code applies in 1812
determining whether to impose a prison term on the offender. 1813

(e) If the amount of marihuana involved equals or exceeds 1814
five thousand grams but is less than twenty thousand grams, 1815
illegal cultivation of marihuana is a felony of the third degree 1816
or, if the offense was committed in the vicinity of a school or 1817
in the vicinity of a juvenile, a felony of the second degree, 1818

and there is a presumption for a prison term for the offense. 1819

(f) Except as otherwise provided in this division, if the 1820
amount of marihuana involved equals or exceeds twenty thousand 1821
grams, illegal cultivation of marihuana is a felony of the 1822
second degree, and the court shall impose as a mandatory prison 1823
term a maximum second degree felony mandatory prison term. If 1824
the amount of the drug involved equals or exceeds twenty 1825
thousand grams and if the offense was committed in the vicinity 1826
of a school or in the vicinity of a juvenile, illegal 1827
cultivation of marihuana is a felony of the first degree, and 1828
the court shall impose as a mandatory prison term a maximum 1829
first degree felony mandatory prison term. 1830

(D) In addition to any prison term authorized or required 1831
by division (C) or (E) of this section and sections 2929.13 and 1832
2929.14 of the Revised Code and in addition to any other 1833
sanction imposed for the offense under this section or sections 1834
2929.11 to 2929.18 of the Revised Code, the court that sentences 1835
an offender who is convicted of or pleads guilty to a violation 1836
of division (A) of this section may suspend the offender's 1837
driver's or commercial driver's license or permit in accordance 1838
with division (G) of section 2925.03 of the Revised Code. 1839
However, if the offender pleaded guilty to or was convicted of a 1840
violation of section 4511.19 of the Revised Code or a 1841
substantially similar municipal ordinance or the law of another 1842
state or the United States arising out of the same set of 1843
circumstances as the violation, the court shall suspend the 1844
offender's driver's or commercial driver's license or permit in 1845
accordance with division (G) of section 2925.03 of the Revised 1846
Code. If applicable, the court also shall do the following: 1847

(1) If the violation of division (A) of this section is a 1848

felony of the first, second, or third degree, the court shall 1849
impose upon the offender the mandatory fine specified for the 1850
offense under division (B) (1) of section 2929.18 of the Revised 1851
Code unless, as specified in that division, the court determines 1852
that the offender is indigent. The clerk of the court shall pay 1853
a mandatory fine or other fine imposed for a violation of this 1854
section pursuant to division (A) of section 2929.18 of the 1855
Revised Code in accordance with and subject to the requirements 1856
of division (F) of section 2925.03 of the Revised Code. The 1857
agency that receives the fine shall use the fine as specified in 1858
division (F) of section 2925.03 of the Revised Code. If a person 1859
is charged with a violation of this section that is a felony of 1860
the first, second, or third degree, posts bail, and forfeits the 1861
bail, the clerk shall pay the forfeited bail as if the forfeited 1862
bail were a fine imposed for a violation of this section. 1863

(2) If the offender is a professionally licensed person, 1864
the court immediately shall comply with section 2925.38 of the 1865
Revised Code. 1866

(E) Notwithstanding the prison term otherwise authorized 1867
or required for the offense under division (C) of this section 1868
and sections 2929.13 and 2929.14 of the Revised Code, if the 1869
violation of division (A) of this section involves the sale, 1870
offer to sell, or possession of a schedule I or II controlled 1871
substance, with the exception of marihuana, and if the court 1872
imposing sentence upon the offender finds that the offender as a 1873
result of the violation is a major drug offender and is guilty 1874
of a specification of the type described in division (A) of 1875
section 2941.1410 of the Revised Code, the court, in lieu of the 1876
prison term otherwise authorized or required, shall impose upon 1877
the offender the mandatory prison term specified in division (B) 1878
(3) of section 2929.14 of the Revised Code. 1879

(F) It is an affirmative defense, as provided in section 1880
2901.05 of the Revised Code, to a charge under this section for 1881
a fifth degree felony violation of illegal cultivation of 1882
marihuana that the marihuana that gave rise to the charge is in 1883
an amount, is in a form, is prepared, compounded, or mixed with 1884
substances that are not controlled substances in a manner, or is 1885
possessed or cultivated under any other circumstances that 1886
indicate that the marihuana was solely for personal use. 1887

Notwithstanding any contrary provision of division (F) of 1888
this section, if, in accordance with section 2901.05 of the 1889
Revised Code, a person who is charged with a violation of 1890
illegal cultivation of marihuana that is a felony of the fifth 1891
degree sustains the burden of going forward with evidence of and 1892
establishes by a preponderance of the evidence the affirmative 1893
defense described in this division, the person may be prosecuted 1894
for and may be convicted of or plead guilty to a misdemeanor 1895
violation of illegal cultivation of marihuana. 1896

(G) Arrest or conviction for a minor misdemeanor violation 1897
of this section does not constitute a criminal record and need 1898
not be reported by the person so arrested or convicted in 1899
response to any inquiries about the person's criminal record, 1900
including any inquiries contained in an application for 1901
employment, a license, or any other right or privilege or made 1902
in connection with the person's appearance as a witness. 1903

(H) (1) If the sentencing court suspends the offender's 1904
driver's or commercial driver's license or permit under this 1905
section in accordance with division (G) of section 2925.03 of 1906
the Revised Code, the offender may request termination of, and 1907
the court may terminate, the suspension of the offender in 1908
accordance with that division. 1909

(2) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.

Upon the filing of a motion under division (H) (2) of this section, the sentencing court, in its discretion, may terminate the suspension.

Sec. 2925.11. (A) No person shall knowingly obtain, possess, or use a controlled substance or a controlled substance analog.

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

(a) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, cultivators, processors, testing laboratories, registered patients, adult consumers, and other persons whose conduct was in accordance with Chapters 3719., 3796., 4715., 4723., 4729., 4730., 4731., and 4741. of the Revised Code;

(b) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States food and drug administration;

(c) Any person who sells, offers for sale, prescribes, 1939
dispenses, or administers for livestock or other nonhuman 1940
species an anabolic steroid that is expressly intended for 1941
administration through implants to livestock or other nonhuman 1942
species and approved for that purpose under the "Federal Food, 1943
Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, 1944
as amended, and is sold, offered for sale, prescribed, 1945
dispensed, or administered for that purpose in accordance with 1946
that act; 1947

(d) (i) Any person who obtained the controlled substance 1948
pursuant to a prescription issued by a licensed health 1949
professional authorized to prescribe drugs if the prescription 1950
was issued for a legitimate medical purpose and not altered, 1951
forged, or obtained through deception or commission of a theft 1952
offense. 1953

(ii) As used in division (B) (1) (i) of this section, 1954
"deception" and "theft offense" have the same meanings as in 1955
section 2913.01 of the Revised Code. 1956

(e) Possession of less than fifty grams of marihuana, less 1957
than eight grams of hashish in a solid form, or less than two 1958
grams of hashish in a liquid concentrate, liquid extract, or 1959
liquid distillate form. 1960

(2) (a) As used in division (B) (2) of this section: 1961

(i) "Community addiction services provider" has the same 1962
meaning as in section 5119.01 of the Revised Code. 1963

(ii) "Community control sanction" and "drug treatment 1964
program" have the same meanings as in section 2929.01 of the 1965
Revised Code. 1966

(iii) "Health care facility" has the same meaning as in 1967

section 2919.16 of the Revised Code. 1968

(iv) "Minor drug possession offense" means a violation of 1969
this section that is a misdemeanor or a felony of the fifth 1970
degree. 1971

(v) "Post-release control sanction" has the same meaning 1972
as in section 2967.28 of the Revised Code. 1973

(vi) "Peace officer" has the same meaning as in section 1974
2935.01 of the Revised Code. 1975

(vii) "Public agency" has the same meaning as in section 1976
2930.01 of the Revised Code. 1977

(viii) "Qualified individual" means a person who is not on 1978
community control or post-release control and is a person acting 1979
in good faith who seeks or obtains medical assistance for 1980
another person who is experiencing a drug overdose, a person who 1981
experiences a drug overdose and who seeks medical assistance for 1982
that overdose, or a person who is the subject of another person 1983
seeking or obtaining medical assistance for that overdose as 1984
described in division (B) (2) (b) of this section. 1985

(ix) "Seek or obtain medical assistance" includes, but is 1986
not limited to making a 9-1-1 call, contacting in person or by 1987
telephone call an on-duty peace officer, or transporting or 1988
presenting a person to a health care facility. 1989

(b) Subject to division (B) (2) (f) of this section, a 1990
qualified individual shall not be arrested, charged, prosecuted, 1991
convicted, or penalized pursuant to this chapter for a minor 1992
drug possession offense if all of the following apply: 1993

(i) The evidence of the obtaining, possession, or use of 1994
the controlled substance or controlled substance analog that 1995

would be the basis of the offense was obtained as a result of 1996
the qualified individual seeking the medical assistance or 1997
experiencing an overdose and needing medical assistance. 1998

(ii) Subject to division (B) (2) (g) of this section, within 1999
thirty days after seeking or obtaining the medical assistance, 2000
the qualified individual seeks and obtains a screening and 2001
receives a referral for treatment from a community addiction 2002
services provider or a properly credentialed addiction treatment 2003
professional. 2004

(iii) Subject to division (B) (2) (g) of this section, the 2005
qualified individual who obtains a screening and receives a 2006
referral for treatment under division (B) (2) (b) (ii) of this 2007
section, upon the request of any prosecuting attorney, submits 2008
documentation to the prosecuting attorney that verifies that the 2009
qualified individual satisfied the requirements of that 2010
division. The documentation shall be limited to the date and 2011
time of the screening obtained and referral received. 2012

(c) If a person is found to be in violation of any 2013
community control sanction and if the violation is a result of 2014
either of the following, the court shall first consider ordering 2015
the person's participation or continued participation in a drug 2016
treatment program or mitigating the penalty specified in section 2017
2929.13, 2929.15, or 2929.25 of the Revised Code, whichever is 2018
applicable, after which the court has the discretion either to 2019
order the person's participation or continued participation in a 2020
drug treatment program or to impose the penalty with the 2021
mitigating factor specified in any of those applicable sections: 2022

(i) Seeking or obtaining medical assistance in good faith 2023
for another person who is experiencing a drug overdose; 2024

(ii) Experiencing a drug overdose and seeking medical assistance for that overdose or being the subject of another person seeking or obtaining medical assistance for that overdose as described in division (B) (2) (b) of this section.

(d) If a person is found to be in violation of any post-release control sanction and if the violation is a result of either of the following, the court or the parole board shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in section 2929.141 or 2967.28 of the Revised Code, whichever is applicable, after which the court or the parole board has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in either of those applicable sections:

(i) Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;

(ii) Experiencing a drug overdose and seeking medical assistance for that emergency or being the subject of another person seeking or obtaining medical assistance for that overdose as described in division (B) (2) (b) of this section.

(e) Nothing in division (B) (2) (b) of this section shall be construed to do any of the following:

(i) Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of division (B) (2) (b) of this section or with regards to any crime other than a minor drug possession offense committed by a person who qualifies for protection pursuant to division (B) (2) (b) of this

section for a minor drug possession offense; 2054

(ii) Limit any seizure of evidence or contraband otherwise 2055
permitted by law; 2056

(iii) Limit or abridge the authority of a peace officer to 2057
detain or take into custody a person in the course of an 2058
investigation or to effectuate an arrest for any offense except 2059
as provided in that division; 2060

(iv) Limit, modify, or remove any immunity from liability 2061
available pursuant to law in effect prior to September 13, 2016, 2062
to any public agency or to an employee of any public agency. 2063

(f) Division (B) (2) (b) of this section does not apply to 2064
any person who twice previously has been granted an immunity 2065
under division (B) (2) (b) of this section. No person shall be 2066
granted an immunity under division (B) (2) (b) of this section 2067
more than two times. 2068

(g) Nothing in this section shall compel any qualified 2069
individual to disclose protected health information in a way 2070
that conflicts with the requirements of the "Health Insurance 2071
Portability and Accountability Act of 1996," 104 Pub. L. No. 2072
191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and 2073
regulations promulgated by the United States department of 2074
health and human services to implement the act or the 2075
requirements of 42 C.F.R. Part 2. 2076

(C) Whoever violates division (A) of this section is 2077
guilty of one of the following: 2078

(1) If the drug involved in the violation is a compound, 2079
mixture, preparation, or substance included in schedule I or II, 2080
with the exception of marihuana, cocaine, L.S.D., heroin, any 2081
fentanyl-related compound, hashish, and any controlled substance 2082

analog, whoever violates division (A) of this section is guilty 2083
of aggravated possession of drugs. The penalty for the offense 2084
shall be determined as follows: 2085

(a) Except as otherwise provided in division (C) (1) (b), 2086
(c), (d), or (e) of this section, aggravated possession of drugs 2087
is a felony of the fifth degree, and division (B) of section 2088
2929.13 of the Revised Code applies in determining whether to 2089
impose a prison term on the offender. 2090

(b) If the amount of the drug involved equals or exceeds 2091
the bulk amount but is less than five times the bulk amount, 2092
aggravated possession of drugs is a felony of the third degree, 2093
and there is a presumption for a prison term for the offense. 2094

(c) If the amount of the drug involved equals or exceeds 2095
five times the bulk amount but is less than fifty times the bulk 2096
amount, aggravated possession of drugs is a felony of the second 2097
degree, and the court shall impose as a mandatory prison term a 2098
second degree felony mandatory prison term. 2099

(d) If the amount of the drug involved equals or exceeds 2100
fifty times the bulk amount but is less than one hundred times 2101
the bulk amount, aggravated possession of drugs is a felony of 2102
the first degree, and the court shall impose as a mandatory 2103
prison term a first degree felony mandatory prison term. 2104

(e) If the amount of the drug involved equals or exceeds 2105
one hundred times the bulk amount, aggravated possession of 2106
drugs is a felony of the first degree, the offender is a major 2107
drug offender, and the court shall impose as a mandatory prison 2108
term a maximum first degree felony mandatory prison term. 2109

(2) If the drug involved in the violation is a compound, 2110
mixture, preparation, or substance included in schedule III, IV, 2111

or V, whoever violates division (A) of this section is guilty of 2112
possession of drugs. The penalty for the offense shall be 2113
determined as follows: 2114

(a) Except as otherwise provided in division (C) (2) (b), 2115
(c), or (d) of this section, possession of drugs is a 2116
misdemeanor of the first degree or, if the offender previously 2117
has been convicted of a drug abuse offense, a felony of the 2118
fifth degree. 2119

(b) If the amount of the drug involved equals or exceeds 2120
the bulk amount but is less than five times the bulk amount, 2121
possession of drugs is a felony of the fourth degree, and 2122
division (C) of section 2929.13 of the Revised Code applies in 2123
determining whether to impose a prison term on the offender. 2124

(c) If the amount of the drug involved equals or exceeds 2125
five times the bulk amount but is less than fifty times the bulk 2126
amount, possession of drugs is a felony of the third degree, and 2127
there is a presumption for a prison term for the offense. 2128

(d) If the amount of the drug involved equals or exceeds 2129
fifty times the bulk amount, possession of drugs is a felony of 2130
the second degree, and the court shall impose upon the offender 2131
as a mandatory prison term a second degree felony mandatory 2132
prison term. 2133

(3) If the drug involved in the violation is marihuana or 2134
a compound, mixture, preparation, or substance containing 2135
marihuana other than hashish, whoever violates division (A) of 2136
this section is guilty of possession of marihuana. The penalty 2137
for the offense shall be determined as follows: 2138

~~(a) Except as otherwise provided in division (C) (3) (b),~~ 2139
~~(c), (d), (e), (f), or (g) of this section, possession of~~ 2140

~~marihuana is a minor misdemeanor.~~ 2141

~~(b)~~ If the amount of the drug involved equals or exceeds 2142
~~one hundred fifty~~ grams but is less than two hundred grams, 2143
possession of marihuana is a minor misdemeanor ~~of the fourth~~ 2144
degree. 2145

~~(e)~~ (b) If the amount of the drug involved equals or 2146
exceeds two hundred grams but is less than one thousand grams, 2147
possession of marihuana is a felony of the fifth degree, and 2148
division (B) of section 2929.13 of the Revised Code applies in 2149
determining whether to impose a prison term on the offender. 2150

~~(d)~~ (c) If the amount of the drug involved equals or 2151
exceeds one thousand grams but is less than five thousand grams, 2152
possession of marihuana is a felony of the third degree, and 2153
division (C) of section 2929.13 of the Revised Code applies in 2154
determining whether to impose a prison term on the offender. 2155

~~(e)~~ (d) If the amount of the drug involved equals or 2156
exceeds five thousand grams but is less than twenty thousand 2157
grams, possession of marihuana is a felony of the third degree, 2158
and there is a presumption that a prison term shall be imposed 2159
for the offense. 2160

~~(f)~~ (e) If the amount of the drug involved equals or 2161
exceeds twenty thousand grams but is less than forty thousand 2162
grams, possession of marihuana is a felony of the second degree, 2163
and the court shall impose as a mandatory prison term a second 2164
degree felony mandatory prison term of five, six, seven, or 2165
eight years. 2166

~~(g)~~ (f) If the amount of the drug involved equals or 2167
exceeds forty thousand grams, possession of marihuana is a 2168
felony of the second degree, and the court shall impose as a 2169

mandatory prison term a maximum second degree felony mandatory 2170
prison term. 2171

(4) If the drug involved in the violation is cocaine or a 2172
compound, mixture, preparation, or substance containing cocaine, 2173
whoever violates division (A) of this section is guilty of 2174
possession of cocaine. The penalty for the offense shall be 2175
determined as follows: 2176

(a) Except as otherwise provided in division (C) (4) (b), 2177
(c), (d), (e), or (f) of this section, possession of cocaine is 2178
a felony of the fifth degree, and division (B) of section 2179
2929.13 of the Revised Code applies in determining whether to 2180
impose a prison term on the offender. 2181

(b) If the amount of the drug involved equals or exceeds 2182
five grams but is less than ten grams of cocaine, possession of 2183
cocaine is a felony of the fourth degree, and division (B) of 2184
section 2929.13 of the Revised Code applies in determining 2185
whether to impose a prison term on the offender. 2186

(c) If the amount of the drug involved equals or exceeds 2187
ten grams but is less than twenty grams of cocaine, possession 2188
of cocaine is a felony of the third degree, and, except as 2189
otherwise provided in this division, there is a presumption for 2190
a prison term for the offense. If possession of cocaine is a 2191
felony of the third degree under this division and if the 2192
offender two or more times previously has been convicted of or 2193
pleaded guilty to a felony drug abuse offense, the court shall 2194
impose as a mandatory prison term one of the prison terms 2195
prescribed for a felony of the third degree. 2196

(d) If the amount of the drug involved equals or exceeds 2197
twenty grams but is less than twenty-seven grams of cocaine, 2198

possession of cocaine is a felony of the second degree, and the 2199
court shall impose as a mandatory prison term a second degree 2200
felony mandatory prison term. 2201

(e) If the amount of the drug involved equals or exceeds 2202
twenty-seven grams but is less than one hundred grams of 2203
cocaine, possession of cocaine is a felony of the first degree, 2204
and the court shall impose as a mandatory prison term a first 2205
degree felony mandatory prison term. 2206

(f) If the amount of the drug involved equals or exceeds 2207
one hundred grams of cocaine, possession of cocaine is a felony 2208
of the first degree, the offender is a major drug offender, and 2209
the court shall impose as a mandatory prison term a maximum 2210
first degree felony mandatory prison term. 2211

(5) If the drug involved in the violation is L.S.D., 2212
whoever violates division (A) of this section is guilty of 2213
possession of L.S.D. The penalty for the offense shall be 2214
determined as follows: 2215

(a) Except as otherwise provided in division (C) (5) (b), 2216
(c), (d), (e), or (f) of this section, possession of L.S.D. is a 2217
felony of the fifth degree, and division (B) of section 2929.13 2218
of the Revised Code applies in determining whether to impose a 2219
prison term on the offender. 2220

(b) If the amount of L.S.D. involved equals or exceeds ten 2221
unit doses but is less than fifty unit doses of L.S.D. in a 2222
solid form or equals or exceeds one gram but is less than five 2223
grams of L.S.D. in a liquid concentrate, liquid extract, or 2224
liquid distillate form, possession of L.S.D. is a felony of the 2225
fourth degree, and division (C) of section 2929.13 of the 2226
Revised Code applies in determining whether to impose a prison 2227

term on the offender. 2228

(c) If the amount of L.S.D. involved equals or exceeds 2229
fifty unit doses, but is less than two hundred fifty unit doses 2230
of L.S.D. in a solid form or equals or exceeds five grams but is 2231
less than twenty-five grams of L.S.D. in a liquid concentrate, 2232
liquid extract, or liquid distillate form, possession of L.S.D. 2233
is a felony of the third degree, and there is a presumption for 2234
a prison term for the offense. 2235

(d) If the amount of L.S.D. involved equals or exceeds two 2236
hundred fifty unit doses but is less than one thousand unit 2237
doses of L.S.D. in a solid form or equals or exceeds twenty-five 2238
grams but is less than one hundred grams of L.S.D. in a liquid 2239
concentrate, liquid extract, or liquid distillate form, 2240
possession of L.S.D. is a felony of the second degree, and the 2241
court shall impose as a mandatory prison term a second degree 2242
felony mandatory prison term. 2243

(e) If the amount of L.S.D. involved equals or exceeds one 2244
thousand unit doses but is less than five thousand unit doses of 2245
L.S.D. in a solid form or equals or exceeds one hundred grams 2246
but is less than five hundred grams of L.S.D. in a liquid 2247
concentrate, liquid extract, or liquid distillate form, 2248
possession of L.S.D. is a felony of the first degree, and the 2249
court shall impose as a mandatory prison term a first degree 2250
felony mandatory prison term. 2251

(f) If the amount of L.S.D. involved equals or exceeds 2252
five thousand unit doses of L.S.D. in a solid form or equals or 2253
exceeds five hundred grams of L.S.D. in a liquid concentrate, 2254
liquid extract, or liquid distillate form, possession of L.S.D. 2255
is a felony of the first degree, the offender is a major drug 2256
offender, and the court shall impose as a mandatory prison term 2257

a maximum first degree felony mandatory prison term. 2258

(6) If the drug involved in the violation is heroin or a 2259
compound, mixture, preparation, or substance containing heroin, 2260
whoever violates division (A) of this section is guilty of 2261
possession of heroin. The penalty for the offense shall be 2262
determined as follows: 2263

(a) Except as otherwise provided in division (C) (6) (b), 2264
(c), (d), (e), or (f) of this section, possession of heroin is a 2265
felony of the fifth degree, and division (B) of section 2929.13 2266
of the Revised Code applies in determining whether to impose a 2267
prison term on the offender. 2268

(b) If the amount of the drug involved equals or exceeds 2269
ten unit doses but is less than fifty unit doses or equals or 2270
exceeds one gram but is less than five grams, possession of 2271
heroin is a felony of the fourth degree, and division (C) of 2272
section 2929.13 of the Revised Code applies in determining 2273
whether to impose a prison term on the offender. 2274

(c) If the amount of the drug involved equals or exceeds 2275
fifty unit doses but is less than one hundred unit doses or 2276
equals or exceeds five grams but is less than ten grams, 2277
possession of heroin is a felony of the third degree, and there 2278
is a presumption for a prison term for the offense. 2279

(d) If the amount of the drug involved equals or exceeds 2280
one hundred unit doses but is less than five hundred unit doses 2281
or equals or exceeds ten grams but is less than fifty grams, 2282
possession of heroin is a felony of the second degree, and the 2283
court shall impose as a mandatory prison term a second degree 2284
felony mandatory prison term. 2285

(e) If the amount of the drug involved equals or exceeds 2286

five hundred unit doses but is less than one thousand unit doses 2287
or equals or exceeds fifty grams but is less than one hundred 2288
grams, possession of heroin is a felony of the first degree, and 2289
the court shall impose as a mandatory prison term a first degree 2290
felony mandatory prison term. 2291

(f) If the amount of the drug involved equals or exceeds 2292
one thousand unit doses or equals or exceeds one hundred grams, 2293
possession of heroin is a felony of the first degree, the 2294
offender is a major drug offender, and the court shall impose as 2295
a mandatory prison term a maximum first degree felony mandatory 2296
prison term. 2297

(7) If the drug involved in the violation is hashish or a 2298
compound, mixture, preparation, or substance containing hashish, 2299
whoever violates division (A) of this section is guilty of 2300
possession of hashish. The penalty for the offense shall be 2301
determined as follows: 2302

~~(a) Except as otherwise provided in division (C) (7) (b), 2303
(c), (d), (e), (f), or (g) of this section, possession of 2304
hashish is a minor misdemeanor. 2305~~

~~(b) If the amount of the drug involved equals or exceeds 2306
five eight grams but is less than ten grams of hashish in a 2307
solid form or equals or exceeds ~~one gram~~ two grams but is less 2308
than ~~two four~~ grams of hashish in a liquid concentrate, liquid 2309
extract, or liquid distillate form, possession of hashish is a 2310
misdemeanor of the fourth degree. 2311~~

~~(c)~~ (b) If the amount of the drug involved equals or 2312
exceeds ten grams but is less than fifty grams of hashish in a 2313
solid form or equals or exceeds ~~two four~~ grams but is less than 2314
ten grams of hashish in a liquid concentrate, liquid extract, or 2315

liquid distillate form, possession of hashish is a felony of the 2316
fifth degree, and division (B) of section 2929.13 of the Revised 2317
Code applies in determining whether to impose a prison term on 2318
the offender. 2319

~~(d)~~ (c) If the amount of the drug involved equals or 2320
exceeds fifty grams but is less than two hundred fifty grams of 2321
hashish in a solid form or equals or exceeds ten grams but is 2322
less than fifty grams of hashish in a liquid concentrate, liquid 2323
extract, or liquid distillate form, possession of hashish is a 2324
felony of the third degree, and division (C) of section 2929.13 2325
of the Revised Code applies in determining whether to impose a 2326
prison term on the offender. 2327

~~(e)~~ (d) If the amount of the drug involved equals or 2328
exceeds two hundred fifty grams but is less than one thousand 2329
grams of hashish in a solid form or equals or exceeds fifty 2330
grams but is less than two hundred grams of hashish in a liquid 2331
concentrate, liquid extract, or liquid distillate form, 2332
possession of hashish is a felony of the third degree, and there 2333
is a presumption that a prison term shall be imposed for the 2334
offense. 2335

~~(f)~~ (e) If the amount of the drug involved equals or 2336
exceeds one thousand grams but is less than two thousand grams 2337
of hashish in a solid form or equals or exceeds two hundred 2338
grams but is less than four hundred grams of hashish in a liquid 2339
concentrate, liquid extract, or liquid distillate form, 2340
possession of hashish is a felony of the second degree, and the 2341
court shall impose as a mandatory prison term a second degree 2342
felony mandatory prison term of five, six, seven, or eight 2343
years. 2344

~~(g)~~ (f) If the amount of the drug involved equals or 2345

exceeds two thousand grams of hashish in a solid form or equals 2346
or exceeds four hundred grams of hashish in a liquid 2347
concentrate, liquid extract, or liquid distillate form, 2348
possession of hashish is a felony of the second degree, and the 2349
court shall impose as a mandatory prison term a maximum second 2350
degree felony mandatory prison term. 2351

(8) If the drug involved is a controlled substance analog 2352
or compound, mixture, preparation, or substance that contains a 2353
controlled substance analog, whoever violates division (A) of 2354
this section is guilty of possession of a controlled substance 2355
analog. The penalty for the offense shall be determined as 2356
follows: 2357

(a) Except as otherwise provided in division (C) (8) (b), 2358
(c), (d), (e), or (f) of this section, possession of a 2359
controlled substance analog is a felony of the fifth degree, and 2360
division (B) of section 2929.13 of the Revised Code applies in 2361
determining whether to impose a prison term on the offender. 2362

(b) If the amount of the drug involved equals or exceeds 2363
ten grams but is less than twenty grams, possession of a 2364
controlled substance analog is a felony of the fourth degree, 2365
and there is a presumption for a prison term for the offense. 2366

(c) If the amount of the drug involved equals or exceeds 2367
twenty grams but is less than thirty grams, possession of a 2368
controlled substance analog is a felony of the third degree, and 2369
there is a presumption for a prison term for the offense. 2370

(d) If the amount of the drug involved equals or exceeds 2371
thirty grams but is less than forty grams, possession of a 2372
controlled substance analog is a felony of the second degree, 2373
and the court shall impose as a mandatory prison term a second 2374

degree felony mandatory prison term. 2375

(e) If the amount of the drug involved equals or exceeds 2376
forty grams but is less than fifty grams, possession of a 2377
controlled substance analog is a felony of the first degree, and 2378
the court shall impose as a mandatory prison term a first degree 2379
felony mandatory prison term. 2380

(f) If the amount of the drug involved equals or exceeds 2381
fifty grams, possession of a controlled substance analog is a 2382
felony of the first degree, the offender is a major drug 2383
offender, and the court shall impose as a mandatory prison term 2384
a maximum first degree felony mandatory prison term. 2385

(9) If the drug involved in the violation is a compound, 2386
mixture, preparation, or substance that is a combination of a 2387
fentanyl-related compound and marihuana, one of the following 2388
applies: 2389

(a) Except as otherwise provided in division (C) (9) (b) of 2390
this section, the offender is guilty of possession of marihuana 2391
and shall be punished as provided in division (C) (3) of this 2392
section. Except as otherwise provided in division (C) (9) (b) of 2393
this section, the offender is not guilty of possession of a 2394
fentanyl-related compound under division (C) (11) of this section 2395
and shall not be charged with, convicted of, or punished under 2396
division (C) (11) of this section for possession of a fentanyl- 2397
related compound. 2398

(b) If the offender knows or has reason to know that the 2399
compound, mixture, preparation, or substance that is the drug 2400
involved contains a fentanyl-related compound, the offender is 2401
guilty of possession of a fentanyl-related compound and shall be 2402
punished under division (C) (11) of this section. 2403

(10) If the drug involved in the violation is a compound, 2404
mixture, preparation, or substance that is a combination of a 2405
fentanyl-related compound and any schedule III, schedule IV, or 2406
schedule V controlled substance that is not a fentanyl-related 2407
compound, one of the following applies: 2408

(a) Except as otherwise provided in division (C) (10) (b) of 2409
this section, the offender is guilty of possession of drugs and 2410
shall be punished as provided in division (C) (2) of this 2411
section. Except as otherwise provided in division (C) (10) (b) of 2412
this section, the offender is not guilty of possession of a 2413
fentanyl-related compound under division (C) (11) of this section 2414
and shall not be charged with, convicted of, or punished under 2415
division (C) (11) of this section for possession of a fentanyl- 2416
related compound. 2417

(b) If the offender knows or has reason to know that the 2418
compound, mixture, preparation, or substance that is the drug 2419
involved contains a fentanyl-related compound, the offender is 2420
guilty of possession of a fentanyl-related compound and shall be 2421
punished under division (C) (11) of this section. 2422

(11) If the drug involved in the violation is a fentanyl- 2423
related compound and neither division (C) (9) (a) nor division (C) 2424
(10) (a) of this section applies to the drug involved, or is a 2425
compound, mixture, preparation, or substance that contains a 2426
fentanyl-related compound or is a combination of a fentanyl- 2427
related compound and any other controlled substance and neither 2428
division (C) (9) (a) nor division (C) (10) (a) of this section 2429
applies to the drug involved, whoever violates division (A) of 2430
this section is guilty of possession of a fentanyl-related 2431
compound. The penalty for the offense shall be determined as 2432
follows: 2433

(a) Except as otherwise provided in division (C) (11) (b), 2434
(c), (d), (e), (f), or (g) of this section, possession of a 2435
fentanyl-related compound is a felony of the fifth degree, and 2436
division (B) of section 2929.13 of the Revised Code applies in 2437
determining whether to impose a prison term on the offender. 2438

(b) If the amount of the drug involved equals or exceeds 2439
ten unit doses but is less than fifty unit doses or equals or 2440
exceeds one gram but is less than five grams, possession of a 2441
fentanyl-related compound is a felony of the fourth degree, and 2442
division (C) of section 2929.13 of the Revised Code applies in 2443
determining whether to impose a prison term on the offender. 2444

(c) If the amount of the drug involved equals or exceeds 2445
fifty unit doses but is less than one hundred unit doses or 2446
equals or exceeds five grams but is less than ten grams, 2447
possession of a fentanyl-related compound is a felony of the 2448
third degree, and there is a presumption for a prison term for 2449
the offense. 2450

(d) If the amount of the drug involved equals or exceeds 2451
one hundred unit doses but is less than two hundred unit doses 2452
or equals or exceeds ten grams but is less than twenty grams, 2453
possession of a fentanyl-related compound is a felony of the 2454
second degree, and the court shall impose as a mandatory prison 2455
term one of the prison terms prescribed for a felony of the 2456
second degree. 2457

(e) If the amount of the drug involved equals or exceeds 2458
two hundred unit doses but is less than five hundred unit doses 2459
or equals or exceeds twenty grams but is less than fifty grams, 2460
possession of a fentanyl-related compound is a felony of the 2461
first degree, and the court shall impose as a mandatory prison 2462
term one of the prison terms prescribed for a felony of the 2463

first degree. 2464

(f) If the amount of the drug involved equals or exceeds 2465
five hundred unit doses but is less than one thousand unit doses 2466
or equals or exceeds fifty grams but is less than one hundred 2467
grams, possession of a fentanyl-related compound is a felony of 2468
the first degree, and the court shall impose as a mandatory 2469
prison term the maximum prison term prescribed for a felony of 2470
the first degree. 2471

(g) If the amount of the drug involved equals or exceeds 2472
one thousand unit doses or equals or exceeds one hundred grams, 2473
possession of a fentanyl-related compound is a felony of the 2474
first degree, the offender is a major drug offender, and the 2475
court shall impose as a mandatory prison term the maximum prison 2476
term prescribed for a felony of the first degree. 2477

(D) Arrest or conviction for a minor misdemeanor violation 2478
of this section does not constitute a criminal record and need 2479
not be reported by the person so arrested or convicted in 2480
response to any inquiries about the person's criminal record, 2481
including any inquiries contained in any application for 2482
employment, license, or other right or privilege, or made in 2483
connection with the person's appearance as a witness. 2484

(E) In addition to any prison term or jail term authorized 2485
or required by division (C) of this section and sections 2486
2929.13, 2929.14, 2929.22, 2929.24, and 2929.25 of the Revised 2487
Code and in addition to any other sanction that is imposed for 2488
the offense under this section, sections 2929.11 to 2929.18, or 2489
sections 2929.21 to 2929.28 of the Revised Code, the court that 2490
sentences an offender who is convicted of or pleads guilty to a 2491
violation of division (A) of this section may suspend the 2492
offender's driver's or commercial driver's license or permit for 2493

not more than five years. However, if the offender pleaded 2494
guilty to or was convicted of a violation of section 4511.19 of 2495
the Revised Code or a substantially similar municipal ordinance 2496
or the law of another state or the United States arising out of 2497
the same set of circumstances as the violation, the court shall 2498
suspend the offender's driver's or commercial driver's license 2499
or permit for not more than five years. If applicable, the court 2500
also shall do the following: 2501

(1) (a) If the violation is a felony of the first, second, 2502
or third degree, the court shall impose upon the offender the 2503
mandatory fine specified for the offense under division (B) (1) 2504
of section 2929.18 of the Revised Code unless, as specified in 2505
that division, the court determines that the offender is 2506
indigent. 2507

(b) Notwithstanding any contrary provision of section 2508
3719.21 of the Revised Code, the clerk of the court shall pay a 2509
mandatory fine or other fine imposed for a violation of this 2510
section pursuant to division (A) of section 2929.18 of the 2511
Revised Code in accordance with and subject to the requirements 2512
of division (F) of section 2925.03 of the Revised Code. The 2513
agency that receives the fine shall use the fine as specified in 2514
division (F) of section 2925.03 of the Revised Code. 2515

(c) If a person is charged with a violation of this 2516
section that is a felony of the first, second, or third degree, 2517
posts bail, and forfeits the bail, the clerk shall pay the 2518
forfeited bail pursuant to division (E) (1) (b) of this section as 2519
if it were a mandatory fine imposed under division (E) (1) (a) of 2520
this section. 2521

(2) If the offender is a professionally licensed person, 2522
in addition to any other sanction imposed for a violation of 2523

this section, the court immediately shall comply with section 2524
2925.38 of the Revised Code. 2525

(F) It is an affirmative defense, as provided in section 2526
2901.05 of the Revised Code, to a charge of a fourth degree 2527
felony violation under this section that the controlled 2528
substance that gave rise to the charge is in an amount, is in a 2529
form, is prepared, compounded, or mixed with substances that are 2530
not controlled substances in a manner, or is possessed under any 2531
other circumstances, that indicate that the substance was 2532
possessed solely for personal use. Notwithstanding any contrary 2533
provision of this section, if, in accordance with section 2534
2901.05 of the Revised Code, an accused who is charged with a 2535
fourth degree felony violation of division (C) (2), (4), (5), or 2536
(6) of this section sustains the burden of going forward with 2537
evidence of and establishes by a preponderance of the evidence 2538
the affirmative defense described in this division, the accused 2539
may be prosecuted for and may plead guilty to or be convicted of 2540
a misdemeanor violation of division (C) (2) of this section or a 2541
fifth degree felony violation of division (C) (4), (5), or (6) of 2542
this section respectively. 2543

(G) When a person is charged with possessing a bulk amount 2544
or multiple of a bulk amount, division (E) of section 2925.03 of 2545
the Revised Code applies regarding the determination of the 2546
amount of the controlled substance involved at the time of the 2547
offense. 2548

(H) It is an affirmative defense to a charge of possession 2549
of a controlled substance analog under division (C) (8) of this 2550
section that the person charged with violating that offense 2551
obtained, possessed, or used one of the following items that are 2552
excluded from the meaning of "controlled substance analog" under 2553

section 3719.01 of the Revised Code:	2554
(1) A controlled substance;	2555
(2) Any substance for which there is an approved new drug application;	2556 2557
(3) With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent that conduct with respect to that substance is pursuant to that exemption.	2558 2559 2560 2561
(I) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of section 4511.19 of the Revised Code or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.	2562 2563 2564 2565 2566 2567 2568 2569 2570 2571 2572
Upon the filing of a motion under division (I) of this section, the sentencing court, in its discretion, may terminate the suspension.	2573 2574 2575
Sec. 2925.12. (A) No person shall knowingly make, obtain, possess, or use any instrument, article, or thing the customary and primary purpose of which is for the administration or use of a dangerous drug, other than marihuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article, or thing involved has been used by the offender to	2576 2577 2578 2579 2580 2581 2582

unlawfully administer or use a dangerous drug, other than 2583
marihuana, or to prepare a dangerous drug, other than marihuana, 2584
for unlawful administration or use. 2585

(B) This section does not apply to manufacturers, licensed 2586
health professionals authorized to prescribe drugs, pharmacists, 2587
owners of pharmacies, cultivators, processors, testing 2588
laboratories, registered patients, adult consumers, and other 2589
persons whose conduct was in accordance with Chapters 3719., 2590
3796., 4715., 4723., 4729., 4730., 4731., and 4741. of the 2591
Revised Code. 2592

(C) Whoever violates this section is guilty of possessing 2593
drug abuse instruments, a misdemeanor of the second degree. If 2594
the offender previously has been convicted of a drug abuse 2595
offense, a violation of this section is a misdemeanor of the 2596
first degree. 2597

(D) (1) In addition to any other sanction imposed upon an 2598
offender for a violation of this section, the court may suspend 2599
for not more than five years the offender's driver's or 2600
commercial driver's license or permit. However, if the offender 2601
pleaded guilty to or was convicted of a violation of section 2602
4511.19 of the Revised Code or a substantially similar municipal 2603
ordinance or the law of another state or the United States 2604
arising out of the same set of circumstances as the violation, 2605
the court shall suspend the offender's driver's or commercial 2606
driver's license or permit for not more than five years. If the 2607
offender is a professionally licensed person, in addition to any 2608
other sanction imposed for a violation of this section, the 2609
court immediately shall comply with section 2925.38 of the 2610
Revised Code. 2611

(2) Any offender who received a mandatory suspension of 2612

the offender's driver's or commercial driver's license or permit 2613
under this section prior to ~~the effective date of this amendment~~ 2614
September 13, 2016, may file a motion with the sentencing court 2615
requesting the termination of the suspension. However, an 2616
offender who pleaded guilty to or was convicted of a violation 2617
of section 4511.19 of the Revised Code or a substantially 2618
similar municipal ordinance or law of another state or the 2619
United States that arose out of the same set of circumstances as 2620
the violation for which the offender's license or permit was 2621
suspended under this section shall not file such a motion. 2622

Upon the filing of a motion under division (D) (2) of this 2623
section, the sentencing court, in its discretion, may terminate 2624
the suspension. 2625

Sec. 2925.14. (A) As used in this section, "drug 2626
paraphernalia" means any equipment, product, or material of any 2627
kind that is used by the offender, intended by the offender for 2628
use, or designed for use, in propagating, cultivating, growing, 2629
harvesting, manufacturing, compounding, converting, producing, 2630
processing, preparing, testing, analyzing, packaging, 2631
repackaging, storing, containing, concealing, injecting, 2632
ingesting, inhaling, or otherwise introducing into the human 2633
body, a controlled substance in violation of this chapter. "Drug 2634
paraphernalia" does not mean equipment, products, and materials 2635
intended for use, or designed for use, in propagating, 2636
cultivating, growing, harvesting, manufacturing, compounding, 2637
converting, producing, processing, preparing, testing, 2638
analyzing, packaging, repackaging, storing, containing, or 2639
concealing marihuana or hashish. "Drug paraphernalia" includes, 2640
but is not limited to, any of the following equipment, products, 2641
or materials that are used by the offender, intended by the 2642
offender for use, or designed by the offender for use, in any of 2643

- the following manners: 2644
- (1) A kit for propagating, cultivating, growing, or 2645
harvesting any species of a plant that is a controlled substance 2646
other than marihuana or hashish or from which a controlled 2647
substance other than marihuana or hashish can be derived; 2648
- (2) A kit for manufacturing, compounding, converting, 2649
producing, processing, or preparing a controlled substance other 2650
than marihuana or hashish; 2651
- (3) Any object, instrument, or device for manufacturing, 2652
compounding, converting, producing, processing, or preparing 2653
methamphetamine; 2654
- (4) An isomerization device for increasing the potency of 2655
any species of a plant that is a controlled substance other than 2656
marihuana or hashish; 2657
- (5) Testing equipment for identifying, or analyzing the 2658
strength, effectiveness, or purity of, a controlled substance 2659
other than marihuana or hashish; 2660
- (6) A scale or balance for weighing or measuring a 2661
controlled substance other than marihuana or hashish; 2662
- (7) A diluent or adulterant, such as quinine 2663
hydrochloride, mannitol, mannite, dextrose, or lactose, for 2664
cutting a controlled substance; 2665
- ~~(8) A separation gin or sifter for removing twigs and 2666
seeds from, or otherwise cleaning or refining, marihuana; 2667~~
- ~~(9) A blender, bowl, container, spoon, or mixing device 2668
for compounding a controlled substance other than marihuana or 2669
hashish; 2670~~

~~(10)~~-(9) A capsule, balloon, envelope, or container for 2671
packaging small quantities of a controlled substance other than 2672
marihuana or hashish; 2673

~~(11)~~-(10) A container or device for storing or concealing 2674
a controlled substance other than marihuana or hashish; 2675

~~(12)~~-(11) A hypodermic syringe, needle, or instrument for 2676
parenterally injecting a controlled substance into the human 2677
body; 2678

~~(13)~~-(12) An object, instrument, or device for ingesting, 2679
inhaling, or otherwise introducing cocaine into the human body, 2680
~~marihuana, cocaine, hashish, or hashish oil~~, such as a metal, 2681
wooden, acrylic, glass, stone, plastic, or ceramic pipe, with or 2682
without a screen, permanent screen, ~~hashish head~~, or punctured 2683
metal bowl; water pipe; carburetion tube or device; smoking or 2684
carburetion mask; roach clip or similar object used to hold 2685
burning material, ~~such as a marihuana cigarette~~, that has become 2686
too small or too short to be held in the hand; miniature cocaine 2687
spoon, or cocaine vial; chamber pipe; carburetor pipe; electric 2688
pipe; air driver pipe; chillum; bong; or ice pipe or chiller. 2689

(B) In determining if any equipment, product, or material 2690
is drug paraphernalia, a court or law enforcement officer shall 2691
consider, in addition to other relevant factors, the following: 2692

(1) Any statement by the owner, or by anyone in control, 2693
of the equipment, product, or material, concerning its use; 2694

(2) The proximity in time or space of the equipment, 2695
product, or material, or of the act relating to the equipment, 2696
product, or material, to a violation of any provision of this 2697
chapter; 2698

(3) The proximity of the equipment, product, or material 2699

to any controlled substance <u>other than marihuana or hashish</u> ;	2700
(4) The existence of any residue of a controlled substance	2701
<u>other than marihuana or hashish</u> on the equipment, product, or	2702
material;	2703
(5) Direct or circumstantial evidence of the intent of the	2704
owner, or of anyone in control, of the equipment, product, or	2705
material, to deliver it to any person whom the owner or person	2706
in control of the equipment, product, or material knows intends	2707
to use the object to facilitate a violation of any provision of	2708
this chapter. A finding that the owner, or anyone in control, of	2709
the equipment, product, or material, is not guilty of a	2710
violation of any other provision of this chapter does not	2711
prevent a finding that the equipment, product, or material was	2712
intended or designed by the offender for use as drug	2713
paraphernalia.	2714
(6) Any oral or written instruction provided with the	2715
equipment, product, or material concerning its use;	2716
(7) Any descriptive material accompanying the equipment,	2717
product, or material and explaining or depicting its use;	2718
(8) National or local advertising concerning the use of	2719
the equipment, product, or material;	2720
(9) The manner and circumstances in which the equipment,	2721
product, or material is displayed for sale;	2722
(10) Direct or circumstantial evidence of the ratio of the	2723
sales of the equipment, product, or material to the total sales	2724
of the business enterprise;	2725
(11) The existence and scope of legitimate uses of the	2726
equipment, product, or material in the community;	2727

(12) Expert testimony concerning the use of the equipment, 2728
product, or material. 2729

(C) (1) Subject to division (D) (2) of this section, no 2730
person shall knowingly use, or possess with purpose to use, drug 2731
paraphernalia. 2732

(2) No person shall knowingly sell, or possess or 2733
manufacture with purpose to sell, drug paraphernalia, if the 2734
person knows or reasonably should know that the equipment, 2735
product, or material will be used as drug paraphernalia. 2736

(3) No person shall place an advertisement in any 2737
newspaper, magazine, handbill, or other publication that is 2738
published and printed and circulates primarily within this 2739
state, if the person knows that the purpose of the advertisement 2740
is to promote the illegal sale in this state of the equipment, 2741
product, or material that the offender intended or designed for 2742
use as drug paraphernalia. 2743

(D) (1) This section does not apply to manufacturers, 2744
licensed health professionals authorized to prescribe drugs, 2745
pharmacists, owners of pharmacies, cultivators, processors, 2746
testing laboratories, registered patients, adult consumers, and 2747
other persons whose conduct is in accordance with Chapters 2748
3719., 3796., 4715., 4723., 4729., 4730., 4731., and 4741. of 2749
the Revised Code. This section shall not be construed to 2750
prohibit the possession or use of a hypodermic as authorized by 2751
section 3719.172 of the Revised Code. 2752

(2) Division ~~(C) (1)~~ (C) of this section does not apply to 2753
a person's use, or possession with purpose to use, any drug 2754
paraphernalia that is equipment, a product, or material of any 2755
kind that is used by the person, intended by the person for use, 2756

or designed for use in storing, containing, concealing, 2757
injecting, ingesting, inhaling, or otherwise introducing into 2758
the human body marihuana or hashish. 2759

(E) Notwithstanding Chapter 2981. of the Revised Code, any 2760
drug paraphernalia that was used, possessed, sold, or 2761
manufactured in a violation of this section shall be seized, 2762
after a conviction for that violation shall be forfeited, and 2763
upon forfeiture shall be disposed of pursuant to division (B) of 2764
section 2981.12 of the Revised Code. 2765

(F) (1) Whoever violates division (C) (1) of this section is 2766
guilty of illegal use or possession of drug paraphernalia, a 2767
misdemeanor of the fourth degree. 2768

(2) Except as provided in division (F) (3) of this section, 2769
whoever violates division (C) (2) of this section is guilty of 2770
dealing in drug paraphernalia, a misdemeanor of the second 2771
degree. 2772

(3) Whoever violates division (C) (2) of this section by 2773
selling drug paraphernalia to a juvenile is guilty of selling 2774
drug paraphernalia to juveniles, a misdemeanor of the first 2775
degree. 2776

(4) Whoever violates division (C) (3) of this section is 2777
guilty of illegal advertising of drug paraphernalia, a 2778
misdemeanor of the second degree. 2779

(G) (1) In addition to any other sanction imposed upon an 2780
offender for a violation of this section, the court may suspend 2781
for not more than five years the offender's driver's or 2782
commercial driver's license or permit. However, if the offender 2783
pleaded guilty to or was convicted of a violation of section 2784
4511.19 of the Revised Code or a substantially similar municipal 2785

ordinance or the law of another state or the United States 2786
arising out of the same set of circumstances as the violation, 2787
the court shall suspend the offender's driver's or commercial 2788
driver's license or permit for not more than five years. If the 2789
offender is a professionally licensed person, in addition to any 2790
other sanction imposed for a violation of this section, the 2791
court immediately shall comply with section 2925.38 of the 2792
Revised Code. 2793

(2) Any offender who received a mandatory suspension of 2794
the offender's driver's or commercial driver's license or permit 2795
under this section prior to ~~the effective date of this amendment~~ 2796
September 13, 2016, may file a motion with the sentencing court 2797
requesting the termination of the suspension. However, an 2798
offender who pleaded guilty to or was convicted of a violation 2799
of section 4511.19 of the Revised Code or a substantially 2800
similar municipal ordinance or law of another state or the 2801
United States that arose out of the same set of circumstances as 2802
the violation for which the offender's license or permit was 2803
suspended under this section shall not file such a motion. 2804

Upon the filing of a motion under division (G) (2) of this 2805
section, the sentencing court, in its discretion, may terminate 2806
the suspension. 2807

Sec. 2925.36. (A) No person shall knowingly furnish 2808
another a sample drug. 2809

(B) Division (A) of this section does not apply to 2810
manufacturers, wholesalers, pharmacists, owners of pharmacies, 2811
licensed health professionals authorized to prescribe drugs, 2812
cultivators, processors, testing laboratories, registered 2813
patients, adult consumers, and other persons whose conduct is in 2814
accordance with Chapters 3719., 3796., 4715., 4723., 4725., 2815

4729., 4730., 4731., and 4741. of the Revised Code.	2816
(C) (1) Whoever violates this section is guilty of illegal dispensing of drug samples.	2817 2818
(2) If the drug involved in the offense is a compound, mixture, preparation, or substance included in schedule I or II, with the exception of marihuana, the penalty for the offense shall be determined as follows:	2819 2820 2821 2822
(a) Except as otherwise provided in division (C) (2) (b) of this section, illegal dispensing of drug samples is a felony of the fifth degree, and, subject to division (E) of this section, division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.	2823 2824 2825 2826 2827
(b) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a felony of the fourth degree, and, subject to division (E) of this section, division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.	2828 2829 2830 2831 2832 2833
(3) If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in schedule III, IV, or V, or is marihuana, the penalty for the offense shall be determined as follows:	2834 2835 2836 2837
(a) Except as otherwise provided in division (C) (3) (b) of this section, illegal dispensing of drug samples is a misdemeanor of the second degree.	2838 2839 2840
(b) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a misdemeanor of the first degree.	2841 2842 2843

(D) (1) In addition to any prison term authorized or 2844
required by division (C) or (E) of this section and sections 2845
2929.13 and 2929.14 of the Revised Code and in addition to any 2846
other sanction imposed for the offense under this section or 2847
sections 2929.11 to 2929.18 of the Revised Code, the court that 2848
sentences an offender who is convicted of or pleads guilty to a 2849
violation of division (A) of this section may suspend for not 2850
more than five years the offender's driver's or commercial 2851
driver's license or permit. However, if the offender pleaded 2852
guilty to or was convicted of a violation of section 4511.19 of 2853
the Revised Code or a substantially similar municipal ordinance 2854
or the law of another state or the United States arising out of 2855
the same set of circumstances as the violation, the court shall 2856
suspend the offender's driver's or commercial driver's license 2857
or permit for not more than five years. 2858

If the offender is a professionally licensed person, in 2859
addition to any other sanction imposed for a violation of this 2860
section, the court immediately shall comply with section 2925.38 2861
of the Revised Code. 2862

(2) Any offender who received a mandatory suspension of 2863
the offender's driver's or commercial driver's license or permit 2864
under this section prior to September 13, 2016, may file a 2865
motion with the sentencing court requesting the termination of 2866
the suspension. However, an offender who pleaded guilty to or 2867
was convicted of a violation of section 4511.19 of the Revised 2868
Code or a substantially similar municipal ordinance or law of 2869
another state or the United States that arose out of the same 2870
set of circumstances as the violation for which the offender's 2871
license or permit was suspended under this section shall not 2872
file such a motion. 2873

Upon the filing of a motion under division (D) (2) of this section, the sentencing court, in its discretion, may terminate the suspension.

(E) Notwithstanding the prison term authorized or required by division (C) of this section and sections 2929.13 and 2929.14 of the Revised Code, if the violation of division (A) of this section involves the sale, offer to sell, or possession of a schedule I or II controlled substance, with the exception of marihuana, and if the court imposing sentence upon the offender finds that the offender as a result of the violation is a major drug offender and is guilty of a specification of the type described in division (A) of section 2941.1410 of the Revised Code, the court, in lieu of the prison term otherwise authorized or required, shall impose upon the offender the mandatory prison term specified in division (B) (3) (a) of section 2929.14 of the Revised Code.

(F) Notwithstanding any contrary provision of section 3719.21 of the Revised Code, the clerk of the court shall pay a fine imposed for a violation of this section pursuant to division (A) of section 2929.18 of the Revised Code in accordance with and subject to the requirements of division (F) of section 2925.03 of the Revised Code. The agency that receives the fine shall use the fine as specified in division (F) of section 2925.03 of the Revised Code.

Sec. 2925.38. If a person who is convicted of or pleads guilty to a violation of section 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.14, ~~2925.141~~, 2925.22, 2925.23, 2925.31, 2925.32, 2925.36, or 2925.37 of the Revised Code is a professionally licensed person, in addition to any other sanctions imposed for the violation,

the court, except as otherwise provided in this section, 2904
immediately shall transmit a certified copy of the judgment 2905
entry of conviction to the regulatory or licensing board or 2906
agency that has the administrative authority to suspend or 2907
revoke the offender's professional license. If the 2908
professionally licensed person who is convicted of or pleads 2909
guilty to a violation of any section listed in this section is a 2910
person who has been admitted to the bar by order of the supreme 2911
court in compliance with its prescribed and published rules, in 2912
addition to any other sanctions imposed for the violation, the 2913
court immediately shall transmit a certified copy of the 2914
judgment entry of conviction to the secretary of the board of 2915
commissioners on grievances and discipline of the supreme court 2916
and to either the disciplinary counsel or the president, 2917
secretary, and chairperson of each certified grievance 2918
committee. 2919

Sec. 3796.01. (A) As used in this chapter: 2920

(1) "Academic medical center" has the same meaning as in 2921
section 4731.297 of the Revised Code. 2922

(2) "Adult consumer" means a natural person twenty-one 2923
years of age or older. 2924

(3) "Advertising" means any written or verbal statement, 2925
illustration, or depiction created to induce sales through the 2926
use of or a combination of letters, pictures, objects, lighting 2927
effects, illustrations, or other similar means. "Advertisement" 2928
includes brochures and promotional and other marketing 2929
materials. 2930

(4) "Level I cultivator" means the holder of a level I 2931
cultivator license issued by the department of commerce. 2932

- (5) "Level II cultivator" means the holder of a level II cultivator license issued by the department of commerce. 2933
2934
- (6) "Marijuana" means marihuana as defined in section 3719.01 of the Revised Code. 2935
2936
- ~~(2)-(7) "Marijuana concentrate" means the resin extracted from any part of the plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture, or preparation of that resin but does not include the weight of any other ingredient combined with marijuana concentrate.~~ 2937
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- (8) "Marijuana cultivation area" means the boundaries of the enclosed areas in which marijuana is cultivated during the vegetative stage and flowering stage of the cultivation process. For purposes of calculating the marijuana cultivation area square footage, enclosed areas used solely for the storage and maintenance of mother plants, clones, or seedlings shall not be included. 2942
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- (9) "Medical marijuana" means marijuana that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose and sold to a registered patient by a retail dispensary licensed by the department of commerce. 2949
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2952
- ~~(3) "Academic medical center" has the same meaning as in section 4731.297 of the Revised Code.~~ 2953
2954
- ~~(4) "Drug database" means the database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.~~ 2955
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- ~~(5)-(10) "Openly and publicly" means a venue, area, or space that is open to the public without restriction, including age restrictions.~~ 2958
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(11) "Paraphernalia" means any equipment, products, or 2961
materials of any kind that are used, intended for use, or 2962
designed for use in planting, propagating, cultivating, growing, 2963
harvesting, composting, manufacturing, compounding, converting, 2964
producing, processing, preparing, testing, analyzing, packaging, 2965
repackaging, storing, vaporizing, or containing marijuana, or 2966
for ingesting, inhaling, or otherwise introducing marijuana into 2967
the human body. "Drug paraphernalia" does not mean equipment, 2968
products, and materials intended for use, or designed for use, 2969
in propagating, cultivating, growing, harvesting, manufacturing, 2970
compounding, converting, producing, processing, preparing, 2971
testing, analyzing, packaging, repackaging, storing, containing, 2972
or concealing marijuana or hashish. 2973

(12) "Physician" means an individual authorized under 2974
Chapter 4731. of the Revised Code to practice medicine and 2975
surgery or osteopathic medicine and surgery. 2976

~~(6)~~ (13) "Qualifying medical condition" means any of the 2977
following: 2978

(a) Acquired immune deficiency syndrome; 2979

(b) Alzheimer's disease; 2980

(c) Amyotrophic lateral sclerosis; 2981

(d) Arthritis; 2982

(e) Autism spectrum disorder; 2983

(f) Cancer; 2984

~~(e)~~ (g) Chronic traumatic encephalopathy; 2985

~~(f)~~ (h) Crohn's disease; 2986

~~(g)~~ (i) Epilepsy or another seizure disorder; 2987

(h) – (j) <u>Fibromyalgia;</u>	2988
(i) – (k) <u>Glaucoma;</u>	2989
(j) – (l) <u>Hepatitis C;</u>	2990
(k) – (m) <u>Inflammatory bowel disease;</u>	2991
(l) – (n) <u>Migraines;</u>	2992
<u>(o) Multiple sclerosis;</u>	2993
(m) – (p) <u>Opioid use disorder;</u>	2994
<u>(q) Pain that is either of the following:</u>	2995
(i) Chronic and severe;	2996
(ii) Intractable.	2997
(n) – (r) <u>Parkinson's disease;</u>	2998
(o) – (s) <u>Positive status for HIV;</u>	2999
(p) – (t) <u>Post-traumatic stress disorder;</u>	3000
(q) – (u) <u>Sickle cell anemia;</u>	3001
(r) – (v) <u>Spasticity or chronic muscle spasms;</u>	3002
<u>(w) Spinal cord disease or injury;</u>	3003
(s) – (x) <u>Tourette's syndrome;</u>	3004
(t) – (y) <u>Traumatic brain injury;</u>	3005
(u) – (z) <u>Ulcerative colitis;</u>	3006
(v) – (aa) <u>Any disease or condition for which hospice care</u>	3007
<u>is recommended by a treating physician;</u>	3008
<u>(bb) Any terminal illness;</u>	3009
<u>(cc) Any other disease or condition added by the state</u>	3010

~~medical board department of commerce~~ under section ~~4731.302-~~ 3011
~~3796.03~~ of the Revised Code. 3012

~~(7)-(14)~~ "State university" has the same meaning as in 3013
section 3345.011 of the Revised Code. 3014

(15) "Tetrahydrocannabinol content" means the sum of the 3015
amount of delta-9-tetrahydrocannabinol and eighty-seven and 3016
seven-tenths per cent of the amount of delta-9- 3017
tetrahydrocannabinolic acid present in the product or plant 3018
material. 3019

(B) Notwithstanding any conflicting provision of Chapter 3020
3719. of the Revised Code or the rules adopted under it, for 3021
purposes of this chapter, medical marijuana is a schedule II 3022
controlled substance. 3023

Sec. 3796.02. There is hereby established a ~~medical-~~ 3024
~~division of marijuana control program~~ in the department of 3025
~~commerce and the state board of pharmacy. The~~ Two hundred forty 3026
days after the effective date of this amendment, the department 3027
shall provide for the licensure of ~~medical~~ marijuana cultivators 3028
~~and, processors and the licensure of,~~ retail dispensaries, and 3029
laboratories that test ~~medical~~ marijuana. The ~~board~~ department 3030
shall provide for the ~~licensure of retail dispensaries and the~~ 3031
registration of patients and their caregivers. The department 3032
~~and board shall administer the program, through the division of~~ 3033
marijuana control, shall regulate the operations of marijuana 3034
cultivators, processors, retail dispensaries, testing 3035
laboratories, and the employees of each. 3036

Sec. 3796.03. ~~(A)(1) Except as provided in division (A)(2)~~ 3037
~~of this section, not later than one year after September 8,~~ 3038
~~2016~~ (A) On the effective date of this amendment, the department 3039

of commerce shall adopt rules, in accordance with Chapter 119. 3040
of the Revised Code, establishing standards and procedures for 3041
the ~~medical marijuana control program~~division of marijuana 3042
control's regulation of medical marijuana and adult use 3043
marijuana. 3044

~~(2) (B) The department rules adopted pursuant to division~~ 3045
~~(A) of this section shall adopt rules establishing do all of the~~ 3046
~~following:~~ 3047

(1) Establish standards and procedures for the sale of 3048
marijuana to adult consumers and medical marijuana to registered 3049
patients by retail dispensaries; 3050

(2) Establish standards and procedures for the licensure 3051
~~of cultivators not later than two hundred forty days after~~ 3052
~~September 8, 2016,~~ processors, testing laboratories, and retail 3053
dispensaries; 3054

~~(3) All rules adopted under this section shall be adopted~~ 3055
~~in accordance with Chapter 119. of the Revised Code.~~ 3056

~~(B) The rules shall do all of the following:~~ 3057

~~(1) Establish application procedures and fees for licenses~~ 3058
~~it issues under this chapter;~~ 3059

~~(2) (4) Specify both of the following:~~ 3060

~~(a) The conditions that must be met to be eligible for~~ 3061
~~licensure;~~ 3062

~~(b) In accordance with section 9.79 of the Revised Code,~~ 3063
~~the criminal offenses for which an applicant will be~~ 3064
~~disqualified from licensure pursuant to that section.~~ 3065

~~(3) (5) Establish, in accordance with section 3796.05 of~~ 3066

the Revised Code, the number of cultivator licenses that will be permitted at any one time; 3067
3068

~~(4)~~ (6) Establish a license renewal schedule, renewal procedures, and renewal fees; 3069
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~~(5)~~ (7) Specify reasons for which a license may be suspended, including without prior hearing, revoked, or not be renewed or issued and the reasons for which a civil penalty may be imposed on a license holder, which reasons shall include the failure to begin operating within two years of receiving a license from the department unless the department determines, in its discretion, that the license holder has demonstrated it has taken significant steps to become operational within two years and has identified a date by which it will begin operating; 3071
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~~(6)~~ (8) Establish standards under which a license suspension may be lifted; 3080
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~~(7)~~ (9) Specify if a cultivator, processor, ~~or testing~~ laboratory, or retail dispensary that is licensed under this chapter and that existed at a location before a school, church, public library, public playground, or public park became established within five hundred feet of the cultivator, processor, ~~or laboratory,~~ or retail dispensary may remain in operation or shall relocate or have its license revoked by the ~~board~~department; 3082
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~~(8)~~ (10) Establish procedures for registration of patients and caregivers and requirements that must be met to be eligible for registration; 3090
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(11) Establish training requirements for employees of cultivators, processors, testing laboratories, and retail dispensaries; 3093
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3095

<u>(12) Specify the paraphernalia or other accessories that</u>	3096
<u>may be used in the administration to a registered patient of</u>	3097
<u>medical marijuana;</u>	3098
<u>(13) Establish procedures for the issuance of patient or</u>	3099
<u>caregiver identification cards;</u>	3100
<u>(14) Specify the forms of or methods of using marijuana</u>	3101
<u>that are attractive to children;</u>	3102
<u>(15) Specify both of the following:</u>	3103
(a) Subject to division (B) (8) (b) <u>(B) (15) (b)</u> of this	3104
section, the criminal offenses for which a person will be	3105
disqualified from employment with a license holder;	3106
(b) Which of the criminal offenses specified pursuant to	3107
division (B) (8) (a) <u>(B) (15) (a)</u> of this section will not	3108
disqualify a person from employment with a license holder if the	3109
person was convicted of or pleaded guilty to the offense more	3110
than five years before the date the employment begins.	3111
(9) <u>(16)</u> Establish, in accordance with section 3796.05 of	3112
the Revised Code, standards and procedures for the testing of	3113
medical marijuana by a laboratory licensed under this chapter.	3114
<u>(C) The department shall adopt rules for the addition of</u>	3115
<u>diseases or conditions to the list of qualifying medical</u>	3116
<u>conditions for the purposes of section 3796.01 of the Revised</u>	3117
<u>Code.</u>	3118
<u>(D) In addition to the rules described in division</u>	3119
<u>divisions (B) and (C) of this section, the department may adopt</u>	3120
any other rules it considers necessary for the program's	3121
<u>division's</u> administration and the implementation and enforcement	3122
of this chapter.	3123

~~(D)~~ (E) When adopting rules under this section, the 3124
department shall consider standards and procedures that have 3125
been found to be best practices relative to the use and 3126
regulation of ~~medical~~ marijuana. 3127

(F) (1) Prior to January 1, 2027, the department shall not 3128
issue more than one retail dispensary license per sixty thousand 3129
residents of this state; 3130

(2) After January 1, 2027, the department shall review the 3131
number of licensed retail dispensaries on at least a biennial 3132
basis. After review, the department may license additional 3133
retail dispensary licenses after considering all of the 3134
following: 3135

(a) The anticipated market growth and consumer demand, 3136
including the population of this state and the number of 3137
registered patients seeking to use medical marijuana; 3138

(b) The supply of marijuana and marijuana-derived products 3139
produced by licensed cultivators and processors; 3140

(c) The geographic distribution of retail dispensary sites 3141
in an effort to ensure patient access to medical marijuana. 3142

(G) To the extent possible, the department shall do both 3143
of the following: 3144

(1) Issue a sufficient number of cultivator and processor 3145
licenses to ensure an adequate supply of marijuana and medical 3146
marijuana; 3147

(2) Issue a sufficient number of testing laboratory 3148
licenses to ensure cultivators and processors are able to 3149
receive reliable and timely testing results. 3150

(H) (1) The department shall not issue additional 3151

cultivator, processor, testing laboratories, or retail 3152
dispensary licenses under this section without first conducting 3153
a study to determine whether there has been prior discrimination 3154
in the issuance of marijuana-related licenses in this state, 3155
including whether the effects of marijuana prohibition have 3156
contributed to a lack of participation by racial or ethnic 3157
minorities in the medical marijuana industry in this state. 3158

(2) If the study conducted pursuant to division (H) (1) of 3159
this section establishes that there has been prior 3160
discrimination in the issuance of marijuana-related licenses in 3161
this state, the department shall take necessary and appropriate 3162
actions to address and remedy any identified discrimination when 3163
issuing licenses pursuant to this section. 3164

(I) Subject to Chapter 1331. of the Revised Code, the 3165
rules adopted under this section shall not prohibit any person 3166
from either of the following: 3167

(1) Influencing or controlling the activities of more than 3168
one cultivator, processor, or retail dispensary license issued 3169
pursuant to this chapter; 3170

(2) Holding an ownership, investment, or other financial 3171
interest in more than one cultivator, processor, or retail 3172
dispensary license issued pursuant to this chapter. 3173

(J) Rules adopted pursuant to this chapter shall not be 3174
subject to division (F) of section 121.95 of the Revised Code. 3175

Sec. 3796.032. This chapter does not authorize the 3176
department of commerce ~~or the state board of pharmacy~~ to oversee 3177
or limit research conducted at a state university, academic 3178
medical center, or private research and development organization 3179
that is related to marijuana and is approved by an agency, 3180

board, center, department, or institute of the United States	3181
government, including any of the following:	3182
(A) The agency for health care research and quality;	3183
(B) The national institutes of health;	3184
(C) The national academy of sciences;	3185
(D) The centers for medicare and medicaid services;	3186
(E) The United States department of defense;	3187
(F) The centers for disease control and prevention;	3188
(G) The United States department of veterans affairs;	3189
(H) The drug enforcement administration;	3190
(I) The food and drug administration;	3191
(J) Any board recognized by the national institutes of	3192
health for the purpose of evaluating the medical value of health	3193
care services.	3194
Sec. 3796.05. (A) When establishing the number of	3195
cultivator licenses that will be permitted at any one time, the	3196
department of commerce shall consider both <u>all</u> of the following:	3197
(1) The population of this state;	3198
(2) The number of patients seeking to use medical	3199
marijuana;	3200
<u>(3) The number of potential adult use consumers;</u>	3201
<u>(4) The production capacity of existing licensed</u>	3202
<u>cultivators.</u>	3203
(B) When establishing the number of retail dispensary	3204
licenses that will be permitted at any one time, the state board	3205

~~of pharmacy department of commerce shall consider all of the~~ 3206
~~following, in addition to the requirements of section 3796.03 of~~ 3207
~~the Revised Code:~~ 3208

(1) The population of this state; 3209

(2) The number of patients seeking to use medical 3210
marijuana; 3211

(3) The number of potential adult use consumers; 3212

(4) The geographic distribution of dispensary sites in an 3213
effort to ensure patient access to medical marijuana. 3214

(C) When establishing standards and procedures for the 3215
testing of ~~medical~~-marijuana, the department shall do all of the 3216
following: 3217

(1) Specify when testing must be conducted; 3218

(2) Determine the minimum amount of ~~medical~~-marijuana that 3219
must be tested; 3220

(3) Specify the manner in which testing is to be conducted 3221
in an effort to ensure uniformity of ~~medical~~-marijuana products 3222
processed for and dispensed to patients and adult users; 3223

(4) Specify the manner in which test results are provided. 3224

(D) Beginning on the effective date of this amendment, the 3225
department shall review and approve expansion plans, as required 3226
by the rules adopted by the department under section 3796.03 of 3227
the Revised Code, to permit level I and level II cultivators to 3228
expand their respective marijuana cultivation areas as follows: 3229

(1) Level I cultivators shall be permitted to expand to a 3230
marijuana cultivation area of up to one hundred thousand square 3231
feet; 3232

(2) Level II cultivators shall be permitted to expand to a 3233
marijuana cultivation area of up to fifteen thousand square 3234
feet. 3235

Sec. 3796.06. (A) Only the following forms of ~~medical~~ 3236
marijuana may be manufactured by licensed processors and 3237
dispensed under this chapter: 3238

(1) Oils; 3239

(2) Tinctures; 3240

(3) Plant material; 3241

(4) Edibles; 3242

(5) Patches; 3243

(6) Pills; 3244

(7) Capsules; 3245

(8) Suppositories; 3246

(9) Oral pouches; 3247

(10) Oral strips; 3248

(11) Oral and topical sprays; 3249

(12) Salves, lotions, or similar topical cosmetic 3250
products; 3251

(13) Inhalers; 3252

(14) Beverages; 3253

(15) Any other form approved by the ~~state board~~ department 3254
of ~~pharmacy~~ commerce under section 3796.061 of the Revised Code. 3255

(B) With respect to the methods of using medical 3256

marijuana, all of the following apply: 3257

(1) The smoking or combustion of medical marijuana is 3258
prohibited. 3259

(2) The vaporization of medical marijuana is permitted~~+~~. 3260

(3) The ~~state board~~ department of pharmacy-commerce may 3261
approve additional methods of using medical marijuana, other 3262
than smoking or combustion, under section 3796.061 of the 3263
Revised Code. 3264

(C) With respect to the methods of using adult use 3265
marijuana, the vaporization, smoking, or combustion of marijuana 3266
by adult use consumers is permitted. 3267

(D) Any form or method that is considered attractive to 3268
children, as specified in rules adopted by the ~~board~~ department, 3269
is prohibited. 3270

~~(D)~~ (E) With respect to tetrahydrocannabinol content, all 3271
of the following apply: 3272

(1) Plant material shall have a tetrahydrocannabinol 3273
content of not more than thirty-five per cent. 3274

(2) Extracts shall have a tetrahydrocannabinol content of 3275
not more than ~~seventy-ninety~~ per cent. 3276

Sec. 3796.061. (A) Any person may submit a petition to the 3277
~~state board~~ department of pharmacy-commerce requesting that a 3278
form of or method of using ~~medical~~ marijuana be approved for the 3279
purposes of section 3796.06 of the Revised Code. A petition 3280
shall be submitted to the ~~board~~ department in a manner 3281
prescribed by the ~~board~~ department. A petition shall not seek to 3282
approve a method of using medical marijuana that involves 3283
smoking or combustion. 3284

(B) On receipt of a petition, the ~~board~~department shall 3285
review it to determine whether to approve the form of or method 3286
of using ~~medical~~ marijuana described in the petition. ~~The board~~ 3287
~~may consolidate the review of petitions for the same or similar~~ 3288
~~forms or methods. In making its determination, the board shall~~ 3289
~~consult with one or more experts and review any relevant~~ 3290
~~scientific evidence.~~The department shall either approve or deny 3291
the petition within sixty days of receipt. 3292

(C) ~~The board shall approve or deny the petition in~~ 3293
~~accordance with any rules adopted by the board under this~~ 3294
~~section. The board's decision is final.~~ 3295

~~(D)~~The board~~department~~ may adopt rules as necessary to 3296
implement this section. The rules shall be adopted in accordance 3297
with Chapter 119. of the Revised Code. 3298

Sec. 3796.07. The department of commerce shall establish 3299
and maintain an electronic database to monitor ~~medical~~ marijuana 3300
from its seed source through its cultivation, processing, 3301
testing, and dispensing. The department may contract with a 3302
separate entity to establish and maintain all or any part of the 3303
electronic database on behalf of the department. 3304

The electronic database shall allow for information 3305
regarding ~~medical~~ marijuana to be updated instantaneously. Any 3306
cultivator, processor, retail dispensary, or laboratory licensed 3307
under this chapter shall submit to the department any 3308
information the department determines is necessary for 3309
maintaining the electronic database. 3310

The department and any entity under contract with the 3311
department shall not make public any information reported to or 3312
collected by the department under this division that identifies 3313

or would tend to identify any specific patient or adult use 3314
consumer. 3315

Sec. 3796.08. (A) (1) ~~A~~ Until two hundred forty days after 3316
the effective date of this amendment, a patient seeking to use 3317
medical marijuana or a caregiver seeking to assist a patient in 3318
the use or administration of medical marijuana shall apply to 3319
the state board of pharmacy for registration; beginning two 3320
hundred forty days after the effective date of this amendment, a 3321
patient seeking to use medical marijuana or a caregiver seeking 3322
to assist a patient in the use or administration of medical 3323
marijuana shall apply to the department of commerce for 3324
registration. The physician who holds a certificate to recommend 3325
issued by the state medical board and is treating the patient or 3326
the physician's delegate shall submit the application on the 3327
patient's or caregiver's behalf in the manner established in 3328
rules adopted under section ~~3796.04~~ 3796.03 of the Revised Code. 3329

(2) The application shall include all of the following: 3330

(a) A statement from the physician certifying all of the 3331
following: 3332

(i) That a bona fide physician-patient relationship exists 3333
between the physician and patient; 3334

(ii) That the patient has been diagnosed with a qualifying 3335
medical condition; 3336

(iii) That the physician or physician delegate has 3337
requested from the drug database a report of information related 3338
to the patient that covers at least the twelve months 3339
immediately preceding the date of the report; 3340

(iv) That the physician has informed the patient of the 3341
risks and benefits of medical marijuana as it pertains to the 3342

patient's qualifying medical condition and medical history. 3343

(b) In the case of an application submitted on behalf of a 3344
patient, the name or names of the one or more caregivers that 3345
will assist the patient in the use or administration of medical 3346
marijuana; 3347

(c) In the case of an application submitted on behalf of a 3348
caregiver, the name of the patient or patients that the 3349
caregiver seeks to assist in the use or administration of 3350
medical marijuana. 3351

(3) If the application is complete and meets the 3352
requirements established in rules, the board or department, as 3353
applicable, shall register the patient or caregiver and issue to 3354
the patient or caregiver an identification card. 3355

(B) The board or department, as applicable, shall not make 3356
public any information reported to or collected by the board or 3357
department under this section that identifies or would tend to 3358
identify any specific patient. 3359

Information collected by the board or department pursuant 3360
to this section is confidential and not a public record. The 3361
board or department may share identifying information with a 3362
licensed retail dispensary for the purpose of confirming that a 3363
person has a valid registration. Information that does not 3364
identify a person may be released in summary, statistical, or 3365
aggregate form. 3366

(C) A registration expires according to the renewal 3367
schedule established in rules adopted under section ~~3796.04~~ 3368
3796.03 of the Revised Code and may be renewed in accordance 3369
with procedures established in those rules. 3370

Sec. 3796.09. (A) An entity that seeks to cultivate or 3371

process ~~medical~~-marijuana or to conduct laboratory testing of 3372
~~medical~~-marijuana shall file an application for licensure with 3373
the department of commerce. The entity shall file an application 3374
for each location from which it seeks to operate. Each 3375
application shall be submitted in accordance with rules adopted 3376
under section 3796.03 of the Revised Code. 3377

(B) The department shall issue a license to an applicant 3378
if all of the following conditions are met: 3379

(1) The report of the criminal records check conducted 3380
pursuant to section 3796.12 of the Revised Code with respect to 3381
the application demonstrates that the person subject to the 3382
criminal records check requirement has not been convicted of or 3383
pleaded guilty to any of the disqualifying offenses specified in 3384
rules adopted under ~~section~~ sections 9.79 and ~~division (B) (2) (b)~~ 3385
~~of section~~ 3796.03 of the Revised Code. 3386

(2) The applicant demonstrates that it does not have an 3387
ownership or investment interest in or compensation arrangement 3388
with any of the following: 3389

(a) A laboratory licensed under this chapter; 3390

(b) An applicant for a license to conduct laboratory 3391
testing. 3392

(3) The applicant demonstrates that it does not share any 3393
corporate officers or employees with any of the following: 3394

(a) A laboratory licensed under this chapter; 3395

(b) An applicant for a license to conduct laboratory 3396
testing. 3397

(4) The applicant demonstrates that it will not be located 3398
within five hundred feet of a school, church, public library, 3399

public playground, or public park. 3400

(5) The information provided to the department pursuant to 3401
section 3796.11 of the Revised Code demonstrates that the 3402
applicant is in compliance with the applicable tax laws of this 3403
state. 3404

(6) The applicant meets all other licensure eligibility 3405
conditions established in rules adopted under section 3796.03 of 3406
the Revised Code. 3407

~~(C) The department shall issue not less than fifteen per- 3408
cent of cultivator, processor, or laboratory licenses to 3409
entities that are owned and controlled by United States citizens- 3410
who are residents of this state and are members of one of the 3411
following economically disadvantaged groups: Blacks or African- 3412
Americans, American Indians, Hispanics or Latinos, and Asians. 3413
If no applications or an insufficient number of applications are 3414
submitted by such entities that meet the conditions set forth in 3415
division (B) of this section, the licenses shall be issued 3416
according to usual procedures. 3417~~

~~As used in this division, "owned and controlled" means 3418
that at least fifty one per cent of the business, including 3419
corporate stock if a corporation, is owned by persons who belong 3420
to one or more of the groups set forth in this division, and 3421
that those owners have control over the management and day to 3422
day operations of the business and an interest in the capital, 3423
assets, and profits and losses of the business proportionate to 3424
their percentage of ownership. 3425~~

~~(D) A license expires according to the renewal schedule 3426
established in rules adopted under section 3796.03 of the 3427
Revised Code and may be renewed in accordance with the 3428~~

procedures established in those rules. 3429

Sec. 3796.10. (A) An entity that seeks to dispense 3430
marijuana at a retail ~~medical~~ marijuana dispensary shall file an 3431
application for licensure with the ~~state board~~ department of 3432
~~pharmacycommerce~~. The entity shall file an application for each 3433
location from which it seeks to operate. Each application shall 3434
be submitted in accordance with rules adopted under section 3435
~~3796.04~~ 3796.03 of the Revised Code. 3436

(B) The ~~board~~ department shall issue a license to an 3437
applicant if all of the following conditions are met: 3438

(1) The report of the criminal records check conducted 3439
pursuant to section 3796.12 of the Revised Code with respect to 3440
the application demonstrates that the person subject to the 3441
criminal records check requirement has not been convicted of ~~or~~ 3442
~~pleaded guilty to~~ any of the disqualifying offenses specified in 3443
rules adopted under ~~section~~ sections 9.79 and ~~division (B) (2) (b)~~ 3444
~~of section 3796.04~~ 3796.03 of the Revised Code. 3445

(2) The applicant demonstrates that it does not have an 3446
ownership or investment interest in or compensation arrangement 3447
with any of the following: 3448

(a) A laboratory licensed under this chapter; 3449

(b) An applicant for a license to conduct laboratory 3450
testing. 3451

(3) The applicant demonstrates that it does not share any 3452
corporate officers or employees with any of the following: 3453

(a) A laboratory licensed under this chapter; 3454

(b) An applicant for a license to conduct laboratory 3455
testing. 3456

(4) The applicant demonstrates that it will not be located 3457
within five hundred feet of a school, church, public library, 3458
public playground, or public park. 3459

(5) The information provided to the ~~board~~ department 3460
pursuant to section 3796.11 of the Revised Code demonstrates 3461
that the applicant is in compliance with the applicable tax laws 3462
of this state. 3463

(6) The applicant meets all other licensure eligibility 3464
conditions established in rules adopted under section ~~3796.04~~ 3465
3796.03 of the Revised Code. 3466

~~(C) The board shall issue not less than fifteen per cent~~ 3467
~~of retail dispensary licenses to entities that are owned and~~ 3468
~~controlled by United States citizens who are residents of this~~ 3469
~~state and are members of one of the following economically~~ 3470
~~disadvantaged groups: Blacks or African Americans, American~~ 3471
~~Indians, Hispanics or Latinos, and Asians. If no applications or~~ 3472
~~an insufficient number of applications are submitted by such~~ 3473
~~entities that meet the conditions set forth in division (B) of~~ 3474
~~this section, the licenses shall be issued according to usual~~ 3475
~~procedures.~~ 3476

~~As used in this division, "owned and controlled" means~~ 3477
~~that at least fifty one per cent of the business, including~~ 3478
~~corporate stock if a corporation, is owned by persons who belong~~ 3479
~~to one or more of the groups set forth in this division, and~~ 3480
~~that those owners have control over the management and day to~~ 3481
~~day operations of the business and an interest in the capital,~~ 3482
~~assets, and profits and losses of the business proportionate to~~ 3483
~~their percentage of ownership.~~ 3484

~~(D)~~ A license expires according to the renewal schedule 3485

established in rules adopted under section ~~3796.04~~3796.03 of 3486
the Revised Code and may be renewed in accordance with the 3487
procedures established in those rules. 3488

Sec. 3796.11. (A) (1) Notwithstanding section 149.43 of the 3489
Revised Code or any other public records law to the contrary or 3490
any law relating to the confidentiality of tax return 3491
information, upon the request of the department of commerce ~~or~~ 3492
~~state board of pharmacy~~, the department of taxation shall 3493
provide to the department of commerce ~~or board~~ all of the 3494
following information: 3495

(a) Whether an applicant for licensure under this chapter 3496
is in compliance with the applicable tax laws of this state; 3497

(b) Any past or pending violation by the applicant of 3498
those tax laws, and any penalty imposed on the applicant for 3499
such a violation. 3500

(2) The department of commerce ~~or board~~ shall request the 3501
information only as it pertains to an application for licensure 3502
that the department of commerce ~~or board~~, ~~as applicable~~, is 3503
reviewing. 3504

(3) The department of taxation may charge the department 3505
of commerce ~~or board~~ a reasonable fee to cover the 3506
administrative cost of providing the information. 3507

(B) Information received under this section is 3508
confidential. Except as otherwise permitted by other state law 3509
or federal law, the department of commerce ~~or board~~ shall not 3510
make the information available to any person other than the 3511
applicant for licensure to whom the information applies. 3512

Sec. 3796.12. (A) As used in this section, "criminal 3513
records check" has the same meaning as in section 109.572 of the 3514

Revised Code. 3515

(B) (1) As part of the application process for a license 3516
issued under this chapter, the department of commerce ~~or state~~ 3517
~~board of pharmacy, whichever is issuing the license,~~ shall 3518
~~require each of the following to determine which individuals~~ 3519
~~shall complete a criminal records check.~~ 3520

~~(a) An administrator or other person responsible for the~~ 3521
~~daily operation of the entity seeking the license;~~ 3522

~~(b) An owner or prospective owner, officer or prospective~~ 3523
~~officer, or board member or prospective board member of the~~ 3524
~~entity seeking the license.~~ 3525

(2) If a person subject to the criminal records check 3526
requirement does not present proof of having been a resident of 3527
this state for the five-year period immediately prior to the 3528
date the criminal records check is requested or provide evidence 3529
that within that five-year period the superintendent of the 3530
bureau of criminal identification and investigation has 3531
requested information about the person from the federal bureau 3532
of investigation in a criminal records check, the department ~~or~~ 3533
~~board~~ shall request that the person obtain through the 3534
superintendent a criminal records request from the federal 3535
bureau of investigation as part of the criminal records check of 3536
the person. Even if a person presents proof of having been a 3537
resident of this state for the five-year period, the department 3538
~~or board~~ may request that the person obtain information through 3539
the superintendent from the federal bureau of investigation in 3540
the criminal records check. 3541

(C) The department ~~or board~~ shall provide the following to 3542
each person who is subject to the criminal records check 3543

requirement: 3544

(1) Information about accessing, completing, and 3545
forwarding to the superintendent of the bureau of criminal 3546
identification and investigation the form prescribed pursuant to 3547
division (C) (1) of section 109.572 of the Revised Code and the 3548
standard impression sheet to obtain fingerprint impressions 3549
prescribed pursuant to division (C) (2) of that section; 3550

(2) Written notification that the person is to instruct 3551
the superintendent to submit the completed report of the 3552
criminal records check directly to the department ~~or board~~. 3553

(D) Each person who is subject to the criminal records 3554
check requirement shall pay to the bureau of criminal 3555
identification and investigation the fee prescribed pursuant to 3556
division (C) (3) of section 109.572 of the Revised Code for the 3557
criminal records check conducted of the person. 3558

(E) The report of any criminal records check conducted by 3559
the bureau of criminal identification and investigation in 3560
accordance with section 109.572 of the Revised Code and pursuant 3561
to a request made under this section is not a public record for 3562
the purposes of section 149.43 of the Revised Code and shall not 3563
be made available to any person other than the following: 3564

(1) The person who is the subject of the criminal records 3565
check or the person's representative; 3566

(2) The members and staff of the department ~~or board~~; 3567

(3) A court, hearing officer, or other necessary 3568
individual involved in a case dealing with either of the 3569
following: 3570

(a) A license denial resulting from the criminal records 3571

check; 3572

(b) A civil or criminal action regarding ~~the medical-~~ 3573
~~marijuana control program or any~~ violation of this chapter. 3574

(F) The department ~~or board~~ shall deny a license if, after 3575
receiving the information and notification required by this 3576
section, a person subject to the criminal records check 3577
requirement fails to do either of the following: 3578

(1) Access, complete, or forward to the superintendent of 3579
the bureau of criminal identification and investigation the form 3580
prescribed pursuant to division (C) (1) of section 109.572 of the 3581
Revised Code or the standard impression sheet prescribed 3582
pursuant to division (C) (2) of that section; 3583

(2) Instruct the superintendent to submit the completed 3584
report of the criminal records check directly to the department 3585
~~or board.~~ 3586

Sec. 3796.13. (A) Each person seeking employment with an 3587
entity licensed under this chapter shall comply with sections 3588
4776.01 to 4776.04 of the Revised Code. Except as provided in 3589
division (B) of this section, such an entity shall not employ 3590
the person unless the person complies with those sections and 3591
the report of the resulting criminal records check demonstrates 3592
that the person has not been convicted of ~~or pleaded guilty to~~ 3593
~~the following:~~ 3594

~~(1) Any any~~ of the disqualifying offenses specified in 3595
rules adopted under ~~division (B) (8) (a) of~~ section 3796.03 of the 3596
Revised Code if the person is seeking employment with an entity 3597
licensed by the department of commerce under this chapter. 3598

~~(2) Any of the disqualifying offenses specified in rules~~ 3599
~~adopted under division (B) (14) (a) of~~ section 3796.04 of the 3600

~~Revised Code if the person is seeking employment with an entity
licensed by the state board of pharmacy under this chapter.~~ 3601
3602

(B) An entity is not prohibited by division (A) of this 3603
section from employing a person if the following applies: 3604

(1) In the case of a person seeking employment with an 3605
entity licensed by the department of commerce under this 3606
chapter, the disqualifying offense the person was convicted of 3607
~~or pleaded guilty to is~~ one of the offenses specified in rules 3608
adopted under ~~division (B)(8)(b) of~~ section 3796.03 of the 3609
Revised Code and the person was convicted of ~~or pleaded guilty~~ 3610
~~to~~ the offense more than five years before the date the 3611
employment begins. 3612

(2) In the case of a person seeking employment with an 3613
entity licensed by the ~~state board~~ department of pharmacy 3614
commerce under this chapter, the disqualifying offense the 3615
person was convicted of ~~or pleaded guilty to is~~ one of the 3616
offenses specified in rules adopted under ~~division (B)(14)(b) of~~ 3617
section ~~3796.04~~ 3796.03 of the Revised Code and the person was 3618
convicted of ~~or pleaded guilty to~~ the offense more than five 3619
years before the date the employment begins. 3620

Sec. 3796.14. (A) (1) The department of commerce may do any 3621
of the following for any reason specified in rules adopted under 3622
section 3796.03 of the Revised Code: 3623

(a) Suspend, suspend without prior hearing, revoke, or 3624
refuse to renew a license it issued under this chapter; 3625

(b) Refuse to issue a license; 3626

(c) Impose on a license holder a civil penalty in an 3627
amount to be determined by the department. 3628

The department's actions under this division shall be 3629
taken in accordance with Chapter 119. of the Revised Code. 3630

(2) The department may inspect the premises of an 3631
applicant for licensure or holder of a current, valid 3632
cultivator, processor, retailer, or laboratory license issued 3633
under this chapter without prior notice to the applicant or 3634
license holder. 3635

~~(B)(1) (B) The state board of pharmacy may do any of the 3636
following for any reason specified in rules adopted under 3637
section 3796.04 of the Revised Code: 3638~~

~~(a) Suspend, suspend without prior hearing, revoke, or 3639
refuse to renew a license or registration it issued under this 3640
chapter; 3641~~

~~(b) Refuse to issue a license; 3642~~

~~(c) Impose on a license holder a civil penalty in an 3643
amount to be determined by the board. 3644~~

~~The board's actions under this division shall be taken in 3645
accordance with Chapter 119. of the Revised Code. 3646~~

~~(2) The board may inspect all of the following without 3647
prior notice to the applicant or license holder: 3648~~

~~(a) The premises of an applicant for licensure; 3649~~

~~(b) The premises of and all records maintained pursuant to 3650
this chapter by a holder of a current, valid retail dispensary 3651
license. 3652~~

~~(3) With respect to a suspension without prior hearing, 3653
the board may utilize a telephone conference call to review the 3654
allegations and take a vote. The board department shall suspend 3655~~

a license without prior hearing only if it finds clear and 3656
convincing evidence that continued distribution of ~~medical-~~ 3657
marijuana presents a danger of immediate and serious harm to 3658
others. The ~~board-~~department shall comply with section 119.07 of 3659
the Revised Code. 3660

The suspension shall remain in effect, unless lifted by 3661
the ~~board-~~department, until the ~~board-~~department issues its final 3662
adjudication order. If the ~~board-~~department does not issue the 3663
order within ninety days after the adjudication hearing, the 3664
suspension shall be lifted on the ninety-first day following the 3665
hearing. 3666

Sec. 3796.15. (A) The ~~state board-~~department of ~~pharmacy-~~ 3667
~~commerce~~ shall enforce this chapter, or cause it to be enforced, 3668
~~sections 3796.08, 3796.10, 3796.20, 3796.22, and 3796.23 of the-~~ 3669
~~Revised Code.~~ If ~~it-~~the department has information that any 3670
provision of ~~those sections-~~this chapter or any rule adopted 3671
under this chapter has been violated, it shall investigate the 3672
matter and take any action as it considers appropriate. 3673

(B) Nothing in this chapter shall be construed to require 3674
the ~~state board of pharmacy-~~department to enforce minor 3675
violations if the ~~board-~~department determines that the public 3676
interest is adequately served by a notice or warning to the 3677
alleged offender. 3678

(C) If the ~~board-~~department suspends, revokes, or refuses 3679
to renew any license or registration issued under this chapter 3680
and determines that there is clear and convincing evidence of a 3681
danger of immediate and serious harm to any person, the ~~board-~~ 3682
department may place under seal all ~~medical-~~marijuana owned by 3683
or in the possession, custody, or control of the affected 3684
license holder or registrant. Except as provided in this 3685

division, the ~~board-department~~ shall not dispose of the ~~medical-~~ 3686
marijuana sealed under this division until the license holder or 3687
registrant exhausts all of the holder's or registrant's appeal 3688
rights under Chapter 119. of the Revised Code. The court 3689
involved in such an appeal may order the ~~boarddepartment~~, during 3690
the pendency of the appeal, to sell ~~medical-~~marijuana that is 3691
perishable. The ~~board-department~~ shall deposit the proceeds of 3692
the sale with the court. 3693

Sec. 3796.16. (A) (1) The ~~state-board-department~~ of 3694
~~pharmacy-commerce~~ shall attempt in good faith to negotiate and 3695
enter into a reciprocity agreement with any other state under 3696
which a medical marijuana registry identification card or 3697
equivalent authorization that is issued by the other state is 3698
recognized in this state, if the ~~board-department~~ determines 3699
that both of the following apply: 3700

(a) The eligibility requirements imposed by the other 3701
state for that authorization are substantially comparable to the 3702
eligibility requirements for a patient or caregiver registration 3703
and identification card issued under this chapter. 3704

(b) The other state recognizes a patient or caregiver 3705
registration and identification card issued under this chapter. 3706

(2) The ~~board-department~~ shall not negotiate any agreement 3707
with any other state under which an authorization issued by the 3708
other state is recognized in this state other than as provided 3709
in division (A) (1) of this section. 3710

(B) If a reciprocity agreement is entered into in 3711
accordance with division (A) of this section, the authorization 3712
issued by the other state shall be recognized in this state, 3713
shall be accepted and valid in this state, and grants the 3714

patient or caregiver the same right to use, possess, obtain, or 3715
administer medical marijuana in this state as a patient or 3716
caregiver who was registered and issued an identification card 3717
under this chapter. 3718

(C) The ~~board~~department may adopt any rules as necessary 3719
to implement this section. 3720

Sec. 3796.17. The ~~state board~~department of ~~pharmacy~~
commerce shall establish a toll-free telephone line to respond 3721
to inquiries from patients, caregivers, and health professionals 3722
regarding adverse reactions to medical marijuana and to provide 3723
information about available services and assistance. The ~~board~~
department may contract with a separate entity to establish and 3724
maintain the telephone line on behalf of the ~~board~~department. 3725
3726
3727

Sec. 3796.18. (A) Notwithstanding any conflicting 3728
provision of the Revised Code and except as provided in division 3729
~~(B)~~(C) of this section, the holder of a current, valid 3730
cultivator license issued under this chapter may do either of 3731
the following: 3732

(1) Cultivate ~~medical~~marijuana, including the acquisition
of seeds or clones necessary to begin cultivation of a
particular cultivar or strain of marijuana; 3733
3734
3735

(2) Deliver or sell ~~medical~~marijuana to one or more
licensed processors or retail dispensaries. 3736
3737

(B) ~~A~~When delivering or selling marijuana to a licensed
retail dispensary, a licensed cultivator shall do all of the
following: 3738
3739
3740

(1) Package the marijuana in accordance with the child-
resistant effectiveness standards described in 16 C.F.R.
1700.15(b) on the effective date of this amendment; 3741
3742
3743

(2) Label the marijuana packaging with the product's tetrahydrocannabinol and cannabidiol content; 3744
3745

(3) Comply with any packaging or labeling requirements established in rules adopted by the department of commerce under section 3796.03 of the Revised Code. 3746
3747
3748

(C) Except as provided in division (A) (3) (d) of section 3796.22 of the Revised Code, a cultivator license holder shall not cultivate ~~medical~~-marijuana for personal, family, or household use ~~or~~; 3749
3750
3751
3752

(D) A cultivator license holder shall not cultivate marijuana on any public land, including a state park as defined in section 154.01 of the Revised Code. 3753
3754
3755

(E) A holder of a current, valid, cultivator license issued under this chapter shall not be subject to arrest or criminal prosecution for engaging in any of the activities authorized under this chapter. 3756
3757
3758
3759

Sec. 3796.19. (A) Notwithstanding any conflicting provision of the Revised Code, the holder of a current, valid processor license issued under this chapter may do any of the following: 3760
3761
3762
3763

(1) Obtain ~~medical~~-marijuana from one or more licensed cultivators, processors, or retail dispensaries; 3764
3765

(2) Subject to division (B) of this section, process ~~medical~~-marijuana obtained ~~from one or more licensed cultivators~~ into a form described in section 3796.06 of the Revised Code; 3766
3767
3768

(3) Deliver or sell processed ~~medical~~-marijuana to one or more licensed retail dispensaries. 3769
3770

(B) When processing ~~medical~~-marijuana, a licensed 3771

processor shall do both of the following: 3772

(1) Package the ~~medical~~-marijuana in accordance with 3773
child-resistant effectiveness standards described in 16 C.F.R. 3774
1700.15(b) ~~on the effective date of this section~~ September 8, 3775
2016; 3776

(2) Label the ~~medical~~-marijuana packaging with the 3777
product's tetrahydrocannabinol and cannabidiol content; 3778

(3) Comply with any packaging or labeling requirements 3779
established in rules adopted by the department of commerce under 3780
section 3796.03 of the Revised Code. 3781

(C) A holder of a current, valid, processor license issued 3782
under this chapter shall not be subject to arrest or criminal 3783
prosecution for engaging in any of the activities authorized 3784
under this chapter. 3785

Sec. 3796.20. (A) Notwithstanding any conflicting 3786
provision of the Revised Code, the holder of a current, valid 3787
retail dispensary license issued under this chapter may do ~~both~~ 3788
any of the following: 3789

(1) Obtain ~~medical~~-marijuana from one or more cultivators, 3790
processors, or other retail dispensaries, if the retail 3791
dispensaries have common ownership; 3792

(2) Dispense or sell medical marijuana and paraphernalia 3793
in accordance with division (B) of this section; 3794

(3) Beginning two hundred forty days after the effective 3795
date of this amendment, dispense or sell marijuana and 3796
paraphernalia to adult consumers in accordance with division (B) 3797
of this section; 3798

(4) Deliver marijuana, medical marijuana, paraphernalia, 3799

and accessories specified in the rules adopted pursuant to 3800
section 3796.03 of the Revised Code to registered patients and 3801
adult consumers. 3802

(B) When dispensing or selling marijuana or medical 3803
marijuana, a licensed retail dispensary shall do all of the 3804
following: 3805

(1) Dispense or sell only upon a showing of a current, 3806
valid identification card and in the case of the sale of medical 3807
marijuana to registered patients, in accordance with a written 3808
recommendation issued by a physician ~~in accordance with an~~ 3809
holding a certificate to recommend issued by the state medical 3810
board under section 4731.30 of the Revised Code; 3811

(2) Report to the ~~drug database the information required~~ 3812
~~by electronic database established pursuant to section 4729.771-~~ 3813
3796.07 of the Revised Code information required by the rules 3814
adopted by the department under this chapter; 3815

(3) Label the package containing marijuana or medical 3816
marijuana with the following information: 3817

(a) The name and address of the licensed processor and 3818
retail dispensary; 3819

~~(b) The name of the patient and caregiver, if any;~~ 3820

~~(c) The name of the physician who recommended treatment~~ 3821
~~with medical marijuana;~~ 3822

~~(d) The directions for use, if any, as recommended by the~~ 3823
~~physician;~~ 3824

~~(e) The date on which the marijuana or medical marijuana~~ 3825
was dispensed; 3826

~~(f)~~ (c) The quantity, strength, kind, or form of marijuana 3827
or medical marijuana contained in the package; 3828

(d) Any other information required by the department 3829
pursuant to rules adopted under section 3796.03 of the Revised 3830
Code. 3831

(4) In addition to the information required under division 3832
(B) (3) of this section, label the package containing medical 3833
marijuana with the following information: 3834

(a) The name of the patient and caregiver, if any; 3835

(b) The name of the physician who recommended treatment 3836
with medical marijuana; 3837

(c) The directions for use, if any, as recommended by the 3838
physician. 3839

(C) When operating a licensed retail dispensary, both of 3840
the following apply: 3841

(1) A dispensary shall use only employees who have met the 3842
training requirements established in rules adopted under section 3843
~~3796.04~~ 3796.03 of the Revised Code. 3844

(2) A dispensary shall not make public any information it 3845
collects that identifies or would tend to identify any specific 3846
registered patient or adult consumer. 3847

(D) A holder of a current, valid, retail dispensary 3848
license issued under this chapter shall not be subject to arrest 3849
or criminal prosecution for engaging in any of the activities 3850
authorized under this chapter. 3851

Sec. 3796.21. (A) Notwithstanding any conflicting 3852
provision of the Revised Code, the holder of a current, valid 3853

laboratory license issued under this chapter may do both of the 3854
following: 3855

(1) Obtain marijuana and medical marijuana from one or 3856
more cultivators, processors, and retail dispensaries licensed 3857
under this chapter; 3858

(2) Conduct marijuana and medical marijuana testing in the 3859
manner specified in rules adopted under section 3796.03 of the 3860
Revised Code. 3861

(B) When testing medical marijuana, a licensed laboratory 3862
shall do both of the following: 3863

(1) Test the marijuana for potency, homogeneity, and 3864
contamination; 3865

(2) Prepare a report of the test results. 3866

(C) A holder of a current, valid, laboratory license 3867
issued under this chapter shall not be subject to arrest or 3868
criminal prosecution for engaging in any of the activities 3869
authorized under this chapter. 3870

Sec. 3796.22. (A) Notwithstanding any conflicting 3871
provision of the Revised Code, an adult consumer and a patient 3872
registered under this chapter who obtains marijuana or medical 3873
marijuana from a retail dispensary licensed under this chapter 3874
may do ~~both~~ any of the following: 3875

(1) Use ~~medical~~ marijuana; 3876

(2) ~~Possess~~ In the case of a registered patient, possess 3877
and use medical marijuana, ~~subject to division (B) of this~~ 3878
~~section and paraphernalia;~~ 3879

(3) In the case of an adult consumer, all of the 3880

following: 3881

(a) Possess, use, display, purchase, or transport not more 3882
than fifty grams of marijuana, with not more than eight grams 3883
being in the form of marijuana concentrate; 3884

(b) Subject to Chapter 3794. of the Revised Code, consume 3885
or use marijuana, including without limitation by combustion or 3886
smoking; 3887

(c) Transfer twenty-five grams or less of marijuana 3888
without remuneration to another adult consumer; 3889

(d) Without the need to obtain a license, cultivate, grow, 3890
process, and transport not more than six marijuana plants per 3891
household, with three or fewer of such plants being mature 3892
flowering plants, and possess marijuana produced by the plants 3893
on the premises where the plants were grown or cultivated, 3894
provided that the growing and cultivation takes place in an 3895
enclosed, locked space, is not conducted openly or publicly, and 3896
is not made available for sale; 3897

(e) Assist another adult consumer in any of the acts 3898
specified in divisions (A) (3) (a) to (c) of this section. 3899

(4) Possess any paraphernalia or accessories specified in 3900
rules adopted under section 3796.04 of the Revised Code. 3901

(B) The amount of medical marijuana possessed by a 3902
registered patient shall not exceed ~~a ninety-day supply, as the~~ 3903
amount specified in rules adopted under section ~~3796.04~~ 3796.03 3904
of the Revised Code. 3905

(C) ~~A registered patient~~ Registered patients and adult 3906
consumers shall not be subject to arrest or criminal prosecution 3907
for ~~doing engaging in any of the following in accordance with~~ 3908

activities authorized under this chapter 3909

~~(1) Obtaining, using, or possessing medical marijuana;~~ 3910

~~(2) Possessing any paraphernalia or accessories specified~~ 3911
~~in rules adopted under section 3796.04 of the Revised Code.~~ 3912

(D) This section does not authorize an adult use consumer 3913
or a registered patient to operate a vehicle, streetcar, 3914
trackless trolley, watercraft, or aircraft while under the 3915
influence of marijuana or medical marijuana. 3916

Sec. 3796.23. (A) Notwithstanding any conflicting 3917
provision of the Revised Code, a caregiver registered under this 3918
chapter who obtains ~~medical~~-marijuana from a retail dispensary 3919
licensed under this chapter may do both of the following: 3920

(1) Possess ~~medical~~-marijuana on behalf of a registered 3921
patient under the caregiver's care, subject to division (B) of 3922
this section; 3923

(2) Assist a registered patient under the caregiver's care 3924
in the use or administration of ~~medical~~-marijuana; 3925

(3) Possess any paraphernalia or accessories specified in 3926
rules adopted under section ~~3796.04~~-3796.03 of the Revised Code. 3927

(B) The amount of ~~medical~~-marijuana possessed by a 3928
registered caregiver on behalf of a registered patient shall not 3929
exceed ~~a ninety-day supply, as the amount~~ specified in rules 3930
adopted under section ~~3796.04~~-3796.03 of the Revised Code. If a 3931
caregiver provides care to more than one registered patient, the 3932
caregiver shall maintain separate inventories of ~~medical~~- 3933
marijuana for each patient. 3934

(C) A registered caregiver shall not be subject to arrest 3935
or criminal prosecution for doing any of following in accordance 3936

with this chapter:	3937
(1) Obtaining or possessing medical marijuana on behalf of a registered patient;	3938 3939
(2) Assisting a registered patient in the use or administration of medical marijuana;	3940 3941
(3) Possessing any paraphernalia or accessories specified in rules adopted under section 3796.04 of the Revised Code.	3942 3943
(D) This section does not permit a registered caregiver to personally use medical marijuana, unless the caregiver is also a registered patient.	3944 3945 3946
Sec. 3796.24. (A) The holder of a license, as defined in section 4776.01 of the Revised Code, is not subject to professional disciplinary action solely for engaging in professional or occupational activities related to medical marijuana.	3947 3948 3949 3950 3951
(B) Unless there is clear and convincing evidence that a child is unsafe, the use, possession, or administration of medical marijuana in accordance with this chapter shall not be the sole or primary basis for any of the following:	3952 3953 3954 3955
(1) An adjudication under section 2151.28 of the Revised Code determining that a child is an abused, neglected, or dependent child;	3956 3957 3958
(2) An allocation of parental rights and responsibilities under section 3109.04 of the Revised Code;	3959 3960
(3) A parenting time order under section 3109.051 or 3109.12 of the Revised Code.	3961 3962
(C) Notwithstanding any conflicting provision of the	3963

Revised Code, the use or possession of ~~medical-marijuana~~ by a 3964
registered patient in accordance with this chapter shall not be 3965
used as a reason for disqualifying a registered patient from 3966
medical care or from including a patient on a transplant waiting 3967
list. 3968

(D) Notwithstanding any conflicting provision of the 3969
Revised Code, the use, possession, administration, cultivation, 3970
processing, testing, transporting, sale, delivery, transferring, 3971
or dispensing of ~~medical-marijuana~~ in accordance with this 3972
chapter shall not be used as the sole or primary reason for 3973
taking action under any criminal or civil statute in the 3974
forfeiture or seizure of any property or asset. 3975

(E) Notwithstanding any conflicting provision of the 3976
Revised Code, a person's status as a registered patient or 3977
caregiver is not a sufficient basis for conducting a field 3978
sobriety test on the person or for suspending the person's 3979
driver's license. To conduct any field sobriety test, a law 3980
enforcement officer must have an independent, factual basis 3981
giving reasonable suspicion that the person is operating a 3982
vehicle under the influence of marijuana or with a prohibited 3983
concentration of marijuana in the person's whole blood, blood 3984
serum, plasma, breath, or urine. 3985

(F) Notwithstanding any conflicting provision of the 3986
Revised Code, a person's status as a registered patient or 3987
caregiver shall not be used as the sole or primary basis for 3988
rejecting the person as a tenant unless the rejection is 3989
required by federal law. 3990

(G) This chapter does not do any of the following: 3991

(1) Require a physician to recommend that a patient use 3992

medical marijuana to treat a qualifying medical condition;	3993
(2) Permit the use, possession, or administration of	3994
medical -marijuana other than as authorized by this chapter;	3995
(3) Permit the use, possession, or administration of	3996
medical -marijuana on federal land located in this state;	3997
(4) Require any public place to accommodate a registered	3998
patient's <u>or adult use consumer's</u> use of medical -marijuana;	3999
(5) Prohibit any public place from accommodating a	4000
registered patient's <u>or adult use consumer's</u> use of medical -	4001
marijuana;	4002
(6) Restrict research related to marijuana conducted at a	4003
state university, academic medical center, or private research	4004
and development organization as part of a research protocol	4005
approved by an institutional review board or equivalent entity.	4006
Sec. 3796.27. (A) As used in this section:	4007
(1) "Financial institution" means any of the following:	4008
(a) Any bank, trust company, savings and loan association,	4009
savings bank, or credit union or any affiliate, agent, or	4010
employee of a bank, trust company, savings and loan association,	4011
savings bank, or credit union;	4012
(b) Any money transmitter licensed under sections 1315.01	4013
to 1315.18 of the Revised Code or any affiliate, agent, or	4014
employee of such a licensee.	4015
(2) "Financial services" means services that a financial	4016
institution is authorized to provide under Title XI, sections	4017
1315.01 to 1315.18, or Chapter 1733. of the Revised Code, as	4018
applicable.	4019

(B) A financial institution that provides financial 4020
services to any cultivator, processor, retail dispensary, or 4021
laboratory licensed under this chapter shall be exempt from any 4022
criminal law of this state an element of which may be proven by 4023
substantiating that a person provides financial services to a 4024
person who possesses, delivers, or manufactures marijuana or 4025
marijuana derived products, including section 2925.05 of the 4026
Revised Code and sections 2923.01 and 2923.03 of the Revised 4027
Code as those sections apply to violations of Chapter 2925. of 4028
the Revised Code, if the cultivator, processor, retail 4029
dispensary, or laboratory is in compliance with this chapter and 4030
the applicable tax laws of this state. 4031

(C) (1) Notwithstanding section 149.43 of the Revised Code 4032
or any other public records law to the contrary, upon the 4033
request of a financial institution, the department of commerce 4034
~~or state board of pharmacy~~ shall provide to the financial 4035
institution all of the following information: 4036

(a) Whether a person with whom the financial institution 4037
is seeking to do business is a cultivator, processor, retail 4038
dispensary, or laboratory licensed under this chapter; 4039

(b) The name of any other business or individual 4040
affiliated with the person; 4041

(c) An unredacted copy of the application for a license 4042
under this chapter, and any supporting documentation, that was 4043
submitted by the person; 4044

(d) If applicable, information relating to sales and 4045
volume of product sold by the person; 4046

(e) Whether the person is in compliance with this chapter; 4047

(f) Any past or pending violation by the person of this 4048

chapter, and any penalty imposed on the person for such a 4049
violation. 4050

(2) The department ~~or board~~ may charge a financial 4051
institution a reasonable fee to cover the administrative cost of 4052
providing the information. 4053

(D) Information received by a financial institution under 4054
division (C) of this section is confidential. Except as 4055
otherwise permitted by other state law or federal law, a 4056
financial institution shall not make the information available 4057
to any person other than the customer to whom the information 4058
applies and any trustee, conservator, guardian, personal 4059
representative, or agent of that customer. 4060

Sec. 3796.28. (A) Nothing in this chapter does any of the 4061
following: 4062

(1) Requires an employer to permit or accommodate an 4063
employee's use, possession, or distribution of ~~medical~~ 4064
marijuana; 4065

(2) Prohibits an employer from refusing to hire, 4066
discharging, disciplining, or otherwise taking an adverse 4067
employment action against a person with respect to hire, tenure, 4068
terms, conditions, or privileges of employment because of that 4069
person's use, possession, or distribution of ~~medical~~ marijuana; 4070

(3) Prohibits an employer from establishing and enforcing 4071
a drug testing policy, drug-free workplace policy, or zero- 4072
tolerance drug policy; 4073

(4) Interferes with any federal restrictions on 4074
employment, including the regulations adopted by the United 4075
States department of transportation in Title 49 of the Code of 4076
Federal Regulations, as amended; 4077

(5) Permits a person to commence a cause of action against 4078
an employer for refusing to hire, discharging, disciplining, 4079
discriminating, retaliating, or otherwise taking an adverse 4080
employment action against a person with respect to hire, tenure, 4081
terms, conditions, or privileges of employment related to 4082
~~medical-marijuana;~~ 4083

~~(6) Affects the authority of the administrator of workers' 4084
compensation to grant rebates or discounts on premium rates to 4085
employers that participate in a drug-free workplace program 4086
established in accordance with rules adopted by the 4087
administrator under Chapter 4123. of the Revised Code. 4088~~

(B) A person-registered patient who is discharged from 4089
employment because of that person's use of ~~medical-marijuana~~ 4090
shall be considered to have been discharged for just cause for 4091
purposes of division (D) of section 4141.29 of the Revised Code 4092
if the person's-registered patient's use of ~~medical-marijuana~~ 4093
was in violation of an employer's drug-free workplace policy, 4094
zero-tolerance policy, or other formal program or policy 4095
regulating the use of ~~medical-marijuana~~. 4096

(C) It is not a violation of division (A), (D), or (E) of 4097
section 4112.02 of the Revised Code if an employer discharges, 4098
refuses to hire, or otherwise discriminates against a person 4099
because of that person's use of ~~medical-marijuana~~ if the 4100
person's use of ~~medical-marijuana~~ is in violation of the 4101
employer's drug-free workplace policy, zero-tolerance policy, or 4102
other formal program or policy regulating the use of ~~medical-~~ 4103
marijuana. 4104

Sec. 3796.29. (A) The legislative authority of a municipal 4105
corporation may adopt an ordinance, or a board of township 4106
trustees may adopt a resolution, to prohibit, or limit the 4107

number of, cultivators, processors, or retail dispensaries 4108
licensed under this chapter within the municipal corporation or 4109
within the unincorporated territory of the township, 4110
respectively. 4111

(B) This section does not authorize the legislative 4112
authority of a municipal corporation or a board of township 4113
trustees to adopt an ordinance or resolution limiting ~~research,~~ 4114
prohibiting, or criminalizing any of the following as authorized 4115
by this chapter: 4116

(1) Research related to marijuana conducted at a state 4117
university, academic medical center, or private research and 4118
development organization as part of a research protocol approved 4119
by an institutional review board or equivalent entity; 4120

(2) Use, possession, or delivery of marijuana or medical 4121
marijuana by adult use consumers or registered patients in 4122
accordance with this chapter; 4123

(3) The activities authorized by division (A) (3) (d) of 4124
section 3796.22 of the Revised Code. 4125

Sec. 3796.30. (A) Except as provided in division (B) of 4126
this section, no ~~medical~~-marijuana cultivator, processor, retail 4127
dispensary, or laboratory that tests medical marijuana shall be 4128
located within five hundred feet of the boundaries of a parcel 4129
of real estate having situated on it a school, church, public 4130
library, public playground, or public park. 4131

If the relocation of a cultivator, processor, retail 4132
dispensary, or laboratory licensed under this chapter results in 4133
the cultivator, processor, retail dispensary, or laboratory 4134
being located within five hundred feet of the boundaries of a 4135
parcel of real estate having situated on it a school, church, 4136

public library, public playground, or public park, the 4137
department of commerce ~~or state board of pharmacy shall revoke~~ 4138
~~the license it previously issued to the cultivator, processor,~~ 4139
~~retail dispensary, or laboratory~~ deny the request to relocate. 4140

(B) This section does not apply to research related to 4141
marijuana conducted at a state university, academic medical 4142
center, or private research and development organization as part 4143
of a research protocol approved by an institutional review board 4144
or equivalent entity. 4145

(C) As used in this section and ~~sections 3796.04 and~~ 4146
section 3796.12 of the Revised Code: 4147

"Church" has the meaning defined in section 1710.01 of the 4148
Revised Code. 4149

"Public library" means a library provided for under 4150
Chapter 3375. of the Revised Code. 4151

"Public park" means a park established by the state or a 4152
political subdivision of the state including a county, township, 4153
municipal corporation, or park district. 4154

"Public playground" means a playground established by the 4155
state or a political subdivision of the state including a 4156
county, township, municipal corporation, or park district. 4157

"School" means a child day-care center as defined under 4158
section 5104.01 of the Revised Code, a preschool as defined 4159
under section 2950.034 of the Revised Code, or a public or 4160
nonpublic primary school or secondary school. 4161

Sec. 3796.32. (A) The department may adopt rules 4162
regulating the advertisements of cultivators, processors, retail 4163
dispensaries, and testing laboratories to prevent advertisements 4164

that are false, misleading, or targeted to minors. 4165

(B) Rules adopted by the department pursuant to division 4166
(A) of this section shall not do any of the following: 4167

(1) Require pre-approval by the department of any 4168
advertisement; 4169

(2) Restrict any cultivator, processor, retail dispensary, 4170
or testing laboratory from engaging in noncommercial speech; 4171

(3) Restrict the ability of a cultivator, processor, 4172
retail dispensary, or testing laboratory from advertising in any 4173
specific medium, including without limitation advertisements 4174
placed on web sites, billboards, apparel, or radio or television 4175
broadcasts, except that certain narrowly tailored time and place 4176
restrictions may be adopted to prevent advertising targeted to 4177
minors; 4178

(4) Restrict the ability of a cultivator, processor, 4179
retail dispensary, or testing laboratory from marketing, 4180
distributing, offering, selling, licensing, or causing to be 4181
marketed, distributed, offered, sold, or licensed, any apparel 4182
or other merchandise related to the sale of marijuana, except 4183
the department may restrict the sale of such apparel or 4184
merchandise to a minor; 4185

(5) Restrict the ability of a cultivator, processor, 4186
retail dispensary, or testing laboratory from utilizing an 4187
advertisement that includes marijuana leaves or slang terms that 4188
refer to marijuana or marijuana strains; 4189

(6) Restrict the ability of a cultivator, processor, 4190
retail dispensary, or testing laboratory from making any 4191
statement, design, representation, picture, or illustration that 4192
is related to the efficacy of marijuana to treat any of the 4193

qualifying conditions identified in section 3796.01 of the 4194
Revised Code; 4195

(7) Restrict the ability of a cultivator, processor, 4196
retail dispensary, or testing laboratory from engaging directly 4197
with consumers, registered patients, or user-generated content 4198
or reviews. 4199

Sec. 3796.35. (A) No person, including a retail dispensary 4200
of marijuana and its agents, employees, and representatives, 4201
shall do any of the following: 4202

(1) Recklessly give, sell, or otherwise distribute 4203
marijuana or paraphernalia to any person under twenty-one years 4204
of age; 4205

(2) Recklessly give away, sell, or distribute marijuana or 4206
paraphernalia in any place that does not have posted in a 4207
conspicuous place a legibly printed sign in letters at least 4208
one-half inch high stating that giving, selling, or otherwise 4209
distributing marijuana to a person under twenty-one years of age 4210
is prohibited by law unless the person is a registered patient 4211
under Chapter 3796. of the Revised Code; 4212

(3) Knowingly furnish any false information regarding the 4213
name, age, or other identification of any person under twenty- 4214
one years of age with purpose to obtain marijuana for that 4215
person; 4216

(4) Recklessly give, sell, or otherwise distribute 4217
marijuana over the internet or through another remote method 4218
without age verification. 4219

(B) It is not a violation of division (A) of this section 4220
for a person to give or otherwise distribute to a person under 4221
twenty-one years of age marijuana if the person under twenty-one 4222

years of age is a registered patient under this chapter. 4223

(C) No person who is eighteen years of age or older but 4224
younger than twenty-one years of age shall knowingly furnish 4225
false information concerning that person's name, age, or other 4226
identification for the purpose of obtaining marijuana products. 4227

Sec. 3796.99. (A) (1) Whoever violates division (A) of 4228
section 3796.35 of the Revised Code is guilty of a misdemeanor 4229
of the fourth degree. If the offender previously has been 4230
convicted of a violation of that division, the violation is a 4231
misdemeanor of the third degree. 4232

(2) Any marijuana that is given, sold, or otherwise 4233
distributed to a person under twenty-one years of age in 4234
violation of division (A) of section 3796.35 of the Revised Code 4235
and that is used, possessed, purchased, or received by a person 4236
under twenty-one years of age is subject to seizure and 4237
forfeiture as contraband under Chapter 2981. of the Revised 4238
Code. 4239

(B) Whoever violates division (C) of section 3796.35 of 4240
the Revised Code is guilty of a misdemeanor of the fourth 4241
degree. If the offender previously has been convicted of or 4242
pleaded guilty to a violation of that division, the violation is 4243
a misdemeanor of the third degree. 4244

Sec. 4123.34. It shall be the duty of the bureau of 4245
workers' compensation board of directors and the administrator 4246
of workers' compensation to safeguard and maintain the solvency 4247
of the state insurance fund and all other funds specified in 4248
this chapter and Chapters 4121., 4127., and 4131. of the Revised 4249
Code. The administrator, in the exercise of the powers and 4250
discretion conferred upon the administrator in section 4123.29 4251

of the Revised Code, shall fix and maintain, with the advice and 4252
consent of the board, for each class of occupation or industry, 4253
the lowest possible rates of premium consistent with the 4254
maintenance of a solvent state insurance fund and the creation 4255
and maintenance of a reasonable surplus, after the payment of 4256
legitimate claims for injury, occupational disease, and death 4257
that the administrator authorizes to be paid from the state 4258
insurance fund for the benefit of injured, diseased, and the 4259
dependents of killed employees. In establishing rates, the 4260
administrator shall take into account the necessity of ensuring 4261
sufficient money is set aside in the premium payment security 4262
fund to cover any defaults in premium obligations. The 4263
administrator shall observe all of the following requirements in 4264
fixing the rates of premium for the risks of occupations or 4265
industries: 4266

(A) The administrator shall keep an accurate account of 4267
the money paid in premiums by each of the several classes of 4268
occupations or industries, and the losses on account of 4269
injuries, occupational disease, and death of employees thereof, 4270
and also keep an account of the money received from each 4271
individual employer and the amount of losses incurred against 4272
the state insurance fund on account of injuries, occupational 4273
disease, and death of the employees of the employer. 4274

(B) A portion of the money paid into the state insurance 4275
fund shall be set aside for the creation of a surplus fund 4276
account within the state insurance fund. Any references in this 4277
chapter or in Chapter 4121., 4125., 4127., or 4131. of the 4278
Revised Code to the surplus fund, the surplus created in this 4279
division, the statutory surplus fund, or the statutory surplus 4280
of the state insurance fund are hereby deemed to be references 4281
to the surplus fund account. The administrator may transfer the 4282

portion of the state insurance fund to the surplus fund account 4283
as the administrator determines is necessary to satisfy the 4284
needs of the surplus fund account and to guarantee the solvency 4285
of the state insurance fund and the surplus fund account. In 4286
addition to all statutory authority under this chapter and 4287
Chapter 4121. of the Revised Code, the administrator has 4288
discretionary and contingency authority to make charges to the 4289
surplus fund account. The administrator shall account for all 4290
charges, whether statutory, discretionary, or contingency, that 4291
the administrator may make to the surplus fund account. A 4292
revision of basic rates shall be made annually on the first day 4293
of July. 4294

For policy years commencing prior to July 1, 2016, 4295
revisions of basic rates for private employers shall be in 4296
accordance with the oldest four of the last five calendar years 4297
of the combined accident and occupational disease experience of 4298
the administrator in the administration of this chapter, as 4299
shown by the accounts kept as provided in this section. For a 4300
policy year commencing on or after July 1, 2016, revisions of 4301
basic rates for private employers shall be in accordance with 4302
the oldest four of the last five policy years combined accident 4303
and occupational disease experience of the administrator in the 4304
administration of this chapter, as shown by the accounts kept as 4305
provided in this section. 4306

Revisions of basic rates for public employers shall be in 4307
accordance with the oldest four of the last five policy years of 4308
the combined accident and occupational disease experience of the 4309
administrator in the administration of this chapter, as shown by 4310
the accounts kept as provided in this section. 4311

In revising basic rates, the administrator shall exclude 4312

the experience of employers that are no longer active if the 4313
administrator determines that the inclusion of those employers 4314
would have a significant negative impact on the remainder of the 4315
employers in a particular manual classification. The 4316
administrator shall adopt rules, with the advice and consent of 4317
the board, governing rate revisions, the object of which shall 4318
be to make an equitable distribution of losses among the several 4319
classes of occupation or industry, which rules shall be general 4320
in their application. 4321

(C) The administrator may apply that form of rating system 4322
that the administrator finds is best calculated to merit rate or 4323
individually rate the risk more equitably, predicated upon the 4324
basis of its individual industrial accident and occupational 4325
disease experience, and may encourage and stimulate accident 4326
prevention. The administrator shall develop fixed and equitable 4327
rules controlling the rating system, which rules shall conserve 4328
to each risk the basic principles of workers' compensation 4329
insurance. 4330

(D) The administrator, from the money paid into the state 4331
insurance fund, shall set aside into an account of the state 4332
insurance fund titled a premium payment security fund sufficient 4333
money to pay for any premiums due from an employer and 4334
uncollected. 4335

The use of the moneys held by the premium payment security 4336
fund account is restricted to reimbursement to the state 4337
insurance fund of premiums due and uncollected. 4338

(E) The administrator may grant discounts on premium rates 4339
for employers who meet either of the following requirements: 4340

(1) Have not incurred a compensable injury for one year or 4341

more and who maintain an employee safety committee or similar 4342
organization or make periodic safety inspections of the 4343
workplace. 4344

(2) Successfully complete a loss prevention program 4345
prescribed by the superintendent of the division of safety and 4346
hygiene and conducted by the division or by any other person 4347
approved by the superintendent. 4348

(F) (1) In determining the premium rates for the 4349
construction industry the administrator shall calculate the 4350
employers' premiums based upon the actual remuneration 4351
construction industry employees receive from construction 4352
industry employers, provided that the amount of remuneration the 4353
administrator uses in calculating the premiums shall not exceed 4354
an average weekly wage equal to one hundred fifty per cent of 4355
the statewide average weekly wage as defined in division (C) of 4356
section 4123.62 of the Revised Code. 4357

(2) Division (F) (1) of this section shall not be construed 4358
as affecting the manner in which benefits to a claimant are 4359
awarded under this chapter. 4360

(3) As used in division (F) of this section, "construction 4361
industry" includes any activity performed in connection with the 4362
erection, alteration, repair, replacement, renovation, 4363
installation, or demolition of any building, structure, highway, 4364
or bridge. 4365

(G) The administrator shall not ~~place~~ do either of the 4366
following: 4367

(1) Place a limit on the length of time that an employer 4368
may participate in the bureau of workers' compensation drug free 4369
workplace and workplace safety programs. 4370

(2) Require an employer, as a condition of granting rebates or discounts on premium rates to an employer that participates in the bureau of workers' compensation drug free workplace or workplace safety programs, to require the employer's employees to submit to a test to determine whether marijuana is present in an employee's system.

Sec. 4510.17. (A) The registrar of motor vehicles shall impose a class D suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B) (4) of section 4510.02 of the Revised Code on any person who is a resident of this state and is convicted of or pleads guilty to a violation of a statute of any other state or any federal statute that is substantially similar to section 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.14, ~~2925.141~~, 2925.22, 2925.23, 2925.31, 2925.32, 2925.36, or 2925.37 of the Revised Code. Upon receipt of a report from a court, court clerk, or other official of any other state or from any federal authority that a resident of this state was convicted of or pleaded guilty to an offense described in this division, the registrar shall send a notice by regular first class mail to the person, at the person's last known address as shown in the records of the bureau of motor vehicles, informing the person of the suspension, that the suspension will take effect twenty-one days from the date of the notice, and that, if the person wishes to appeal the suspension or denial, the person must file a notice of appeal within twenty-one days of the date of the notice requesting a hearing on the matter. If the person requests a hearing, the registrar shall hold the hearing not more than forty days after receipt by the registrar of the

notice of appeal. The filing of a notice of appeal does not stay 4402
the operation of the suspension that must be imposed pursuant to 4403
this division. The scope of the hearing shall be limited to 4404
whether the person actually was convicted of or pleaded guilty 4405
to the offense for which the suspension is to be imposed. 4406

The suspension the registrar is required to impose under 4407
this division shall end either on the last day of the class D 4408
suspension period or of the suspension of the person's 4409
nonresident operating privilege imposed by the state or federal 4410
court, whichever is earlier. 4411

The registrar shall subscribe to or otherwise participate 4412
in any information system or register, or enter into reciprocal 4413
and mutual agreements with other states and federal authorities, 4414
in order to facilitate the exchange of information with other 4415
states and the United States government regarding persons who 4416
plead guilty to or are convicted of offenses described in this 4417
division and therefore are subject to the suspension or denial 4418
described in this division. 4419

(B) The registrar shall impose a class D suspension of the 4420
person's driver's license, commercial driver's license, 4421
temporary instruction permit, probationary license, or 4422
nonresident operating privilege for the period of time specified 4423
in division (B) (4) of section 4510.02 of the Revised Code on any 4424
person who is a resident of this state and is convicted of or 4425
pleads guilty to a violation of a statute of any other state or 4426
a municipal ordinance of a municipal corporation located in any 4427
other state that is substantially similar to section 4511.19 of 4428
the Revised Code. Upon receipt of a report from another state 4429
made pursuant to section 4510.61 of the Revised Code indicating 4430
that a resident of this state was convicted of or pleaded guilty 4431

to an offense described in this division, the registrar shall 4432
send a notice by regular first class mail to the person, at the 4433
person's last known address as shown in the records of the 4434
bureau of motor vehicles, informing the person of the 4435
suspension, that the suspension or denial will take effect 4436
twenty-one days from the date of the notice, and that, if the 4437
person wishes to appeal the suspension, the person must file a 4438
notice of appeal within twenty-one days of the date of the 4439
notice requesting a hearing on the matter. If the person 4440
requests a hearing, the registrar shall hold the hearing not 4441
more than forty days after receipt by the registrar of the 4442
notice of appeal. The filing of a notice of appeal does not stay 4443
the operation of the suspension that must be imposed pursuant to 4444
this division. The scope of the hearing shall be limited to 4445
whether the person actually was convicted of or pleaded guilty 4446
to the offense for which the suspension is to be imposed. 4447

The suspension the registrar is required to impose under 4448
this division shall end either on the last day of the class D 4449
suspension period or of the suspension of the person's 4450
nonresident operating privilege imposed by the state or federal 4451
court, whichever is earlier. 4452

(C) The registrar shall impose a class D suspension of the 4453
child's driver's license, commercial driver's license, temporary 4454
instruction permit, or nonresident operating privilege for the 4455
period of time specified in division (B) (4) of section 4510.02 4456
of the Revised Code on any child who is a resident of this state 4457
and is convicted of or pleads guilty to a violation of a statute 4458
of any other state or any federal statute that is substantially 4459
similar to section 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 4460
2925.06, 2925.11, 2925.12, 2925.13, 2925.14, ~~2925.141~~, 2925.22, 4461
2925.23, 2925.31, 2925.32, 2925.36, or 2925.37 of the Revised 4462

Code. Upon receipt of a report from a court, court clerk, or 4463
other official of any other state or from any federal authority 4464
that a child who is a resident of this state was convicted of or 4465
pleaded guilty to an offense described in this division, the 4466
registrar shall send a notice by regular first class mail to the 4467
child, at the child's last known address as shown in the records 4468
of the bureau of motor vehicles, informing the child of the 4469
suspension, that the suspension or denial will take effect 4470
twenty-one days from the date of the notice, and that, if the 4471
child wishes to appeal the suspension, the child must file a 4472
notice of appeal within twenty-one days of the date of the 4473
notice requesting a hearing on the matter. If the child requests 4474
a hearing, the registrar shall hold the hearing not more than 4475
forty days after receipt by the registrar of the notice of 4476
appeal. The filing of a notice of appeal does not stay the 4477
operation of the suspension that must be imposed pursuant to 4478
this division. The scope of the hearing shall be limited to 4479
whether the child actually was convicted of or pleaded guilty to 4480
the offense for which the suspension is to be imposed. 4481

The suspension the registrar is required to impose under 4482
this division shall end either on the last day of the class D 4483
suspension period or of the suspension of the child's 4484
nonresident operating privilege imposed by the state or federal 4485
court, whichever is earlier. If the child is a resident of this 4486
state who is sixteen years of age or older and does not have a 4487
current, valid Ohio driver's or commercial driver's license or 4488
permit, the notice shall inform the child that the child will be 4489
denied issuance of a driver's or commercial driver's license or 4490
permit for six months beginning on the date of the notice. If 4491
the child has not attained the age of sixteen years on the date 4492
of the notice, the notice shall inform the child that the period 4493

of denial of six months shall commence on the date the child 4494
attains the age of sixteen years. 4495

The registrar shall subscribe to or otherwise participate 4496
in any information system or register, or enter into reciprocal 4497
and mutual agreements with other states and federal authorities, 4498
in order to facilitate the exchange of information with other 4499
states and the United States government regarding children who 4500
are residents of this state and plead guilty to or are convicted 4501
of offenses described in this division and therefore are subject 4502
to the suspension or denial described in this division. 4503

(D) The registrar shall impose a class D suspension of the 4504
child's driver's license, commercial driver's license, temporary 4505
instruction permit, probationary license, or nonresident 4506
operating privilege for the period of time specified in division 4507
(B) (4) of section 4510.02 of the Revised Code on any child who 4508
is a resident of this state and is convicted of or pleads guilty 4509
to a violation of a statute of any other state or a municipal 4510
ordinance of a municipal corporation located in any other state 4511
that is substantially similar to section 4511.19 of the Revised 4512
Code. Upon receipt of a report from another state made pursuant 4513
to section 4510.61 of the Revised Code indicating that a child 4514
who is a resident of this state was convicted of or pleaded 4515
guilty to an offense described in this division, the registrar 4516
shall send a notice by regular first class mail to the child, at 4517
the child's last known address as shown in the records of the 4518
bureau of motor vehicles, informing the child of the suspension, 4519
that the suspension will take effect twenty-one days from the 4520
date of the notice, and that, if the child wishes to appeal the 4521
suspension, the child must file a notice of appeal within 4522
twenty-one days of the date of the notice requesting a hearing 4523
on the matter. If the child requests a hearing, the registrar 4524

shall hold the hearing not more than forty days after receipt by 4525
the registrar of the notice of appeal. The filing of a notice of 4526
appeal does not stay the operation of the suspension that must 4527
be imposed pursuant to this division. The scope of the hearing 4528
shall be limited to whether the child actually was convicted of 4529
or pleaded guilty to the offense for which the suspension is to 4530
be imposed. 4531

The suspension the registrar is required to impose under 4532
this division shall end either on the last day of the class D 4533
suspension period or of the suspension of the child's 4534
nonresident operating privilege imposed by the state or federal 4535
court, whichever is earlier. If the child is a resident of this 4536
state who is sixteen years of age or older and does not have a 4537
current, valid Ohio driver's or commercial driver's license or 4538
permit, the notice shall inform the child that the child will be 4539
denied issuance of a driver's or commercial driver's license or 4540
permit for six months beginning on the date of the notice. If 4541
the child has not attained the age of sixteen years on the date 4542
of the notice, the notice shall inform the child that the period 4543
of denial of six months shall commence on the date the child 4544
attains the age of sixteen years. 4545

(E) (1) Any person whose license or permit has been 4546
suspended pursuant to this section may file a petition in the 4547
municipal or county court, or in case the person is under 4548
eighteen years of age, the juvenile court, in whose jurisdiction 4549
the person resides, requesting limited driving privileges and 4550
agreeing to pay the cost of the proceedings. Except as provided 4551
in division (E) (2) or (3) of this section, the judge may grant 4552
the person limited driving privileges during the period during 4553
which the suspension otherwise would be imposed for any of the 4554
purposes set forth in division (A) of section 4510.021 of the 4555

Revised Code. 4556

(2) No judge shall grant limited driving privileges for 4557
employment as a driver of a commercial motor vehicle to any 4558
person who would be disqualified from operating a commercial 4559
motor vehicle under section 4506.16 of the Revised Code if the 4560
violation had occurred in this state. Further, no judge shall 4561
grant limited driving privileges during any of the following 4562
periods of time: 4563

(a) The first fifteen days of a suspension under division 4564
(B) or (D) of this section, if the person has not been convicted 4565
within ten years of the date of the offense giving rise to the 4566
suspension under this section of a violation of any of the 4567
following: 4568

(i) Section 4511.19 of the Revised Code, or a municipal 4569
ordinance relating to operating a vehicle while under the 4570
influence of alcohol, a drug of abuse, or alcohol and a drug of 4571
abuse; 4572

(ii) A municipal ordinance relating to operating a motor 4573
vehicle with a prohibited concentration of alcohol, a controlled 4574
substance, or a metabolite of a controlled substance in the 4575
whole blood, blood serum or plasma, breath, or urine; 4576

(iii) Section 2903.04 of the Revised Code in a case in 4577
which the person was subject to the sanctions described in 4578
division (D) of that section; 4579

(iv) Division (A) (1) of section 2903.06 or division (A) (1) 4580
of section 2903.08 of the Revised Code or a municipal ordinance 4581
that is substantially similar to either of those divisions; 4582

(v) Division (A) (2), (3), or (4) of section 2903.06, 4583
division (A) (2) of section 2903.08, or as it existed prior to 4584

March 23, 2000, section 2903.07 of the Revised Code, or a 4585
municipal ordinance that is substantially similar to any of 4586
those divisions or that former section, in a case in which the 4587
jury or judge found that the person was under the influence of 4588
alcohol, a drug of abuse, or alcohol and a drug of abuse. 4589

(b) The first thirty days of a suspension under division 4590
(B) or (D) of this section, if the person has been convicted one 4591
time within ten years of the date of the offense giving rise to 4592
the suspension under this section of any violation identified in 4593
division (E) (1) (a) of this section. 4594

(c) The first one hundred eighty days of a suspension 4595
under division (B) or (D) of this section, if the person has 4596
been convicted two times within ten years of the date of the 4597
offense giving rise to the suspension under this section of any 4598
violation identified in division (E) (1) (a) of this section. 4599

(3) No limited driving privileges may be granted if the 4600
person has been convicted three or more times within five years 4601
of the date of the offense giving rise to a suspension under 4602
division (B) or (D) of this section of any violation identified 4603
in division (E) (1) (a) of this section. 4604

(4) In accordance with section 4510.022 of the Revised 4605
Code, a person may petition for, and a judge may grant, 4606
unlimited driving privileges with a certified ignition interlock 4607
device during the period of suspension imposed under division 4608
(B) or (D) of this section to a person described in division (E) 4609
(2) (a) of this section. 4610

(5) If a person petitions for limited driving privileges 4611
under division (E) (1) of this section or unlimited driving 4612
privileges with a certified ignition interlock device as 4613

provided in division (E) (4) of this section, the registrar shall 4614
be represented by the county prosecutor of the county in which 4615
the person resides if the petition is filed in a juvenile court 4616
or county court, except that if the person resides within a city 4617
or village that is located within the jurisdiction of the county 4618
in which the petition is filed, the city director of law or 4619
village solicitor of that city or village shall represent the 4620
registrar. If the petition is filed in a municipal court, the 4621
registrar shall be represented as provided in section 1901.34 of 4622
the Revised Code. 4623

(6) (a) In issuing an order granting limited driving 4624
privileges under division (E) (1) of this section, the court may 4625
impose any condition it considers reasonable and necessary to 4626
limit the use of a vehicle by the person. The court shall 4627
deliver to the person a copy of the order setting forth the 4628
time, place, and other conditions limiting the person's use of a 4629
motor vehicle. Unless division (E) (6) (b) of this section 4630
applies, the grant of limited driving privileges shall be 4631
conditioned upon the person's having the order in the person's 4632
possession at all times during which the person is operating a 4633
vehicle. 4634

(b) If, under the order, the court requires the use of an 4635
immobilizing or disabling device as a condition of the grant of 4636
limited or unlimited driving privileges, the person shall 4637
present to the registrar or to a deputy registrar the copy of 4638
the order granting limited driving privileges and a certificate 4639
affirming the installation of an immobilizing or disabling 4640
device that is in a form established by the director of public 4641
safety and is signed by the person who installed the device. 4642
Upon presentation of the order and the certificate to the 4643
registrar or a deputy registrar, the registrar or deputy 4644

registrar shall issue to the offender a restricted license, 4645
unless the offender's driver's or commercial driver's license or 4646
permit is suspended under any other provision of law and limited 4647
driving privileges have not been granted with regard to that 4648
suspension. A restricted license issued under this division 4649
shall be identical to an Ohio driver's license, except that it 4650
shall have printed on its face a statement that the offender is 4651
prohibited from operating any motor vehicle that is not equipped 4652
with an immobilizing or disabling device in violation of the 4653
order. 4654

(7) (a) Unless division (E) (7) (b) applies, a person granted 4655
limited driving privileges who operates a vehicle for other than 4656
limited purposes, in violation of any condition imposed by the 4657
court or without having the order in the person's possession, is 4658
guilty of a violation of section 4510.11 of the Revised Code. 4659

(b) No person who has been granted limited or unlimited 4660
driving privileges under division (E) of this section subject to 4661
an immobilizing or disabling device order shall operate a motor 4662
vehicle prior to obtaining a restricted license. Any person who 4663
violates this prohibition is subject to the penalties prescribed 4664
in section 4510.14 of the Revised Code. 4665

(c) The offenses established under division (E) (7) of this 4666
section are strict liability offenses and section 2901.20 of the 4667
Revised Code does not apply. 4668

(F) The provisions of division (A) (8) of section 4510.13 4669
of the Revised Code apply to a person who has been granted 4670
limited or unlimited driving privileges with a certified 4671
ignition interlock device under this section and who either 4672
commits an ignition interlock device violation as defined under 4673
section 4510.46 of the Revised Code or operates a motor vehicle 4674

that is not equipped with a certified ignition interlock device. 4675

(G) Any person whose license or permit has been suspended 4676
under division (A) or (C) of this section may file a petition in 4677
the municipal or county court, or in case the person is under 4678
eighteen years of age, the juvenile court, in whose jurisdiction 4679
the person resides, requesting the termination of the suspension 4680
and agreeing to pay the cost of the proceedings. If the court, 4681
in its discretion, determines that a termination of the 4682
suspension is appropriate, the court shall issue an order to the 4683
registrar to terminate the suspension. Upon receiving such an 4684
order, the registrar shall reinstate the license. 4685

(H) As used in divisions (C) and (D) of this section: 4686

(1) "Child" means a person who is under the age of 4687
eighteen years, except that any person who violates a statute or 4688
ordinance described in division (C) or (D) of this section prior 4689
to attaining eighteen years of age shall be deemed a "child" 4690
irrespective of the person's age at the time the complaint or 4691
other equivalent document is filed in the other state or a 4692
hearing, trial, or other proceeding is held in the other state 4693
on the complaint or other equivalent document, and irrespective 4694
of the person's age when the period of license suspension or 4695
denial prescribed in division (C) or (D) of this section is 4696
imposed. 4697

(2) "Is convicted of or pleads guilty to" means, as it 4698
relates to a child who is a resident of this state, that in a 4699
proceeding conducted in a state or federal court located in 4700
another state for a violation of a statute or ordinance 4701
described in division (C) or (D) of this section, the result of 4702
the proceeding is any of the following: 4703

(a) Under the laws that govern the proceedings of the 4704
court, the child is adjudicated to be or admits to being a 4705
delinquent child or a juvenile traffic offender for a violation 4706
described in division (C) or (D) of this section that would be a 4707
crime if committed by an adult; 4708

(b) Under the laws that govern the proceedings of the 4709
court, the child is convicted of or pleads guilty to a violation 4710
described in division (C) or (D) of this section; 4711

(c) Under the laws that govern the proceedings of the 4712
court, irrespective of the terminology utilized in those laws, 4713
the result of the court's proceedings is the functional 4714
equivalent of division (H) (2) (a) or (b) of this section. 4715

Sec. 4729.24. (A) Subject to division (B) of this section, 4716
in addition to the actions the state board of pharmacy may take 4717
under Chapter 119. of the Revised Code, the board may order the 4718
taking of depositions; examine and copy any books, accounts, 4719
papers, records, documents, and other tangible objects; issue 4720
subpoenas; and compel the attendance of witnesses and production 4721
of books, accounts, papers, records, documents, and other 4722
tangible objects. 4723

On failure of a person to comply with a subpoena issued by 4724
the board and after reasonable notice to that person, the board 4725
may apply to the court of common pleas of Franklin county for an 4726
order compelling the production of persons or records pursuant 4727
to the Ohio Rules of Civil Procedure. 4728

A subpoena issued by the board may be served by a sheriff, 4729
sheriff's deputy, or board employee designated by the board. 4730
Service of a subpoena may be made by delivering a copy of the 4731
subpoena to the person named in the subpoena or by leaving it at 4732

the person's usual place of residence. 4733

(B) A subpoena for patient record information may be 4734
issued only on approval by the board's executive director and 4735
the president or another board member designated by the 4736
president, in consultation with the office of the attorney 4737
general. Before issuing the subpoena, the executive director and 4738
the office of the attorney general shall determine whether 4739
probable cause exists to believe that the complaint filed 4740
alleges, or an investigation has revealed, a violation of this 4741
chapter or Chapters 2925., 3715., or 3719., ~~or 3796.~~ of the 4742
Revised Code or any rule adopted by the board, that the records 4743
sought are relevant to the alleged violation and material to the 4744
investigation, and that the records cover a reasonable period of 4745
time surrounding the alleged violation. 4746

(C) The board may adopt rules in accordance with Chapter 4747
119. of the Revised Code establishing procedures to be followed 4748
in taking the actions authorized by this section, including 4749
procedures regarding payment for and service of subpoenas. 4750

Sec. 4729.75. The state board of pharmacy may establish 4751
and maintain a drug database. The board shall use the drug 4752
database to monitor the misuse and diversion of ~~the following:~~ 4753
controlled substances, as defined in section 3719.01 of the 4754
Revised Code; ~~medical marijuana, as authorized under Chapter~~ 4755
~~3796. of the Revised Code;~~ and other dangerous drugs the board 4756
includes in the database pursuant to rules adopted under section 4757
4729.84 of the Revised Code. 4758

The board also shall use the drug database to monitor 4759
naltrexone. 4760

In establishing and maintaining the database, the board 4761

shall electronically collect information pursuant to sections 4762
4729.77, ~~4729.771~~, 4729.772, 4729.78, and 4729.79 of the Revised 4763
Code and shall disseminate information as authorized or required 4764
by sections 4729.80 and 4729.81 of the Revised Code. The board's 4765
collection and dissemination of information shall be conducted 4766
in accordance with rules adopted under section 4729.84 of the 4767
Revised Code. 4768

Sec. 4729.772. (A) If the state board of pharmacy 4769
establishes and maintains a drug database pursuant to section 4770
4729.75 of the Revised Code, in addition to the information 4771
required to be submitted under sections 4729.77, ~~4729.771~~, 4772
4729.78, and 4729.79 of the Revised Code, the board may accept 4773
information from other sources, including other state agencies, 4774
to the extent the information is related to monitoring the 4775
misuse and diversion of drugs as set forth in section 4729.75 of 4776
the Revised Code. 4777

(B) Any information submitted pursuant to this section 4778
shall be transmitted as specified by the board in rules adopted 4779
under section 4729.84 of the Revised Code. 4780

Sec. 4729.80. (A) If the state board of pharmacy 4781
establishes and maintains a drug database pursuant to section 4782
4729.75 of the Revised Code, the board is authorized or required 4783
to provide information from the database only as follows: 4784

(1) On receipt of a request from a designated 4785
representative of a government entity responsible for the 4786
licensure, regulation, or discipline of health care 4787
professionals with authority to prescribe, administer, or 4788
dispense drugs, the board may provide to the representative 4789
information from the database relating to the professional who 4790
is the subject of an active investigation being conducted by the 4791

government entity or relating to a professional who is acting as 4792
an expert witness for the government entity in such an 4793
investigation. 4794

(2) On receipt of a request from a federal officer, or a 4795
state or local officer of this or any other state, whose duties 4796
include enforcing laws relating to drugs, the board shall 4797
provide to the officer information from the database relating to 4798
the person who is the subject of an active investigation of a 4799
drug abuse offense, as defined in section 2925.01 of the Revised 4800
Code, being conducted by the officer's employing government 4801
entity. 4802

(3) Pursuant to a subpoena issued by a grand jury, the 4803
board shall provide to the grand jury information from the 4804
database relating to the person who is the subject of an 4805
investigation being conducted by the grand jury. 4806

(4) Pursuant to a subpoena, search warrant, or court order 4807
in connection with the investigation or prosecution of a 4808
possible or alleged criminal offense, the board shall provide 4809
information from the database as necessary to comply with the 4810
subpoena, search warrant, or court order. 4811

(5) On receipt of a request from a prescriber or the 4812
prescriber's delegate approved by the board, the board shall 4813
provide to the prescriber a report of information from the 4814
database relating to a patient who is either a current patient 4815
of the prescriber or a potential patient of the prescriber based 4816
on a referral of the patient to the prescriber, if all of the 4817
following conditions are met: 4818

(a) The prescriber certifies in a form specified by the 4819
board that it is for the purpose of providing medical treatment 4820

to the patient who is the subject of the request; 4821

(b) The prescriber has not been denied access to the 4822
database by the board. 4823

(6) On receipt of a request from a pharmacist or the 4824
pharmacist's delegate approved by the board, the board shall 4825
provide to the pharmacist information from the database relating 4826
to a current patient of the pharmacist, if the pharmacist 4827
certifies in a form specified by the board that it is for the 4828
purpose of the pharmacist's practice of pharmacy involving the 4829
patient who is the subject of the request and the pharmacist has 4830
not been denied access to the database by the board. 4831

(7) On receipt of a request from an individual seeking the 4832
individual's own database information in accordance with the 4833
procedure established in rules adopted under section 4729.84 of 4834
the Revised Code, the board may provide to the individual the 4835
individual's own prescription history. 4836

(8) On receipt of a request from a medical director or a 4837
pharmacy director of a managed care organization that has 4838
entered into a contract with the department of medicaid under 4839
section 5167.10 of the Revised Code and a data security 4840
agreement with the board required by section 5167.14 of the 4841
Revised Code, the board shall provide to the medical director or 4842
the pharmacy director information from the database relating to 4843
a medicaid recipient enrolled in the managed care organization, 4844
including information in the database related to prescriptions 4845
for the recipient that were not covered or reimbursed under a 4846
program administered by the department of medicaid. 4847

(9) On receipt of a request from the medicaid director, 4848
the board shall provide to the director information from the 4849

database relating to a recipient of a program administered by 4850
the department of medicaid, including information in the 4851
database related to prescriptions for the recipient that were 4852
not covered or paid by a program administered by the department. 4853

(10) On receipt of a request from a medical director of a 4854
managed care organization that has entered into a contract with 4855
the administrator of workers' compensation under division (B) (4) 4856
of section 4121.44 of the Revised Code and a data security 4857
agreement with the board required by section 4121.447 of the 4858
Revised Code, the board shall provide to the medical director 4859
information from the database relating to a claimant under 4860
Chapter 4121., 4123., 4127., or 4131. of the Revised Code 4861
assigned to the managed care organization, including information 4862
in the database related to prescriptions for the claimant that 4863
were not covered or reimbursed under Chapter 4121., 4123., 4864
4127., or 4131. of the Revised Code, if the administrator of 4865
workers' compensation confirms, upon request from the board, 4866
that the claimant is assigned to the managed care organization. 4867

(11) On receipt of a request from the administrator of 4868
workers' compensation, the board shall provide to the 4869
administrator information from the database relating to a 4870
claimant under Chapter 4121., 4123., 4127., or 4131. of the 4871
Revised Code, including information in the database related to 4872
prescriptions for the claimant that were not covered or 4873
reimbursed under Chapter 4121., 4123., 4127., or 4131. of the 4874
Revised Code. 4875

(12) On receipt of a request from a prescriber or the 4876
prescriber's delegate approved by the board, the board shall 4877
provide to the prescriber information from the database relating 4878
to a patient's mother, if the prescriber certifies in a form 4879

specified by the board that it is for the purpose of providing 4880
medical treatment to a newborn or infant patient diagnosed as 4881
opioid dependent and the prescriber has not been denied access 4882
to the database by the board. 4883

(13) On receipt of a request from the director of health, 4884
the board shall provide to the director information from the 4885
database relating to the duties of the director or the 4886
department of health in implementing the Ohio violent death 4887
reporting system established under section 3701.93 of the 4888
Revised Code. 4889

(14) On receipt of a request from a requestor described in 4890
division (A)(1), (2), (5), or (6) of this section who is from or 4891
participating with another state's prescription monitoring 4892
program, the board may provide to the requestor information from 4893
the database, but only if there is a written agreement under 4894
which the information is to be used and disseminated according 4895
to the laws of this state. 4896

~~(15) On receipt of a request from a delegate of a retail 4897
dispensary licensed under Chapter 3796. of the Revised Code who 4898
is approved by the board to serve as the dispensary's delegate, 4899
the board shall provide to the delegate a report of information 4900
from the database pertaining only to a patient's use of medical 4901
marijuana, if both of the following conditions are met: 4902~~

~~(a) The delegate certifies in a form specified by the 4903
board that it is for the purpose of dispensing medical marijuana 4904
for use in accordance with Chapter 3796. of the Revised Code. 4905~~

~~(b) The retail dispensary or delegate has not been denied 4906
access to the database by the board. 4907~~

~~(16) On receipt of a request from a judge of a program 4908~~

certified by the Ohio supreme court as a specialized docket 4909
program for drugs, the board shall provide to the judge, or an 4910
employee of the program who is designated by the judge to 4911
receive the information, information from the database that 4912
relates specifically to a current or prospective program 4913
participant. 4914

~~(17)~~(16) On receipt of a request from a coroner, deputy 4915
coroner, or coroner's delegate approved by the board, the board 4916
shall provide to the requestor information from the database 4917
relating to a deceased person about whom the coroner is 4918
conducting or has conducted an autopsy or investigation. 4919

~~(18)~~(17) On receipt of a request from a prescriber, the 4920
board may provide to the prescriber a summary of the 4921
prescriber's prescribing record if such a record is created by 4922
the board. Information in the summary is subject to the 4923
confidentiality requirements of this chapter. 4924

~~(19)(a)~~(18)(a) On receipt of a request from a pharmacy's 4925
responsible person, the board may provide to the responsible 4926
person a summary of the pharmacy's dispensing record if such a 4927
record is created by the board. Information in the summary is 4928
subject to the confidentiality requirements of this chapter. 4929

(b) As used in division ~~(A)(19)(a)~~(A)(18)(a) of this 4930
section, "responsible person" has the same meaning as in rules 4931
adopted by the board under section 4729.26 of the Revised Code. 4932

~~(20)~~(19) The board may provide information from the 4933
database without request to a prescriber or pharmacist who is 4934
authorized to use the database pursuant to this chapter. 4935

~~(21)(a)~~(20)(a) On receipt of a request from a prescriber 4936
or pharmacist, or the prescriber's or pharmacist's delegate, who 4937

is a designated representative of a peer review committee, the 4938
board shall provide to the committee information from the 4939
database relating to a prescriber who is subject to the 4940
committee's evaluation, supervision, or discipline if the 4941
information is to be used for one of those purposes. The board 4942
shall provide only information that it determines, in accordance 4943
with rules adopted under section 4729.84 of the Revised Code, is 4944
appropriate to be provided to the committee. 4945

(b) As used in division ~~(A) (21) (a)~~ (A) (20) (a) of this 4946
section, "peer review committee" has the same meaning as in 4947
section 2305.25 of the Revised Code, except that it includes 4948
only a peer review committee of a hospital or a peer review 4949
committee of a nonprofit health care corporation that is a 4950
member of the hospital or of which the hospital is a member. 4951

~~(22)~~ (21) On receipt of a request from a requestor 4952
described in division (A) (5) or (6) of this section who is from 4953
or participating with a prescription monitoring program that is 4954
operated by a federal agency and approved by the board, the 4955
board may provide to the requestor information from the 4956
database, but only if there is a written agreement under which 4957
the information is to be used and disseminated according to the 4958
laws of this state. 4959

~~(23)~~ (22) Any personal health information submitted to the 4960
board pursuant to section 4729.772 of the Revised Code may be 4961
provided by the board only as authorized by the submitter of the 4962
information and in accordance with rules adopted under section 4963
4729.84 of the Revised Code. 4964

~~(24)~~ (23) On receipt of a request from a person described 4965
in division (A) (5), (6), or ~~(17)~~ (16) of this section who is 4966
participating in a drug overdose fatality review committee 4967

described in section 307.631 of the Revised Code, the board may 4968
provide to the requestor information from the database, but only 4969
if there is a written agreement under which the information is 4970
to be used and disseminated according to the laws of this state. 4971

~~(25)~~(24) On receipt of a request from a person described 4972
in division (A) (5), (6), or ~~(17)~~(16) of this section who is 4973
participating in a suicide fatality review committee described 4974
in section 307.641 of the Revised Code, the board may provide to 4975
the requestor information from the database, but only if there 4976
is a written agreement under which the information is to be used 4977
and disseminated according to the laws of this state. 4978

(B) The state board of pharmacy shall maintain a record of 4979
each individual or entity that requests information from the 4980
database pursuant to this section. In accordance with rules 4981
adopted under section 4729.84 of the Revised Code, the board may 4982
use the records to document and report statistics and law 4983
enforcement outcomes. 4984

The board may provide records of an individual's requests 4985
for database information only to the following: 4986

(1) A designated representative of a government entity 4987
that is responsible for the licensure, regulation, or discipline 4988
of health care professionals with authority to prescribe, 4989
administer, or dispense drugs who is involved in an active 4990
criminal or disciplinary investigation being conducted by the 4991
government entity of the individual who submitted the requests 4992
for database information; 4993

(2) A federal officer, or a state or local officer of this 4994
or any other state, whose duties include enforcing laws relating 4995
to drugs and who is involved in an active investigation being 4996

conducted by the officer's employing government entity of the 4997
individual who submitted the requests for database information; 4998

(3) A designated representative of the department of 4999
medicaid regarding a prescriber who is treating or has treated a 5000
recipient of a program administered by the department and who 5001
submitted the requests for database information. 5002

(C) Information contained in the database and any 5003
information obtained from it is confidential and is not a public 5004
record. Information contained in the records of requests for 5005
information from the database is confidential and is not a 5006
public record. Information contained in the database that does 5007
not identify a person, including any licensee or registrant of 5008
the board or other entity, may be released in summary, 5009
statistical, or aggregate form. 5010

(D) A pharmacist or prescriber shall not be held liable in 5011
damages to any person in any civil action for injury, death, or 5012
loss to person or property on the basis that the pharmacist or 5013
prescriber did or did not seek or obtain information from the 5014
database. 5015

Sec. 4729.84. For purposes of establishing and maintaining 5016
a drug database pursuant to section 4729.75 of the Revised Code, 5017
the state board of pharmacy shall adopt rules in accordance with 5018
Chapter 119. of the Revised Code to carry out and enforce 5019
sections 4729.75 to 4729.83 of the Revised Code. The rules shall 5020
specify all of the following: 5021

(A) A means of identifying each patient, each terminal 5022
distributor of dangerous drugs, and each purchase at wholesale 5023
of dangerous drugs, ~~and each retail dispensary licensed under~~ 5024
~~Chapter 3796. of the Revised Code~~ about which information is 5025

entered into the drug database; 5026

(B) Requirements for the transmission of information from 5027
terminal distributors of dangerous drugs, manufacturers of 5028
dangerous drugs, outsourcing facilities, repackagers of 5029
dangerous drugs, wholesale distributors of dangerous drugs, and 5030
~~prescribers, and retail dispensaries;~~ 5031

(C) An electronic format for the submission of information 5032
from persons identified in division (B) of this section; 5033

(D) A procedure whereby a person unable to submit 5034
information electronically may obtain a waiver to submit 5035
information in another format; 5036

(E) A procedure whereby the board may grant a request from 5037
a law enforcement agency or a government entity responsible for 5038
the licensure, regulation, or discipline of licensed health 5039
professionals authorized to prescribe drugs that information 5040
that has been stored for three years be retained when the 5041
information pertains to an open investigation being conducted by 5042
the agency or entity; 5043

(F) A procedure whereby a person identified in division 5044
(B) of this section may apply for an extension to the time by 5045
which information must be transmitted to the board; 5046

(G) A procedure whereby a person or government entity to 5047
which the board is authorized to provide information may submit 5048
a request to the board for the information and the board may 5049
verify the identity of the requestor; 5050

(H) Standards for determining what information is 5051
appropriate to be provided under division ~~(A) (21)~~ (A) (20) of 5052
section 4729.80 of the Revised Code; 5053

(I) A procedure whereby the board can use the database 5054
request records required by division (B) of section 4729.80 of 5055
the Revised Code to document and report statistics and law 5056
enforcement outcomes; 5057

(J) A procedure whereby an individual may request the 5058
individual's own database information and the board may verify 5059
the identity of the requestor; 5060

(K) A reasonable fee that the board may charge under 5061
section 4729.83 of the Revised Code for providing an individual 5062
with the individual's own database information pursuant to 5063
section 4729.80 of the Revised Code; 5064

(L) The other specific dangerous drugs that, in addition 5065
to controlled substances, must be included in the database; 5066

(M) The types of pharmacies licensed as terminal 5067
distributors of dangerous drugs that are required to submit 5068
prescription information to the board pursuant to section 5069
4729.77 of the Revised Code; 5070

(N) Additional data fields, recognized by the American 5071
society for automation in pharmacy, that licensed terminal 5072
distributors of dangerous drugs must submit to the board 5073
pursuant to section 4729.77 of the Revised Code; 5074

~~(O) The information regarding medical marijuana dispensed 5075
to a patient that a retail dispensary is required to submit to 5076
the board pursuant to section 4729.771 of the Revised Code; 5077~~

~~(P) Requirements for the transmission of information 5078
pursuant to section 4729.772 of the Revised Code and 5079
requirements for the release of such information by the board. 5080~~

Sec. 4729.85. If the state board of pharmacy establishes 5081

and maintains a drug database pursuant to section 4729.75 of the Revised Code, the board shall prepare reports regarding the database and present or submit them in accordance with both of the following:

(A) The board shall present a biennial report to the standing committees of the house of representatives and the senate that are primarily responsible for considering health and human services issues. Each report shall include all of the following:

(1) The cost to the state of establishing and maintaining the database;

(2) Information from the board, terminal distributors of dangerous drugs, ~~and prescribers, and retail dispensaries licensed under Chapter 3796.~~ of the Revised Code regarding the board's effectiveness in providing information from the database;

(3) The board's timeliness in transmitting information from the database.

(B) The board shall submit a semiannual report to the governor, the president of the senate, the speaker of the house of representatives, the attorney general, the chairpersons of the standing committees of the house of representatives and the senate that are primarily responsible for considering health and human services issues, the department of public safety, the state dental board, the board of nursing, the state vision professionals board, the state medical board, and the state veterinary medical licensing board. The state board of pharmacy shall make the report available to the public on its internet web site. Each report submitted shall include all of the

following for the period covered by the report:	5111
(1) An aggregate of the information submitted to the board	5112
under section 4729.77 of the Revised Code regarding	5113
prescriptions for controlled substances containing opioids,	5114
including all of the following:	5115
(a) The number of prescribers who issued the	5116
prescriptions;	5117
(b) The number of patients to whom the controlled	5118
substances were dispensed;	5119
(c) The average quantity of the controlled substances	5120
dispensed per prescription;	5121
(d) The average daily morphine equivalent dose of the	5122
controlled substances dispensed per prescription.	5123
(2) An aggregate of the information submitted to the board	5124
under section 4729.79 of the Revised Code regarding controlled	5125
substances containing opioids that have been personally	5126
furnished to a patient by a prescriber, other than a prescriber	5127
who is a veterinarian, including all of the following:	5128
(a) The number of prescribers who personally furnished the	5129
controlled substances;	5130
(b) The number of patients to whom the controlled	5131
substances were personally furnished;	5132
(c) The average quantity of the controlled substances that	5133
were furnished at one time;	5134
(d) The average daily morphine equivalent dose of the	5135
controlled substances that were furnished at one time.	5136
(3) An aggregate of the information submitted to the board	5137

~~under section 4729.771 of the Revised Code regarding medical- 5138
marijuana; 5139~~

~~(4) An aggregate of the information submitted to the board 5140
under sections 4729.77 and 4729.79 of the Revised Code regarding 5141
naltrexone, including all of the following: 5142~~

~~(a) The number of prescribers who issued the prescriptions 5143
for or personally furnished the drug; 5144~~

~~(b) The number of patients to whom the drug was dispensed 5145
or personally furnished; 5146~~

~~(c) The average quantity of the drug dispensed per 5147
prescription or furnished at one time. 5148~~

~~**Sec. 4729.86.** If the state board of pharmacy establishes 5149
and maintains a drug database pursuant to section 4729.75 of the 5150
Revised Code, all of the following apply: 5151~~

~~(A) (1) No person identified in divisions (A) (1) to (13), 5152
(15) to ~~(25)~~(24), or (B) of section 4729.80 of the Revised Code 5153
shall disseminate any written or electronic information the 5154
person receives from the drug database or otherwise provide 5155
another person access to the information that the person 5156
receives from the database, except as follows: 5157~~

~~(a) When necessary in the investigation or prosecution of 5158
a possible or alleged criminal offense; 5159~~

~~(b) When a person provides the information to the 5160
prescriber, or pharmacist, ~~or retail dispensary licensed under~~ 5161
~~Chapter 3796. of the Revised Code~~ for whom the person is 5162
approved by the board to serve as a delegate of the prescriber, ~~or~~ 5163
or pharmacist, ~~or retail dispensary~~ for purposes of requesting 5164
and receiving information from the drug database under division 5165~~

(A) (5) ~~or~~ (6) ~~or~~ ~~(15)~~ of section 4729.80 of the Revised Code; 5166

(c) When a prescriber, pharmacist, or retail dispensary 5167
licensed under Chapter 3796. of the Revised Code provides the 5168
information to a person who is approved by the board to serve as 5169
such a delegate of the prescriber, or pharmacist, ~~or retail-~~ 5170
~~dispensary;~~ 5171

(d) When a prescriber or pharmacist includes the 5172
information in a medical record, as defined in section 3701.74 5173
of the Revised Code. 5174

(2) No person shall provide false information to the state 5175
board of pharmacy with the intent to obtain or alter information 5176
contained in the drug database. 5177

(3) No person shall obtain drug database information by 5178
any means except as provided under section 4729.80 or 4729.81 of 5179
the Revised Code. 5180

(B) A person shall not use information obtained pursuant 5181
to division (A) of section 4729.80 of the Revised Code as 5182
evidence in any civil or administrative proceeding. 5183

(C) (1) Except as provided in division (C) (2) of this 5184
section, after providing notice and affording an opportunity for 5185
a hearing in accordance with Chapter 119. of the Revised Code, 5186
the board may restrict a person from obtaining further 5187
information from the drug database if any of the following is 5188
the case: 5189

(a) The person violates division (A) (1), (2), or (3) of 5190
this section; 5191

(b) The person is a requestor identified in division (A) 5192
(14) or ~~(22)~~ (21) of section 4729.80 of the Revised Code and the 5193

board determines that the person's actions in another state 5194
would have constituted a violation of division (A) (1), (2), or 5195
(3) of this section; 5196

(c) The person fails to comply with division (B) of this 5197
section, regardless of the jurisdiction in which the failure to 5198
comply occurred; 5199

(d) The person creates, by clear and convincing evidence, 5200
a threat to the security of information contained in the 5201
database. 5202

(2) If the board determines that allegations regarding a 5203
person's actions warrant restricting the person from obtaining 5204
further information from the drug database without a prior 5205
hearing, the board may summarily impose the restriction. A 5206
telephone conference call may be used for reviewing the 5207
allegations and taking a vote on the summary restriction. The 5208
summary restriction shall remain in effect, unless removed by 5209
the board, until the board's final adjudication order becomes 5210
effective. 5211

(3) The board shall determine the extent to which the 5212
person is restricted from obtaining further information from the 5213
database. 5214

Sec. 4731.30. (A) As used in this section and ~~sections~~ 5215
section 4731.301 and 4731.302 of the Revised Code, "medical 5216
marijuana," "~~drug database,~~" "physician," and "qualifying 5217
medical condition" have the same meanings as in section 3796.01 5218
of the Revised Code. 5219

(B) (1) Except as provided in division (B) (4) of this 5220
section, a physician seeking to recommend treatment with medical 5221
marijuana shall apply to the state medical board for a 5222

certificate to recommend. An application shall be submitted in 5223
the manner established in rules adopted under section 4731.301 5224
of the Revised Code. 5225

(2) The board shall grant a certificate to recommend if 5226
both of the following conditions are met: 5227

(a) The application is complete and meets the requirements 5228
established in rules. 5229

(b) The applicant demonstrates that the applicant does not 5230
have an ownership or investment interest in or compensation 5231
arrangement with an entity licensed under Chapter 3796. of the 5232
Revised Code or an applicant for licensure. 5233

(3) A certificate to recommend expires according to the 5234
renewal schedule established in rules adopted under section 5235
4731.301 of the Revised Code and may be renewed in accordance 5236
with the procedures established in those rules. 5237

(4) This section does not apply to a physician who 5238
recommends treatment with marijuana or a drug derived from 5239
marijuana under any of the following that is approved by an 5240
investigational review board or equivalent entity, the United 5241
States food and drug administration, or the national institutes 5242
of health or one of its cooperative groups or centers under the 5243
United States department of health and human services: 5244

(a) A research protocol; 5245

(b) A clinical trial; 5246

(c) An investigational new drug application; 5247

(d) An expanded access submission. 5248

(C) (1) A physician who holds a certificate to recommend 5249

may recommend that a patient be treated with medical marijuana 5250
if ~~all~~ both of the following conditions are met: 5251

(a) The patient has been diagnosed with a qualifying 5252
medical condition; 5253

(b) A bona fide physician-patient relationship has been 5254
established through all of the following: 5255

(i) An in-person physical examination of the patient by 5256
the physician; 5257

(ii) A review of the patient's medical history by the 5258
physician; 5259

(iii) An expectation of providing care and receiving care 5260
on an ongoing basis. 5261

~~(c) The physician has requested, or a physician delegate 5262
approved by the state board of pharmacy has requested, from the 5263
drug database a report of information related to the patient 5264
that covers at least the twelve months immediately preceding the 5265
date of the report, and the physician has reviewed the report. 5266~~

(2) In the case of a patient who is a minor, the physician 5267
may recommend treatment with medical marijuana only after 5268
obtaining the consent of the patient's parent or other person 5269
responsible for providing consent to treatment. 5270

(D) (1) When issuing a written recommendation to a patient, 5271
the physician shall specify any information required in rules 5272
adopted by the board under section 4731.301 of the Revised Code. 5273

(2) A written recommendation issued to a patient under 5274
this section is valid for a period of not more than ninety days. 5275
The physician may renew the recommendation for not more than 5276
three additional periods of not more than ninety days each. 5277

Thereafter, the physician may issue another recommendation to 5278
the patient only upon a physical examination of the patient. 5279

(E) Annually, the physician shall submit to the state 5280
medical board a report that describes the physician's 5281
observations regarding the effectiveness of medical marijuana in 5282
treating the physician's patients during the year covered by the 5283
report. When submitting reports, a physician shall not include 5284
any information that identifies or would tend to identify any 5285
specific patient. 5286

(F) Each physician who holds a certificate to recommend 5287
shall complete annually at least two hours of continuing medical 5288
education in medical marijuana approved by the state medical 5289
board. 5290

(G) A physician shall not do any of the following: 5291

(1) Personally furnish or otherwise dispense medical 5292
marijuana; 5293

(2) Issue a recommendation for a family member or the 5294
physician's self. 5295

(H) A physician is immune from civil liability, is not 5296
subject to professional disciplinary action by the state medical 5297
board or state board of pharmacy, and is not subject to criminal 5298
prosecution for any of the following actions: 5299

(1) Advising a patient, patient representative, or 5300
caregiver about the benefits and risks of medical marijuana to 5301
treat a qualifying medical condition; 5302

(2) Recommending that a patient use medical marijuana to 5303
treat or alleviate the condition; 5304

(3) Monitoring a patient's treatment with medical 5305

marijuana. 5306

Sec. 4731.301. (A) Not later than one year after ~~the~~ 5307
~~effective date of this section~~ September 8, 2016, the state 5308
medical board shall adopt rules establishing all of the 5309
following: 5310

(1) The procedures when applying for a certificate to 5311
recommend under section 4731.301 of the Revised Code; 5312

(2) The conditions that must be met to be eligible for a 5313
certificate to recommend; 5314

(3) The schedule and procedures for renewing a certificate 5315
to recommend; 5316

(4) The reasons for which a certificate may be suspended 5317
or revoked; 5318

(5) The standards under which a certificate suspension may 5319
be lifted; 5320

(6) The minimal standards of care when recommending 5321
treatment with medical marijuana. 5322

The rules shall be adopted in accordance with Chapter 119. 5323
of the Revised Code. 5324

(B) In addition to the rules described in division (A) of 5325
this section, the board may adopt any other rules it considers 5326
necessary to implement ~~sections~~ section 4731.30 and ~~4731.302~~ of 5327
the Revised Code which may include rules specifying the 5328
information that must be included in a written recommendation 5329
issued under section 4731.30 of the Revised Code. The rules 5330
shall be adopted in accordance with Chapter 119. of the Revised 5331
Code. 5332

(C) The board shall approve one or more continuing medical education courses of study, which may be a course or courses certified by the Ohio state medical association or Ohio osteopathic association, that assist physicians holding certificates to recommend in both of the following:

(1) Diagnosing qualifying medical conditions as defined in section 3796.01 of the Revised Code;

(2) Treating qualifying medical conditions with medical marijuana.

Sec. 4743.11. (A) As used in this section:

(1) "License" means an authorization evidenced by a license, certificate, registration, permit, card, or other authority that is issued or conferred by a licensing authority to an individual by which the individual has or claims the privilege to engage in a profession, occupation, or occupational activity over which the licensing authority has jurisdiction.

(2) "Licensing authority" means a state agency that issues licenses under Title XLVII or any other provision of the Revised Code to practice an occupation or profession.

(3) "State agency" has the same meaning as in section 1.60 of the Revised Code.

(B) Notwithstanding any provision of the Revised Code to the contrary, but subject to division (C) of this section, no licensing authority shall do either of the following:

(1) Refuse to issue an initial license to an individual based solely or in part on the individual's legal use of marijuana;

(2) Discipline a license holder for obtaining, possessing,

or using marijuana as permitted by Chapter 3796. of the Revised 5361
Code. 5362

(C) If the law governing the applicable profession, 5363
occupation, or occupational activity requires or permits a 5364
licensing authority to do so, a licensing authority may refuse 5365
to issue a license to an individual or discipline a license 5366
holder for either of the following reasons: 5367

(1) Practicing the applicable profession, occupation, or 5368
occupational activity while under the influence of marijuana; 5369

(2) Impairment of the individual's or license holder's 5370
ability to practice the profession, occupation, or occupational 5371
activity because of marijuana use. 5372

Sec. 4776.01. As used in this chapter: 5373

(A) "License" means an authorization evidenced by a 5374
license, certificate, registration, permit, card, or other 5375
authority that is issued or conferred by a licensing agency to a 5376
licensee or to an applicant for an initial license by which the 5377
licensee or initial license applicant has or claims the 5378
privilege to engage in a profession, occupation, or occupational 5379
activity, or, except in the case of the state dental board, to 5380
have control of and operate certain specific equipment, 5381
machinery, or premises, over which the licensing agency has 5382
jurisdiction. 5383

(B) Except as provided in section 4776.20 of the Revised 5384
Code, "licensee" means the person to whom the license is issued 5385
by a licensing agency. "Licensee" includes a person who, for 5386
purposes of section 3796.13 of the Revised Code, has complied 5387
with sections 4776.01 to 4776.04 of the Revised Code and has 5388
been determined by the department of commerce ~~or state board of~~ 5389

~~pharmacy, as the applicable licensing agency,~~ to meet the 5390
requirements for employment. 5391

(C) Except as provided in section 4776.20 of the Revised 5392
Code, "licensing agency" means any of the following: 5393

(1) The board authorized by Chapters 4701., 4717., 4725., 5394
4729., 4730., 4731., 4732., 4734., 4740., 4741., 4747., 4751., 5395
4753., 4755., 4757., 4759., 4760., 4761., 4762., 4774., 4778., 5396
4779., and 4783. of the Revised Code to issue a license to 5397
engage in a specific profession, occupation, or occupational 5398
activity, or to have charge of and operate certain specific 5399
equipment, machinery, or premises. 5400

(2) The state dental board, relative to its authority to 5401
issue a license pursuant to section 4715.12, 4715.16, 4715.21, 5402
or 4715.27 of the Revised Code; 5403

(3) ~~The department of commerce or state board of pharmacy,~~ 5404
relative to its authority under Chapter 3796. of the Revised 5405
Code and any rules adopted under that chapter with respect to a 5406
person who is subject to section 3796.13 of the Revised Code; 5407

(4) The director of agriculture, relative to the 5408
director's authority to issue licenses under Chapter 928. of the 5409
Revised Code. 5410

(D) "Applicant for an initial license" includes persons 5411
seeking a license for the first time and persons seeking a 5412
license by reciprocity, endorsement, or similar manner of a 5413
license issued in another state. "Applicant for an initial 5414
license" also includes a person who, for purposes of section 5415
3796.13 of the Revised Code, is required to comply with sections 5416
4776.01 to 4776.04 of the Revised Code. 5417

(E) "Applicant for a restored license" includes persons 5418

seeking restoration of a license under section 4730.14, 4730.28, 5419
4731.222, 4731.281, 4759.062, 4759.063, 4760.06, 4760.061, 5420
4761.06, 4761.061, 4762.06, 4762.061, 4774.06, 4774.061, 5421
4778.07, or 4778.071 of the Revised Code. "Applicant for a 5422
restored license" does not include a person seeking restoration 5423
of a license under section 4751.33 of the Revised Code. 5424

(F) "Criminal records check" has the same meaning as in 5425
section 109.572 of the Revised Code. 5426

Sec. 5739.01. As used in this chapter: 5427

(A) "Person" includes individuals, receivers, assignees, 5428
trustees in bankruptcy, estates, firms, partnerships, 5429
associations, joint-stock companies, joint ventures, clubs, 5430
societies, corporations, the state and its political 5431
subdivisions, and combinations of individuals of any form. 5432

(B) "Sale" and "selling" include all of the following 5433
transactions for a consideration in any manner, whether 5434
absolutely or conditionally, whether for a price or rental, in 5435
money or by exchange, and by any means whatsoever: 5436

(1) All transactions by which title or possession, or 5437
both, of tangible personal property, is or is to be transferred, 5438
or a license to use or consume tangible personal property is or 5439
is to be granted; 5440

(2) All transactions by which lodging by a hotel is or is 5441
to be furnished to transient guests; 5442

(3) All transactions by which: 5443

(a) An item of tangible personal property is or is to be 5444
repaired, except property, the purchase of which would not be 5445
subject to the tax imposed by section 5739.02 of the Revised 5446

Code; 5447

(b) An item of tangible personal property is or is to be 5448
installed, except property, the purchase of which would not be 5449
subject to the tax imposed by section 5739.02 of the Revised 5450
Code or property that is or is to be incorporated into and will 5451
become a part of a production, transmission, transportation, or 5452
distribution system for the delivery of a public utility 5453
service; 5454

(c) The service of washing, cleaning, waxing, polishing, 5455
or painting a motor vehicle is or is to be furnished; 5456

(d) Laundry and dry cleaning services are or are to be 5457
provided; 5458

(e) Automatic data processing, computer services, or 5459
electronic information services are or are to be provided for 5460
use in business when the true object of the transaction is the 5461
receipt by the consumer of automatic data processing, computer 5462
services, or electronic information services rather than the 5463
receipt of personal or professional services to which automatic 5464
data processing, computer services, or electronic information 5465
services are incidental or supplemental. Notwithstanding any 5466
other provision of this chapter, such transactions that occur 5467
between members of an affiliated group are not sales. An 5468
"affiliated group" means two or more persons related in such a 5469
way that one person owns or controls the business operation of 5470
another member of the group. In the case of corporations with 5471
stock, one corporation owns or controls another if it owns more 5472
than fifty per cent of the other corporation's common stock with 5473
voting rights. 5474

(f) Telecommunications service, including prepaid calling 5475

service, prepaid wireless calling service, or ancillary service,	5476
is or is to be provided, but not including coin-operated	5477
telephone service;	5478
(g) Landscaping and lawn care service is or is to be	5479
provided;	5480
(h) Private investigation and security service is or is to	5481
be provided;	5482
(i) Information services or tangible personal property is	5483
provided or ordered by means of a nine hundred telephone call;	5484
(j) Building maintenance and janitorial service is or is	5485
to be provided;	5486
(k) Exterminating service is or is to be provided;	5487
(l) Physical fitness facility service is or is to be	5488
provided;	5489
(m) Recreation and sports club service is or is to be	5490
provided;	5491
(n) Satellite broadcasting service is or is to be	5492
provided;	5493
(o) Personal care service is or is to be provided to an	5494
individual. As used in this division, "personal care service"	5495
includes skin care, the application of cosmetics, manicuring,	5496
pedicuring, hair removal, tattooing, body piercing, tanning,	5497
massage, and other similar services. "Personal care service"	5498
does not include a service provided by or on the order of a	5499
licensed physician or licensed chiropractor, or the cutting,	5500
coloring, or styling of an individual's hair.	5501
(p) The transportation of persons by motor vehicle or	5502

aircraft is or is to be provided, when the transportation is 5503
entirely within this state, except for transportation provided 5504
by an ambulance service, by a transit bus, as defined in section 5505
5735.01 of the Revised Code, and transportation provided by a 5506
citizen of the United States holding a certificate of public 5507
convenience and necessity issued under 49 U.S.C. 41102; 5508

(q) Motor vehicle towing service is or is to be provided. 5509
As used in this division, "motor vehicle towing service" means 5510
the towing or conveyance of a wrecked, disabled, or illegally 5511
parked motor vehicle. 5512

(r) Snow removal service is or is to be provided. As used 5513
in this division, "snow removal service" means the removal of 5514
snow by any mechanized means, but does not include the providing 5515
of such service by a person that has less than five thousand 5516
dollars in sales of such service during the calendar year. 5517

(s) Electronic publishing service is or is to be provided 5518
to a consumer for use in business, except that such transactions 5519
occurring between members of an affiliated group, as defined in 5520
division (B)(3)(e) of this section, are not sales. 5521

(4) All transactions by which printed, imprinted, 5522
overprinted, lithographic, multilithic, blueprinted, 5523
photostatic, or other productions or reproductions of written or 5524
graphic matter are or are to be furnished or transferred; 5525

(5) The production or fabrication of tangible personal 5526
property for a consideration for consumers who furnish either 5527
directly or indirectly the materials used in the production of 5528
fabrication work; and include the furnishing, preparing, or 5529
serving for a consideration of any tangible personal property 5530
consumed on the premises of the person furnishing, preparing, or 5531

serving such tangible personal property. Except as provided in 5532
section 5739.03 of the Revised Code, a construction contract 5533
pursuant to which tangible personal property is or is to be 5534
incorporated into a structure or improvement on and becoming a 5535
part of real property is not a sale of such tangible personal 5536
property. The construction contractor is the consumer of such 5537
tangible personal property, provided that the sale and 5538
installation of carpeting, the sale and installation of 5539
agricultural land tile, the sale and erection or installation of 5540
portable grain bins, or the provision of landscaping and lawn 5541
care service and the transfer of property as part of such 5542
service is never a construction contract. 5543

As used in division (B) (5) of this section: 5544

(a) "Agricultural land tile" means fired clay or concrete 5545
tile, or flexible or rigid perforated plastic pipe or tubing, 5546
incorporated or to be incorporated into a subsurface drainage 5547
system appurtenant to land used or to be used primarily in 5548
production by farming, agriculture, horticulture, or 5549
floriculture. The term does not include such materials when they 5550
are or are to be incorporated into a drainage system appurtenant 5551
to a building or structure even if the building or structure is 5552
used or to be used in such production. 5553

(b) "Portable grain bin" means a structure that is used or 5554
to be used by a person engaged in farming or agriculture to 5555
shelter the person's grain and that is designed to be 5556
disassembled without significant damage to its component parts. 5557

(6) All transactions in which all of the shares of stock 5558
of a closely held corporation are transferred, or an ownership 5559
interest in a pass-through entity, as defined in section 5733.04 5560
of the Revised Code, is transferred, if the corporation or pass- 5561

through entity is not engaging in business and its entire assets 5562
consist of boats, planes, motor vehicles, or other tangible 5563
personal property operated primarily for the use and enjoyment 5564
of the shareholders or owners; 5565

(7) All transactions in which a warranty, maintenance or 5566
service contract, or similar agreement by which the vendor of 5567
the warranty, contract, or agreement agrees to repair or 5568
maintain the tangible personal property of the consumer is or is 5569
to be provided; 5570

(8) The transfer of copyrighted motion picture films used 5571
solely for advertising purposes, except that the transfer of 5572
such films for exhibition purposes is not a sale; 5573

(9) All transactions by which tangible personal property 5574
is or is to be stored, except such property that the consumer of 5575
the storage holds for sale in the regular course of business; 5576

(10) All transactions in which "guaranteed auto 5577
protection" is provided whereby a person promises to pay to the 5578
consumer the difference between the amount the consumer receives 5579
from motor vehicle insurance and the amount the consumer owes to 5580
a person holding title to or a lien on the consumer's motor 5581
vehicle in the event the consumer's motor vehicle suffers a 5582
total loss under the terms of the motor vehicle insurance policy 5583
or is stolen and not recovered, if the protection and its price 5584
are included in the purchase or lease agreement; 5585

(11) (a) Except as provided in division (B) (11) (b) of this 5586
section, all transactions by which health care services are paid 5587
for, reimbursed, provided, delivered, arranged for, or otherwise 5588
made available by a medicaid health insuring corporation 5589
pursuant to the corporation's contract with the state. 5590

(b) If the centers for medicare and medicaid services of 5591
the United States department of health and human services 5592
determines that the taxation of transactions described in 5593
division (B) (11) (a) of this section constitutes an impermissible 5594
health care-related tax under the "Social Security Act," section 5595
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 5596
the medicaid director shall notify the tax commissioner of that 5597
determination. Beginning with the first day of the month 5598
following that notification, the transactions described in 5599
division (B) (11) (a) of this section are not sales for the 5600
purposes of this chapter or Chapter 5741. of the Revised Code. 5601
The tax commissioner shall order that the collection of taxes 5602
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 5603
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 5604
for transactions occurring on or after that date. 5605

(12) All transactions by which a specified digital product 5606
is provided for permanent use or less than permanent use, 5607
regardless of whether continued payment is required. 5608

Except as provided in this section, "sale" and "selling" 5609
do not include transfers of interest in leased property where 5610
the original lessee and the terms of the original lease 5611
agreement remain unchanged, or professional, insurance, or 5612
personal service transactions that involve the transfer of 5613
tangible personal property as an inconsequential element, for 5614
which no separate charges are made. 5615

(C) "Vendor" means the person providing the service or by 5616
whom the transfer effected or license given by a sale is or is 5617
to be made or given and, for sales described in division (B) (3) 5618
(i) of this section, the telecommunications service vendor that 5619
provides the nine hundred telephone service; if two or more 5620

persons are engaged in business at the same place of business 5621
under a single trade name in which all collections on account of 5622
sales by each are made, such persons shall constitute a single 5623
vendor. 5624

Physicians, dentists, hospitals, and veterinarians who are 5625
engaged in selling tangible personal property as received from 5626
others, such as eyeglasses, mouthwashes, dentifrices, or similar 5627
articles, are vendors. Veterinarians who are engaged in 5628
transferring to others for a consideration drugs, the dispensing 5629
of which does not require an order of a licensed veterinarian or 5630
physician under federal law, are vendors. 5631

The operator of any peer-to-peer car sharing program shall 5632
be considered to be the vendor. 5633

(D) (1) "Consumer" means the person for whom the service is 5634
provided, to whom the transfer effected or license given by a 5635
sale is or is to be made or given, to whom the service described 5636
in division (B) (3) (f) or (i) of this section is charged, or to 5637
whom the admission is granted. 5638

(2) Physicians, dentists, hospitals, and blood banks 5639
operated by nonprofit institutions and persons licensed to 5640
practice veterinary medicine, surgery, and dentistry are 5641
consumers of all tangible personal property and services 5642
purchased by them in connection with the practice of medicine, 5643
dentistry, the rendition of hospital or blood bank service, or 5644
the practice of veterinary medicine, surgery, and dentistry. In 5645
addition to being consumers of drugs administered by them or by 5646
their assistants according to their direction, veterinarians 5647
also are consumers of drugs that under federal law may be 5648
dispensed only by or upon the order of a licensed veterinarian 5649
or physician, when transferred by them to others for a 5650

consideration to provide treatment to animals as directed by the veterinarian. 5651
5652

(3) A person who performs a facility management, or 5653
similar service contract for a contractee is a consumer of all 5654
tangible personal property and services purchased for use in 5655
connection with the performance of such contract, regardless of 5656
whether title to any such property vests in the contractee. The 5657
purchase of such property and services is not subject to the 5658
exception for resale under division (E) of this section. 5659

(4) (a) In the case of a person who purchases printed 5660
matter for the purpose of distributing it or having it 5661
distributed to the public or to a designated segment of the 5662
public, free of charge, that person is the consumer of that 5663
printed matter, and the purchase of that printed matter for that 5664
purpose is a sale. 5665

(b) In the case of a person who produces, rather than 5666
purchases, printed matter for the purpose of distributing it or 5667
having it distributed to the public or to a designated segment 5668
of the public, free of charge, that person is the consumer of 5669
all tangible personal property and services purchased for use or 5670
consumption in the production of that printed matter. That 5671
person is not entitled to claim exemption under division (B) (42) 5672
(f) of section 5739.02 of the Revised Code for any material 5673
incorporated into the printed matter or any equipment, supplies, 5674
or services primarily used to produce the printed matter. 5675

(c) The distribution of printed matter to the public or to 5676
a designated segment of the public, free of charge, is not a 5677
sale to the members of the public to whom the printed matter is 5678
distributed or to any persons who purchase space in the printed 5679
matter for advertising or other purposes. 5680

(5) A person who makes sales of any of the services listed 5681
in division (B) (3) of this section is the consumer of any 5682
tangible personal property used in performing the service. The 5683
purchase of that property is not subject to the resale exception 5684
under division (E) of this section. 5685

(6) A person who engages in highway transportation for 5686
hire is the consumer of all packaging materials purchased by 5687
that person and used in performing the service, except for 5688
packaging materials sold by such person in a transaction 5689
separate from the service. 5690

(7) In the case of a transaction for health care services 5691
under division (B) (11) of this section, a medicaid health 5692
insuring corporation is the consumer of such services. The 5693
purchase of such services by a medicaid health insuring 5694
corporation is not subject to the exception for resale under 5695
division (E) of this section or to the exemptions provided under 5696
divisions (B) (12), (18), (19), and (22) of section 5739.02 of 5697
the Revised Code. 5698

(E) "Retail sale" and "sales at retail" include all sales, 5699
except those in which the purpose of the consumer is to resell 5700
the thing transferred or benefit of the service provided, by a 5701
person engaging in business, in the form in which the same is, 5702
or is to be, received by the person. 5703

(F) "Business" includes any activity engaged in by any 5704
person with the object of gain, benefit, or advantage, either 5705
direct or indirect. "Business" does not include the activity of 5706
a person in managing and investing the person's own funds. 5707

(G) "Engaging in business" means commencing, conducting, 5708
or continuing in business, and liquidating a business when the 5709

liquidator thereof holds itself out to the public as conducting 5710
such business. Making a casual sale is not engaging in business. 5711

(H) (1) (a) "Price," except as provided in divisions (H) (2), 5712
(3), and (4) of this section, means the total amount of 5713
consideration, including cash, credit, property, and services, 5714
for which tangible personal property or services are sold, 5715
leased, or rented, valued in money, whether received in money or 5716
otherwise, without any deduction for any of the following: 5717

(i) The vendor's cost of the property sold; 5718

(ii) The cost of materials used, labor or service costs, 5719
interest, losses, all costs of transportation to the vendor, all 5720
taxes imposed on the vendor, including the tax imposed under 5721
Chapter 5751. of the Revised Code, and any other expense of the 5722
vendor; 5723

(iii) Charges by the vendor for any services necessary to 5724
complete the sale; 5725

(iv) Delivery charges. As used in this division, "delivery 5726
charges" means charges by the vendor for preparation and 5727
delivery to a location designated by the consumer of tangible 5728
personal property or a service, including transportation, 5729
shipping, postage, handling, crating, and packing. 5730

(v) Installation charges; 5731

(vi) Credit for any trade-in. 5732

(b) "Price" includes consideration received by the vendor 5733
from a third party, if the vendor actually receives the 5734
consideration from a party other than the consumer, and the 5735
consideration is directly related to a price reduction or 5736
discount on the sale; the vendor has an obligation to pass the 5737

price reduction or discount through to the consumer; the amount 5738
of the consideration attributable to the sale is fixed and 5739
determinable by the vendor at the time of the sale of the item 5740
to the consumer; and one of the following criteria is met: 5741

(i) The consumer presents a coupon, certificate, or other 5742
document to the vendor to claim a price reduction or discount 5743
where the coupon, certificate, or document is authorized, 5744
distributed, or granted by a third party with the understanding 5745
that the third party will reimburse any vendor to whom the 5746
coupon, certificate, or document is presented; 5747

(ii) The consumer identifies the consumer's self to the 5748
seller as a member of a group or organization entitled to a 5749
price reduction or discount. A preferred customer card that is 5750
available to any patron does not constitute membership in such a 5751
group or organization. 5752

(iii) The price reduction or discount is identified as a 5753
third party price reduction or discount on the invoice received 5754
by the consumer, or on a coupon, certificate, or other document 5755
presented by the consumer. 5756

(c) "Price" does not include any of the following: 5757

(i) Discounts, including cash, term, or coupons that are 5758
not reimbursed by a third party that are allowed by a vendor and 5759
taken by a consumer on a sale; 5760

(ii) Interest, financing, and carrying charges from credit 5761
extended on the sale of tangible personal property or services, 5762
if the amount is separately stated on the invoice, bill of sale, 5763
or similar document given to the purchaser; 5764

(iii) Any taxes legally imposed directly on the consumer 5765
that are separately stated on the invoice, bill of sale, or 5766

similar document given to the consumer. For the purpose of this 5767
division, the tax imposed under Chapter 5751. of the Revised 5768
Code is not a tax directly on the consumer, even if the tax or a 5769
portion thereof is separately stated. 5770

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 5771
this section, any discount allowed by an automobile manufacturer 5772
to its employee, or to the employee of a supplier, on the 5773
purchase of a new motor vehicle from a new motor vehicle dealer 5774
in this state. 5775

(v) The dollar value of a gift card that is not sold by a 5776
vendor or purchased by a consumer and that is redeemed by the 5777
consumer in purchasing tangible personal property or services if 5778
the vendor is not reimbursed and does not receive compensation 5779
from a third party to cover all or part of the gift card value. 5780
For the purposes of this division, a gift card is not sold by a 5781
vendor or purchased by a consumer if it is distributed pursuant 5782
to an awards, loyalty, or promotional program. Past and present 5783
purchases of tangible personal property or services by the 5784
consumer shall not be treated as consideration exchanged for a 5785
gift card. 5786

(2) In the case of a sale of any new motor vehicle by a 5787
new motor vehicle dealer, as defined in section 4517.01 of the 5788
Revised Code, in which another motor vehicle is accepted by the 5789
dealer as part of the consideration received, "price" has the 5790
same meaning as in division (H) (1) of this section, reduced by 5791
the credit afforded the consumer by the dealer for the motor 5792
vehicle received in trade. 5793

(3) In the case of a sale of any watercraft or outboard 5794
motor by a watercraft dealer licensed in accordance with section 5795
1547.543 of the Revised Code, in which another watercraft, 5796

watercraft and trailer, or outboard motor is accepted by the 5797
dealer as part of the consideration received, "price" has the 5798
same meaning as in division (H) (1) of this section, reduced by 5799
the credit afforded the consumer by the dealer for the 5800
watercraft, watercraft and trailer, or outboard motor received 5801
in trade. As used in this division, "watercraft" includes an 5802
outdrive unit attached to the watercraft. 5803

(4) In the case of transactions for health care services 5804
under division (B) (11) of this section, "price" means the amount 5805
of managed care premiums received each month by a medicaid 5806
health insuring corporation. 5807

(I) "Receipts" means the total amount of the prices of the 5808
sales of vendors, provided that the dollar value of gift cards 5809
distributed pursuant to an awards, loyalty, or promotional 5810
program, and cash discounts allowed and taken on sales at the 5811
time they are consummated are not included, minus any amount 5812
deducted as a bad debt pursuant to section 5739.121 of the 5813
Revised Code. "Receipts" does not include the sale price of 5814
property returned or services rejected by consumers when the 5815
full sale price and tax are refunded either in cash or by 5816
credit. 5817

(J) "Place of business" means any location at which a 5818
person engages in business. 5819

(K) "Premises" includes any real property or portion 5820
thereof upon which any person engages in selling tangible 5821
personal property at retail or making retail sales and also 5822
includes any real property or portion thereof designated for, or 5823
devoted to, use in conjunction with the business engaged in by 5824
such person. 5825

(L) "Casual sale" means a sale of an item of tangible personal property that was obtained by the person making the sale, through purchase or otherwise, for the person's own use and was previously subject to any state's taxing jurisdiction on its sale or use, and includes such items acquired for the seller's use that are sold by an auctioneer employed directly by the person for such purpose, provided the location of such sales is not the auctioneer's permanent place of business. As used in this division, "permanent place of business" includes any location where such auctioneer has conducted more than two auctions during the year.

(M) "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 the accommodation of such guests, whether the rooms are in one or several structures, except as otherwise provided in section 5739.091 of the Revised Code.

(N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

(O) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail sales, other than the distribution of printed matter which displays or describes and prices the item offered for sale, nor does it include delivery of a predetermined quantity of tangible personal property or transportation of property or

personnel to or from a place where a service is performed. 5856

(P) "Used directly in the rendition of a public utility 5857
service" means that property that is to be incorporated into and 5858
will become a part of the consumer's production, transmission, 5859
transportation, or distribution system and that retains its 5860
classification as tangible personal property after such 5861
incorporation; fuel or power used in the production, 5862
transmission, transportation, or distribution system; and 5863
tangible personal property used in the repair and maintenance of 5864
the production, transmission, transportation, or distribution 5865
system, including only such motor vehicles as are specially 5866
designed and equipped for such use. Tangible personal property 5867
and services used primarily in providing highway transportation 5868
for hire are not used directly in the rendition of a public 5869
utility service. In this definition, "public utility" includes a 5870
citizen of the United States holding, and required to hold, a 5871
certificate of public convenience and necessity issued under 49 5872
U.S.C. 41102. 5873

(Q) "Refining" means removing or separating a desirable 5874
product from raw or contaminated materials by distillation or 5875
physical, mechanical, or chemical processes. 5876

(R) "Assembly" and "assembling" mean attaching or fitting 5877
together parts to form a product, but do not include packaging a 5878
product. 5879

(S) "Manufacturing operation" means a process in which 5880
materials are changed, converted, or transformed into a 5881
different state or form from which they previously existed and 5882
includes refining materials, assembling parts, and preparing raw 5883
materials and parts by mixing, measuring, blending, or otherwise 5884
committing such materials or parts to the manufacturing process. 5885

"Manufacturing operation" does not include packaging. 5886

(T) "Fiscal officer" means, with respect to a regional 5887
transit authority, the secretary-treasurer thereof, and with 5888
respect to a county that is a transit authority, the fiscal 5889
officer of the county transit board if one is appointed pursuant 5890
to section 306.03 of the Revised Code or the county auditor if 5891
the board of county commissioners operates the county transit 5892
system. 5893

(U) "Transit authority" means a regional transit authority 5894
created pursuant to section 306.31 of the Revised Code or a 5895
county in which a county transit system is created pursuant to 5896
section 306.01 of the Revised Code. For the purposes of this 5897
chapter, a transit authority must extend to at least the entire 5898
area of a single county. A transit authority that includes 5899
territory in more than one county must include all the area of 5900
the most populous county that is a part of such transit 5901
authority. County population shall be measured by the most 5902
recent census taken by the United States census bureau. 5903

(V) "Legislative authority" means, with respect to a 5904
regional transit authority, the board of trustees thereof, and 5905
with respect to a county that is a transit authority, the board 5906
of county commissioners. 5907

(W) "Territory of the transit authority" means all of the 5908
area included within the territorial boundaries of a transit 5909
authority as they from time to time exist. Such territorial 5910
boundaries must at all times include all the area of a single 5911
county or all the area of the most populous county that is a 5912
part of such transit authority. County population shall be 5913
measured by the most recent census taken by the United States 5914
census bureau. 5915

(X) "Providing a service" means providing or furnishing anything described in division (B) (3) of this section for consideration.

(Y) (1) (a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following:

(i) Examining or acquiring data stored in or accessible to the computer equipment;

(ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment.

"Electronic information services" does not include electronic publishing.

(d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services.

(2) As used in divisions (B) (3) (e) and (Y) (1) of this section, "personal and professional services" means all services

other than automatic data processing, computer services, or 5944
electronic information services, including but not limited to: 5945

(a) Accounting and legal services such as advice on tax 5946
matters, asset management, budgetary matters, quality control, 5947
information security, and auditing and any other situation where 5948
the service provider receives data or information and studies, 5949
alters, analyzes, interprets, or adjusts such material; 5950

(b) Analyzing business policies and procedures; 5951

(c) Identifying management information needs; 5952

(d) Feasibility studies, including economic and technical 5953
analysis of existing or potential computer hardware or software 5954
needs and alternatives; 5955

(e) Designing policies, procedures, and custom software 5956
for collecting business information, and determining how data 5957
should be summarized, sequenced, formatted, processed, 5958
controlled, and reported so that it will be meaningful to 5959
management; 5960

(f) Developing policies and procedures that document how 5961
business events and transactions are to be authorized, executed, 5962
and controlled; 5963

(g) Testing of business procedures; 5964

(h) Training personnel in business procedure applications; 5965

(i) Providing credit information to users of such 5966
information by a consumer reporting agency, as defined in the 5967
"Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 5968
U.S.C. 1681a(f), or as hereafter amended, including but not 5969
limited to gathering, organizing, analyzing, recording, and 5970
furnishing such information by any oral, written, graphic, or 5971

electronic medium;	5972
(j) Providing debt collection services by any oral,	5973
written, graphic, or electronic means;	5974
(k) Providing digital advertising services.	5975
The services listed in divisions (Y) (2) (a) to (k) of this	5976
section are not automatic data processing or computer services.	5977
(Z) "Highway transportation for hire" means the	5978
transportation of personal property belonging to others for	5979
consideration by any of the following:	5980
(1) The holder of a permit or certificate issued by this	5981
state or the United States authorizing the holder to engage in	5982
transportation of personal property belonging to others for	5983
consideration over or on highways, roadways, streets, or any	5984
similar public thoroughfare;	5985
(2) A person who engages in the transportation of personal	5986
property belonging to others for consideration over or on	5987
highways, roadways, streets, or any similar public thoroughfare	5988
but who could not have engaged in such transportation on	5989
December 11, 1985, unless the person was the holder of a permit	5990
or certificate of the types described in division (Z) (1) of this	5991
section;	5992
(3) A person who leases a motor vehicle to and operates it	5993
for a person described by division (Z) (1) or (2) of this	5994
section.	5995
(AA) (1) "Telecommunications service" means the electronic	5996
transmission, conveyance, or routing of voice, data, audio,	5997
video, or any other information or signals to a point, or	5998
between or among points. "Telecommunications service" includes	5999

such transmission, conveyance, or routing in which computer 6000
processing applications are used to act on the form, code, or 6001
protocol of the content for purposes of transmission, 6002
conveyance, or routing without regard to whether the service is 6003
referred to as voice-over internet protocol service or is 6004
classified by the federal communications commission as enhanced 6005
or value-added. "Telecommunications service" does not include 6006
any of the following: 6007

(a) Data processing and information services that allow 6008
data to be generated, acquired, stored, processed, or retrieved 6009
and delivered by an electronic transmission to a consumer where 6010
the consumer's primary purpose for the underlying transaction is 6011
the processed data or information; 6012

(b) Installation or maintenance of wiring or equipment on 6013
a customer's premises; 6014

(c) Tangible personal property; 6015

(d) Advertising, including directory advertising; 6016

(e) Billing and collection services provided to third 6017
parties; 6018

(f) Internet access service; 6019

(g) Radio and television audio and video programming 6020
services, regardless of the medium, including the furnishing of 6021
transmission, conveyance, and routing of such services by the 6022
programming service provider. Radio and television audio and 6023
video programming services include, but are not limited to, 6024
cable service, as defined in 47 U.S.C. 522(6), and audio and 6025
video programming services delivered by commercial mobile radio 6026
service providers, as defined in 47 C.F.R. 20.3; 6027

- (h) Ancillary service; 6028
- (i) Digital products delivered electronically, including 6029
software, music, video, reading materials, or ring tones. 6030
- (2) "Ancillary service" means a service that is associated 6031
with or incidental to the provision of telecommunications 6032
service, including conference bridging service, detailed 6033
telecommunications billing service, directory assistance, 6034
vertical service, and voice mail service. As used in this 6035
division: 6036
- (a) "Conference bridging service" means an ancillary 6037
service that links two or more participants of an audio or video 6038
conference call, including providing a telephone number. 6039
"Conference bridging service" does not include 6040
telecommunications services used to reach the conference bridge. 6041
- (b) "Detailed telecommunications billing service" means an 6042
ancillary service of separately stating information pertaining 6043
to individual calls on a customer's billing statement. 6044
- (c) "Directory assistance" means an ancillary service of 6045
providing telephone number or address information. 6046
- (d) "Vertical service" means an ancillary service that is 6047
offered in connection with one or more telecommunications 6048
services, which offers advanced calling features that allow 6049
customers to identify callers and manage multiple calls and call 6050
connections, including conference bridging service. 6051
- (e) "Voice mail service" means an ancillary service that 6052
enables the customer to store, send, or receive recorded 6053
messages. "Voice mail service" does not include any vertical 6054
services that the customer may be required to have in order to 6055
utilize the voice mail service. 6056

(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900 service" and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer.

(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(5) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile telecommunications service as well as other non-telecommunications services, including the download of digital products delivered electronically, and content and ancillary services, that must be paid for in advance and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(6) "Value-added non-voice data service" means a telecommunications service in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.

(7) "Coin-operated telephone service" means a 6087
telecommunications service paid for by inserting money into a 6088
telephone accepting direct deposits of money to operate. 6089

(8) "Customer" has the same meaning as in section 5739.034 6090
of the Revised Code. 6091

(BB) "Laundry and dry cleaning services" means removing 6092
soil or dirt from towels, linens, articles of clothing, or other 6093
fabric items that belong to others and supplying towels, linens, 6094
articles of clothing, or other fabric items. "Laundry and dry 6095
cleaning services" does not include the provision of self- 6096
service facilities for use by consumers to remove soil or dirt 6097
from towels, linens, articles of clothing, or other fabric 6098
items. 6099

(CC) "Magazines distributed as controlled circulation 6100
publications" means magazines containing at least twenty-four 6101
pages, at least twenty-five per cent editorial content, issued 6102
at regular intervals four or more times a year, and circulated 6103
without charge to the recipient, provided that such magazines 6104
are not owned or controlled by individuals or business concerns 6105
which conduct such publications as an auxiliary to, and 6106
essentially for the advancement of the main business or calling 6107
of, those who own or control them. 6108

(DD) "Landscaping and lawn care service" means the 6109
services of planting, seeding, sodding, removing, cutting, 6110
trimming, pruning, mulching, aerating, applying chemicals, 6111
watering, fertilizing, and providing similar services to 6112
establish, promote, or control the growth of trees, shrubs, 6113
flowers, grass, ground cover, and other flora, or otherwise 6114
maintaining a lawn or landscape grown or maintained by the owner 6115
for ornamentation or other nonagricultural purpose. However, 6116

"landscaping and lawn care service" does not include the 6117
providing of such services by a person who has less than five 6118
thousand dollars in sales of such services during the calendar 6119
year. 6120

(EE) "Private investigation and security service" means 6121
the performance of any activity for which the provider of such 6122
service is required to be licensed pursuant to Chapter 4749. of 6123
the Revised Code, or would be required to be so licensed in 6124
performing such services in this state, and also includes the 6125
services of conducting polygraph examinations and of monitoring 6126
or overseeing the activities on or in, or the condition of, the 6127
consumer's home, business, or other facility by means of 6128
electronic or similar monitoring devices. "Private investigation 6129
and security service" does not include special duty services 6130
provided by off-duty police officers, deputy sheriffs, and other 6131
peace officers regularly employed by the state or a political 6132
subdivision. 6133

(FF) "Information services" means providing conversation, 6134
giving consultation or advice, playing or making a voice or 6135
other recording, making or keeping a record of the number of 6136
callers, and any other service provided to a consumer by means 6137
of a nine hundred telephone call, except when the nine hundred 6138
telephone call is the means by which the consumer makes a 6139
contribution to a recognized charity. 6140

(GG) "Research and development" means designing, creating, 6141
or formulating new or enhanced products, equipment, or 6142
manufacturing processes, and also means conducting scientific or 6143
technological inquiry and experimentation in the physical 6144
sciences with the goal of increasing scientific knowledge which 6145
may reveal the bases for new or enhanced products, equipment, or 6146

manufacturing processes. 6147

(HH) "Qualified research and development equipment" means 6148
capitalized tangible personal property, and leased personal 6149
property that would be capitalized if purchased, used by a 6150
person primarily to perform research and development. Tangible 6151
personal property primarily used in testing, as defined in 6152
division (A)(4) of section 5739.011 of the Revised Code, or used 6153
for recording or storing test results, is not qualified research 6154
and development equipment unless such property is primarily used 6155
by the consumer in testing the product, equipment, or 6156
manufacturing process being created, designed, or formulated by 6157
the consumer in the research and development activity or in 6158
recording or storing such test results. 6159

(II) "Building maintenance and janitorial service" means 6160
cleaning the interior or exterior of a building and any tangible 6161
personal property located therein or thereon, including any 6162
services incidental to such cleaning for which no separate 6163
charge is made. However, "building maintenance and janitorial 6164
service" does not include the providing of such service by a 6165
person who has less than five thousand dollars in sales of such 6166
service during the calendar year. As used in this division, 6167
"cleaning" does not include sanitation services necessary for an 6168
establishment described in 21 U.S.C. 608 to comply with rules 6169
and regulations adopted pursuant to that section. 6170

(JJ) "Exterminating service" means eradicating or 6171
attempting to eradicate vermin infestations from a building or 6172
structure, or the area surrounding a building or structure, and 6173
includes activities to inspect, detect, or prevent vermin 6174
infestation of a building or structure. 6175

(KK) "Physical fitness facility service" means all 6176

transactions by which a membership is granted, maintained, or 6177
renewed, including initiation fees, membership dues, renewal 6178
fees, monthly minimum fees, and other similar fees and dues, by 6179
a physical fitness facility such as an athletic club, health 6180
spa, or gymnasium, which entitles the member to use the facility 6181
for physical exercise. 6182

(LL) "Recreation and sports club service" means all 6183
transactions by which a membership is granted, maintained, or 6184
renewed, including initiation fees, membership dues, renewal 6185
fees, monthly minimum fees, and other similar fees and dues, by 6186
a recreation and sports club, which entitles the member to use 6187
the facilities of the organization. "Recreation and sports club" 6188
means an organization that has ownership of, or controls or 6189
leases on a continuing, long-term basis, the facilities used by 6190
its members and includes an aviation club, gun or shooting club, 6191
yacht club, card club, swimming club, tennis club, golf club, 6192
country club, riding club, amateur sports club, or similar 6193
organization. 6194

(MM) "Livestock" means farm animals commonly raised for 6195
food, food production, or other agricultural purposes, 6196
including, but not limited to, cattle, sheep, goats, swine, 6197
poultry, and captive deer. "Livestock" does not include 6198
invertebrates, amphibians, reptiles, domestic pets, animals for 6199
use in laboratories or for exhibition, or other animals not 6200
commonly raised for food or food production. 6201

(NN) "Livestock structure" means a building or structure 6202
used exclusively for the housing, raising, feeding, or 6203
sheltering of livestock, and includes feed storage or handling 6204
structures and structures for livestock waste handling. 6205

(OO) "Horticulture" means the growing, cultivation, and 6206

production of flowers, fruits, herbs, vegetables, sod, 6207
mushrooms, and nursery stock. As used in this division, "nursery 6208
stock" has the same meaning as in section 927.51 of the Revised 6209
Code. 6210

(PP) "Horticulture structure" means a building or 6211
structure used exclusively for the commercial growing, raising, 6212
or overwintering of horticultural products, and includes the 6213
area used for stocking, storing, and packing horticultural 6214
products when done in conjunction with the production of those 6215
products. 6216

(QQ) "Newspaper" means an unbound publication bearing a 6217
title or name that is regularly published, at least as 6218
frequently as biweekly, and distributed from a fixed place of 6219
business to the public in a specific geographic area, and that 6220
contains a substantial amount of news matter of international, 6221
national, or local events of interest to the general public. 6222

(RR) (1) "Feminine hygiene products" means tampons, panty 6223
liners, menstrual cups, sanitary napkins, and other similar 6224
tangible personal property designed for feminine hygiene in 6225
connection with the human menstrual cycle, but does not include 6226
grooming and hygiene products. 6227

(2) "Grooming and hygiene products" means soaps and 6228
cleaning solutions, shampoo, toothpaste, mouthwash, 6229
antiperspirants, and sun tan lotions and screens, regardless of 6230
whether any of these products are over-the-counter drugs. 6231

(3) "Over-the-counter drugs" means a drug that contains a 6232
label that identifies the product as a drug as required by 21 6233
C.F.R. 201.66, which label includes a drug facts panel or a 6234
statement of the active ingredients with a list of those 6235

ingredients contained in the compound, substance, or 6236
preparation. 6237

(SS) (1) "Lease" or "rental" means any transfer of the 6238
possession or control of tangible personal property for a fixed 6239
or indefinite term, for consideration. "Lease" or "rental" 6240
includes future options to purchase or extend, and agreements 6241
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 6242
trailers where the amount of consideration may be increased or 6243
decreased by reference to the amount realized upon the sale or 6244
disposition of the property. "Lease" or "rental" does not 6245
include: 6246

(a) A transfer of possession or control of tangible 6247
personal property under a security agreement or a deferred 6248
payment plan that requires the transfer of title upon completion 6249
of the required payments; 6250

(b) A transfer of possession or control of tangible 6251
personal property under an agreement that requires the transfer 6252
of title upon completion of required payments and payment of an 6253
option price that does not exceed the greater of one hundred 6254
dollars or one per cent of the total required payments; 6255

(c) Providing tangible personal property along with an 6256
operator for a fixed or indefinite period of time, if the 6257
operator is necessary for the property to perform as designed. 6258
For purposes of this division, the operator must do more than 6259
maintain, inspect, or set up the tangible personal property. 6260

(2) "Lease" and "rental," as defined in division (SS) of 6261
this section, shall not apply to leases or rentals that exist 6262
before June 26, 2003. 6263

(3) "Lease" and "rental" have the same meaning as in 6264

division (SS) (1) of this section regardless of whether a 6265
transaction is characterized as a lease or rental under 6266
generally accepted accounting principles, the Internal Revenue 6267
Code, Title XIII of the Revised Code, or other federal, state, 6268
or local laws. 6269

(TT) "Mobile telecommunications service" has the same 6270
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 6271
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 6272
amended, and, on and after August 1, 2003, includes related fees 6273
and ancillary services, including universal service fees, 6274
detailed billing service, directory assistance, service 6275
initiation, voice mail service, and vertical services, such as 6276
caller ID and three-way calling. 6277

(UU) "Certified service provider" has the same meaning as 6278
in section 5740.01 of the Revised Code. 6279

(VV) "Satellite broadcasting service" means the 6280
distribution or broadcasting of programming or services by 6281
satellite directly to the subscriber's receiving equipment 6282
without the use of ground receiving or distribution equipment, 6283
except the subscriber's receiving equipment or equipment used in 6284
the uplink process to the satellite, and includes all service 6285
and rental charges, premium channels or other special services, 6286
installation and repair service charges, and any other charges 6287
having any connection with the provision of the satellite 6288
broadcasting service. 6289

(WW) "Tangible personal property" means personal property 6290
that can be seen, weighed, measured, felt, or touched, or that 6291
is in any other manner perceptible to the senses. For purposes 6292
of this chapter and Chapter 5741. of the Revised Code, "tangible 6293
personal property" includes motor vehicles, electricity, water, 6294

gas, steam, and prewritten computer software. 6295

(XX) "Municipal gas utility" means a municipal corporation 6296
that owns or operates a system for the distribution of natural 6297
gas. 6298

(YY) "Computer" means an electronic device that accepts 6299
information in digital or similar form and manipulates it for a 6300
result based on a sequence of instructions. 6301

(ZZ) "Computer software" means a set of coded instructions 6302
designed to cause a computer or automatic data processing 6303
equipment to perform a task. 6304

(AAA) "Delivered electronically" means delivery of 6305
computer software from the seller to the purchaser by means 6306
other than tangible storage media. 6307

(BBB) "Prewritten computer software" means computer 6308
software, including prewritten upgrades, that is not designed 6309
and developed by the author or other creator to the 6310
specifications of a specific purchaser. The combining of two or 6311
more prewritten computer software programs or prewritten 6312
portions thereof does not cause the combination to be other than 6313
prewritten computer software. "Prewritten computer software" 6314
includes software designed and developed by the author or other 6315
creator to the specifications of a specific purchaser when it is 6316
sold to a person other than the purchaser. If a person modifies 6317
or enhances computer software of which the person is not the 6318
author or creator, the person shall be deemed to be the author 6319
or creator only of such person's modifications or enhancements. 6320
Prewritten computer software or a prewritten portion thereof 6321
that is modified or enhanced to any degree, where such 6322
modification or enhancement is designed and developed to the 6323

specifications of a specific purchaser, remains prewritten 6324
computer software; provided, however, that where there is a 6325
reasonable, separately stated charge or an invoice or other 6326
statement of the price given to the purchaser for the 6327
modification or enhancement, the modification or enhancement 6328
shall not constitute prewritten computer software. 6329

(CCC) (1) "Food" means substances, whether in liquid, 6330
concentrated, solid, frozen, dried, or dehydrated form, that are 6331
sold for ingestion or chewing by humans and are consumed for 6332
their taste or nutritional value. "Food" does not include 6333
alcoholic beverages, dietary supplements, soft drinks, or 6334
tobacco. 6335

(2) As used in division (CCC) (1) of this section: 6336

(a) "Alcoholic beverages" means beverages that are 6337
suitable for human consumption and contain one-half of one per 6338
cent or more of alcohol by volume. 6339

(b) "Dietary supplements" means any product, other than 6340
tobacco, that is intended to supplement the diet and that is 6341
intended for ingestion in tablet, capsule, powder, softgel, 6342
gelcap, or liquid form, or, if not intended for ingestion in 6343
such a form, is not represented as conventional food for use as 6344
a sole item of a meal or of the diet; that is required to be 6345
labeled as a dietary supplement, identifiable by the "supplement 6346
facts" box found on the label, as required by 21 C.F.R. 101.36; 6347
and that contains one or more of the following dietary 6348
ingredients: 6349

(i) A vitamin; 6350

(ii) A mineral; 6351

(iii) An herb or other botanical; 6352

- (iv) An amino acid; 6353
- (v) A dietary substance for use by humans to supplement 6354
the diet by increasing the total dietary intake; 6355
- (vi) A concentrate, metabolite, constituent, extract, or 6356
combination of any ingredient described in divisions (CCC) (2) (b) 6357
(i) to (v) of this section. 6358
- (c) "Soft drinks" means nonalcoholic beverages that 6359
contain natural or artificial sweeteners. "Soft drinks" does not 6360
include beverages that contain milk or milk products, soy, rice, 6361
or similar milk substitutes, or that contains greater than fifty 6362
per cent vegetable or fruit juice by volume. 6363
- (d) "Tobacco" means cigarettes, cigars, chewing or pipe 6364
tobacco, or any other item that contains tobacco. 6365
- (DDD) "Drug" means a compound, substance, or preparation, 6366
and any component of a compound, substance, or preparation, 6367
other than food, dietary supplements, or alcoholic beverages 6368
that is recognized in the official United States pharmacopoeia, 6369
official homeopathic pharmacopoeia of the United States, or 6370
official national formulary, and supplements to them; is 6371
intended for use in the diagnosis, cure, mitigation, treatment, 6372
or prevention of disease; or is intended to affect the structure 6373
or any function of the body. 6374
- (EEE) "Prescription" means an order, formula, or recipe 6375
issued in any form of oral, written, electronic, or other means 6376
of transmission by a duly licensed practitioner authorized by 6377
the laws of this state to issue a prescription. 6378
- (FFF) "Durable medical equipment" means equipment, 6379
including repair and replacement parts for such equipment, that 6380
can withstand repeated use, is primarily and customarily used to 6381

serve a medical purpose, generally is not useful to a person in 6382
the absence of illness or injury, and is not worn in or on the 6383
body. "Durable medical equipment" does not include mobility 6384
enhancing equipment. 6385

(GGG) "Mobility enhancing equipment" means equipment, 6386
including repair and replacement parts for such equipment, that 6387
is primarily and customarily used to provide or increase the 6388
ability to move from one place to another and is appropriate for 6389
use either in a home or a motor vehicle, that is not generally 6390
used by persons with normal mobility, and that does not include 6391
any motor vehicle or equipment on a motor vehicle normally 6392
provided by a motor vehicle manufacturer. "Mobility enhancing 6393
equipment" does not include durable medical equipment. 6394

(HHH) "Prosthetic device" means a replacement, corrective, 6395
or supportive device, including repair and replacement parts for 6396
the device, worn on or in the human body to artificially replace 6397
a missing portion of the body, prevent or correct physical 6398
deformity or malfunction, or support a weak or deformed portion 6399
of the body. As used in this division, before July 1, 2019, 6400
"prosthetic device" does not include corrective eyeglasses, 6401
contact lenses, or dental prosthesis. On or after July 1, 2019, 6402
"prosthetic device" does not include dental prosthesis but does 6403
include corrective eyeglasses or contact lenses. 6404

(III) (1) "Fractional aircraft ownership program" means a 6405
program in which persons within an affiliated group sell and 6406
manage fractional ownership program aircraft, provided that at 6407
least one hundred airworthy aircraft are operated in the program 6408
and the program meets all of the following criteria: 6409

(a) Management services are provided by at least one 6410
program manager within an affiliated group on behalf of the 6411

fractional owners. 6412

(b) Each program aircraft is owned or possessed by at 6413
least one fractional owner. 6414

(c) Each fractional owner owns or possesses at least a 6415
one-sixteenth interest in at least one fixed-wing program 6416
aircraft. 6417

(d) A dry-lease aircraft interchange arrangement is in 6418
effect among all of the fractional owners. 6419

(e) Multi-year program agreements are in effect regarding 6420
the fractional ownership, management services, and dry-lease 6421
aircraft interchange arrangement aspects of the program. 6422

(2) As used in division (III) (1) of this section: 6423

(a) "Affiliated group" has the same meaning as in division 6424
(B) (3) (e) of this section. 6425

(b) "Fractional owner" means a person that owns or 6426
possesses at least a one-sixteenth interest in a program 6427
aircraft and has entered into the agreements described in 6428
division (III) (1) (e) of this section. 6429

(c) "Fractional ownership program aircraft" or "program 6430
aircraft" means a turbojet aircraft that is owned or possessed 6431
by a fractional owner and that has been included in a dry-lease 6432
aircraft interchange arrangement and agreement under divisions 6433
(III) (1) (d) and (e) of this section, or an aircraft a program 6434
manager owns or possesses primarily for use in a fractional 6435
aircraft ownership program. 6436

(d) "Management services" means administrative and 6437
aviation support services furnished under a fractional aircraft 6438
ownership program in accordance with a management services 6439

agreement under division (III) (1) (e) of this section, and 6440
offered by the program manager to the fractional owners, 6441
including, at a minimum, the establishment and implementation of 6442
safety guidelines; the coordination of the scheduling of the 6443
program aircraft and crews; program aircraft maintenance; 6444
program aircraft insurance; crew training for crews employed, 6445
furnished, or contracted by the program manager or the 6446
fractional owner; the satisfaction of record-keeping 6447
requirements; and the development and use of an operations 6448
manual and a maintenance manual for the fractional aircraft 6449
ownership program. 6450

(e) "Program manager" means the person that offers 6451
management services to fractional owners pursuant to a 6452
management services agreement under division (III) (1) (e) of this 6453
section. 6454

(JJJ) "Electronic publishing" means providing access to 6455
one or more of the following primarily for business customers, 6456
including the federal government or a state government or a 6457
political subdivision thereof, to conduct research: news; 6458
business, financial, legal, consumer, or credit materials; 6459
editorials, columns, reader commentary, or features; photos or 6460
images; archival or research material; legal notices, identity 6461
verification, or public records; scientific, educational, 6462
instructional, technical, professional, trade, or other literary 6463
materials; or other similar information which has been gathered 6464
and made available by the provider to the consumer in an 6465
electronic format. Providing electronic publishing includes the 6466
functions necessary for the acquisition, formatting, editing, 6467
storage, and dissemination of data or information that is the 6468
subject of a sale. 6469

(KKK) "Medicaid health insuring corporation" means a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code and is under contract with the department of medicaid pursuant to section 5167.10 of the Revised Code.

(LLL) "Managed care premium" means any premium, capitation, or other payment a medicaid health insuring corporation receives for providing or arranging for the provision of health care services to its members or enrollees residing in this state.

(MMM) "Captive deer" means deer and other cervidae that have been legally acquired, or their offspring, that are privately owned for agricultural or farming purposes.

(NNN) "Gift card" means a document, card, certificate, or other record, whether tangible or intangible, that may be redeemed by a consumer for a dollar value when making a purchase of tangible personal property or services.

(OOO) "Specified digital product" means an electronically transferred digital audiovisual work, digital audio work, or digital book.

As used in division (OOO) of this section:

(1) "Digital audiovisual work" means a series of related images that, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

(2) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds, including digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

(3) "Digital book" means a work that is generally 6499
recognized in the ordinary and usual sense as a book. 6500

(4) "Electronically transferred" means obtained by the 6501
purchaser by means other than tangible storage media. 6502

(PPP) "Digital advertising services" means providing 6503
access, by means of telecommunications equipment, to computer 6504
equipment that is used to enter, upload, download, review, 6505
manipulate, store, add, or delete data for the purpose of 6506
electronically displaying, delivering, placing, or transferring 6507
promotional advertisements to potential customers about products 6508
or services or about industry or business brands. 6509

(QQQ) "Peer-to-peer car sharing program" has the same 6510
meaning as in section 4516.01 of the Revised Code. 6511

(RRR) "Marijuana" means marihuana as defined in section 6512
3719.01 of the Revised Code. "Marijuana" does not include 6513
medical marijuana as defined in section 3796.01 of the Revised 6514
Code. 6515

Sec. 5739.02. For the purpose of providing revenue with 6516
which to meet the needs of the state, for the use of the general 6517
revenue fund of the state, for the purpose of securing a 6518
thorough and efficient system of common schools throughout the 6519
state, for the purpose of affording revenues, in addition to 6520
those from general property taxes, permitted under 6521
constitutional limitations, and from other sources, for the 6522
support of local governmental functions, and for the purpose of 6523
reimbursing the state for the expense of administering this 6524
chapter, an excise tax is hereby levied on each retail sale made 6525
in this state. 6526

(A) (1) The tax shall be collected as provided in section 6527

5739.025 of the Revised Code. The rate of the tax shall be ten 6528
per cent for the retail sale of marijuana and 6529
five and three-
fourths per cent for all other retail sales. The tax applies and 6530
is collectible when the sale is made, regardless of the time 6531
when the price is paid or delivered. 6532

(2) In the case of the lease or rental, with a fixed term 6533
of more than thirty days or an indefinite term with a minimum 6534
period of more than thirty days, of any motor vehicles designed 6535
by the manufacturer to carry a load of not more than one ton, 6536
watercraft, outboard motor, or aircraft, or of any tangible 6537
personal property, other than motor vehicles designed by the 6538
manufacturer to carry a load of more than one ton, to be used by 6539
the lessee or renter primarily for business purposes, the tax 6540
shall be collected by the vendor at the time the lease or rental 6541
is consummated and shall be calculated by the vendor on the 6542
basis of the total amount to be paid by the lessee or renter 6543
under the lease agreement. If the total amount of the 6544
consideration for the lease or rental includes amounts that are 6545
not calculated at the time the lease or rental is executed, the 6546
tax shall be calculated and collected by the vendor at the time 6547
such amounts are billed to the lessee or renter. In the case of 6548
an open-end lease or rental, the tax shall be calculated by the 6549
vendor on the basis of the total amount to be paid during the 6550
initial fixed term of the lease or rental, and for each 6551
subsequent renewal period as it comes due. As used in this 6552
division, "motor vehicle" has the same meaning as in section 6553
4501.01 of the Revised Code, and "watercraft" includes an 6554
outdrive unit attached to the watercraft. 6555

A lease with a renewal clause and a termination penalty or 6556
similar provision that applies if the renewal clause is not 6557
exercised is presumed to be a sham transaction. In such a case, 6558

the tax shall be calculated and paid on the basis of the entire 6559
length of the lease period, including any renewal periods, until 6560
the termination penalty or similar provision no longer applies. 6561
The taxpayer shall bear the burden, by a preponderance of the 6562
evidence, that the transaction or series of transactions is not 6563
a sham transaction. 6564

(3) Except as provided in division (A) (2) of this section, 6565
in the case of a sale, the price of which consists in whole or 6566
in part of the lease or rental of tangible personal property, 6567
the tax shall be measured by the installments of that lease or 6568
rental. 6569

(4) In the case of a sale of a physical fitness facility 6570
service or recreation and sports club service, the price of 6571
which consists in whole or in part of a membership for the 6572
receipt of the benefit of the service, the tax applicable to the 6573
sale shall be measured by the installments thereof. 6574

(B) The tax does not apply to the following: 6575

(1) Sales to the state or any of its political 6576
subdivisions, or to any other state or its political 6577
subdivisions if the laws of that state exempt from taxation 6578
sales made to this state and its political subdivisions; 6579

(2) Sales of food for human consumption off the premises 6580
where sold; 6581

(3) Sales of food sold to students only in a cafeteria, 6582
dormitory, fraternity, or sorority maintained in a private, 6583
public, or parochial school, college, or university; 6584

(4) Sales of newspapers and sales or transfers of 6585
magazines distributed as controlled circulation publications; 6586

(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;

(6) (a) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

(b) Sales of motor fuel other than that described in division (B) (6) (a) of this section and used for powering a refrigeration unit on a vehicle other than one used primarily to provide comfort to the operator or occupants of the vehicle.

(7) Sales of natural gas by a natural gas company or municipal gas utility, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard,

snowmobiles, and all-purpose vehicles as defined in section 6617
4519.01 of the Revised Code; 6618

(9) (a) Sales of services or tangible personal property, 6619
other than motor vehicles, mobile homes, and manufactured homes, 6620
by churches, organizations exempt from taxation under section 6621
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 6622
organizations operated exclusively for charitable purposes as 6623
defined in division (B) (12) of this section, provided that the 6624
number of days on which such tangible personal property or 6625
services, other than items never subject to the tax, are sold 6626
does not exceed six in any calendar year, except as otherwise 6627
provided in division (B) (9) (b) of this section. If the number of 6628
days on which such sales are made exceeds six in any calendar 6629
year, the church or organization shall be considered to be 6630
engaged in business and all subsequent sales by it shall be 6631
subject to the tax. In counting the number of days, all sales by 6632
groups within a church or within an organization shall be 6633
considered to be sales of that church or organization. 6634

(b) The limitation on the number of days on which tax- 6635
exempt sales may be made by a church or organization under 6636
division (B) (9) (a) of this section does not apply to sales made 6637
by student clubs and other groups of students of a primary or 6638
secondary school, or a parent-teacher association, booster 6639
group, or similar organization that raises money to support or 6640
fund curricular or extracurricular activities of a primary or 6641
secondary school. 6642

(c) Divisions (B) (9) (a) and (b) of this section do not 6643
apply to sales by a noncommercial educational radio or 6644
television broadcasting station. 6645

(10) Sales not within the taxing power of this state under 6646

the Constitution or laws of the United States or the 6647
Constitution of this state; 6648

(11) Except for transactions that are sales under division 6649
(B) (3) (p) of section 5739.01 of the Revised Code, the 6650
transportation of persons or property, unless the transportation 6651
is by a private investigation and security service; 6652

(12) Sales of tangible personal property or services to 6653
churches, to organizations exempt from taxation under section 6654
501(c) (3) of the Internal Revenue Code of 1986, and to any other 6655
nonprofit organizations operated exclusively for charitable 6656
purposes in this state, no part of the net income of which 6657
inures to the benefit of any private shareholder or individual, 6658
and no substantial part of the activities of which consists of 6659
carrying on propaganda or otherwise attempting to influence 6660
legislation; sales to offices administering one or more homes 6661
for the aged or one or more hospital facilities exempt under 6662
section 140.08 of the Revised Code; and sales to organizations 6663
described in division (D) of section 5709.12 of the Revised 6664
Code. 6665

"Charitable purposes" means the relief of poverty; the 6666
improvement of health through the alleviation of illness, 6667
disease, or injury; the operation of an organization exclusively 6668
for the provision of professional, laundry, printing, and 6669
purchasing services to hospitals or charitable institutions; the 6670
operation of a home for the aged, as defined in section 5701.13 6671
of the Revised Code; the operation of a radio or television 6672
broadcasting station that is licensed by the federal 6673
communications commission as a noncommercial educational radio 6674
or television station; the operation of a nonprofit animal 6675
adoption service or a county humane society; the promotion of 6676

education by an institution of learning that maintains a faculty 6677
of qualified instructors, teaches regular continuous courses of 6678
study, and confers a recognized diploma upon completion of a 6679
specific curriculum; the operation of a parent-teacher 6680
association, booster group, or similar organization primarily 6681
engaged in the promotion and support of the curricular or 6682
extracurricular activities of a primary or secondary school; the 6683
operation of a community or area center in which presentations 6684
in music, dramatics, the arts, and related fields are made in 6685
order to foster public interest and education therein; the 6686
production of performances in music, dramatics, and the arts; or 6687
the promotion of education by an organization engaged in 6688
carrying on research in, or the dissemination of, scientific and 6689
technological knowledge and information primarily for the 6690
public. 6691

Nothing in this division shall be deemed to exempt sales 6692
to any organization for use in the operation or carrying on of a 6693
trade or business, or sales to a home for the aged for use in 6694
the operation of independent living facilities as defined in 6695
division (A) of section 5709.12 of the Revised Code. 6696

(13) Building and construction materials and services sold 6697
to construction contractors for incorporation into a structure 6698
or improvement to real property under a construction contract 6699
with this state or a political subdivision of this state, or 6700
with the United States government or any of its agencies; 6701
building and construction materials and services sold to 6702
construction contractors for incorporation into a structure or 6703
improvement to real property that are accepted for ownership by 6704
this state or any of its political subdivisions, or by the 6705
United States government or any of its agencies at the time of 6706
completion of the structures or improvements; building and 6707

construction materials sold to construction contractors for 6708
incorporation into a horticulture structure or livestock 6709
structure for a person engaged in the business of horticulture 6710
or producing livestock; building materials and services sold to 6711
a construction contractor for incorporation into a house of 6712
public worship or religious education, or a building used 6713
exclusively for charitable purposes under a construction 6714
contract with an organization whose purpose is as described in 6715
division (B) (12) of this section; building materials and 6716
services sold to a construction contractor for incorporation 6717
into a building under a construction contract with an 6718
organization exempt from taxation under section 501(c) (3) of the 6719
Internal Revenue Code of 1986 when the building is to be used 6720
exclusively for the organization's exempt purposes; building and 6721
construction materials sold for incorporation into the original 6722
construction of a sports facility under section 307.696 of the 6723
Revised Code; building and construction materials and services 6724
sold to a construction contractor for incorporation into real 6725
property outside this state if such materials and services, when 6726
sold to a construction contractor in the state in which the real 6727
property is located for incorporation into real property in that 6728
state, would be exempt from a tax on sales levied by that state; 6729
building and construction materials for incorporation into a 6730
transportation facility pursuant to a public-private agreement 6731
entered into under sections 5501.70 to 5501.83 of the Revised 6732
Code; and, until one calendar year after the construction of a 6733
convention center that qualifies for property tax exemption 6734
under section 5709.084 of the Revised Code is completed, 6735
building and construction materials and services sold to a 6736
construction contractor for incorporation into the real property 6737
comprising that convention center; 6738

(14) Sales of ships or vessels or rail rolling stock used 6739
or to be used principally in interstate or foreign commerce, and 6740
repairs, alterations, fuel, and lubricants for such ships or 6741
vessels or rail rolling stock; 6742

(15) Sales to persons primarily engaged in any of the 6743
activities mentioned in division (B)(42)(a), (g), or (h) of this 6744
section, to persons engaged in making retail sales, or to 6745
persons who purchase for sale from a manufacturer tangible 6746
personal property that was produced by the manufacturer in 6747
accordance with specific designs provided by the purchaser, of 6748
packages, including material, labels, and parts for packages, 6749
and of machinery, equipment, and material for use primarily in 6750
packaging tangible personal property produced for sale, 6751
including any machinery, equipment, and supplies used to make 6752
labels or packages, to prepare packages or products for 6753
labeling, or to label packages or products, by or on the order 6754
of the person doing the packaging, or sold at retail. "Packages" 6755
includes bags, baskets, cartons, crates, boxes, cans, bottles, 6756
bindings, wrappings, and other similar devices and containers, 6757
but does not include motor vehicles or bulk tanks, trailers, or 6758
similar devices attached to motor vehicles. "Packaging" means 6759
placing in a package. Division (B)(15) of this section does not 6760
apply to persons engaged in highway transportation for hire. 6761

(16) Sales of food to persons using supplemental nutrition 6762
assistance program benefits to purchase the food. As used in 6763
this division, "food" has the same meaning as in 7 U.S.C. 2012 6764
and federal regulations adopted pursuant to the Food and 6765
Nutrition Act of 2008. 6766

(17) Sales to persons engaged in farming, agriculture, 6767
horticulture, or floriculture, of tangible personal property for 6768

use or consumption primarily in the production by farming, 6769
agriculture, horticulture, or floriculture of other tangible 6770
personal property for use or consumption primarily in the 6771
production of tangible personal property for sale by farming, 6772
agriculture, horticulture, or floriculture; or material and 6773
parts for incorporation into any such tangible personal property 6774
for use or consumption in production; and of tangible personal 6775
property for such use or consumption in the conditioning or 6776
holding of products produced by and for such use, consumption, 6777
or sale by persons engaged in farming, agriculture, 6778
horticulture, or floriculture, except where such property is 6779
incorporated into real property; 6780

(18) Sales of drugs for a human being that may be 6781
dispensed only pursuant to a prescription; insulin as recognized 6782
in the official United States pharmacopoeia; urine and blood 6783
testing materials when used by diabetics or persons with 6784
hypoglycemia to test for glucose or acetone; hypodermic syringes 6785
and needles when used by diabetics for insulin injections; 6786
epoetin alfa when purchased for use in the treatment of persons 6787
with medical disease; hospital beds when purchased by hospitals, 6788
nursing homes, or other medical facilities; and medical oxygen 6789
and medical oxygen-dispensing equipment when purchased by 6790
hospitals, nursing homes, or other medical facilities; 6791

(19) Sales of prosthetic devices, durable medical 6792
equipment for home use, or mobility enhancing equipment, when 6793
made pursuant to a prescription and when such devices or 6794
equipment are for use by a human being. 6795

(20) Sales of emergency and fire protection vehicles and 6796
equipment to nonprofit organizations for use solely in providing 6797
fire protection and emergency services, including trauma care 6798

and emergency medical services, for political subdivisions of 6799
the state; 6800

(21) Sales of tangible personal property manufactured in 6801
this state, if sold by the manufacturer in this state to a 6802
retailer for use in the retail business of the retailer outside 6803
of this state and if possession is taken from the manufacturer 6804
by the purchaser within this state for the sole purpose of 6805
immediately removing the same from this state in a vehicle owned 6806
by the purchaser; 6807

(22) Sales of services provided by the state or any of its 6808
political subdivisions, agencies, instrumentalities, 6809
institutions, or authorities, or by governmental entities of the 6810
state or any of its political subdivisions, agencies, 6811
instrumentalities, institutions, or authorities; 6812

(23) Sales of motor vehicles to nonresidents of this state 6813
under the circumstances described in division (B) of section 6814
5739.029 of the Revised Code; 6815

(24) Sales to persons engaged in the preparation of eggs 6816
for sale of tangible personal property used or consumed directly 6817
in such preparation, including such tangible personal property 6818
used for cleaning, sanitizing, preserving, grading, sorting, and 6819
classifying by size; packages, including material and parts for 6820
packages, and machinery, equipment, and material for use in 6821
packaging eggs for sale; and handling and transportation 6822
equipment and parts therefor, except motor vehicles licensed to 6823
operate on public highways, used in intraplant or interplant 6824
transfers or shipment of eggs in the process of preparation for 6825
sale, when the plant or plants within or between which such 6826
transfers or shipments occur are operated by the same person. 6827
"Packages" includes containers, cases, baskets, flats, fillers, 6828

filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.	6829 6830
(25) (a) Sales of water to a consumer for residential use;	6831
(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.	6832 6833 6834 6835
(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	6836 6837
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	6838 6839 6840 6841
(a) To prepare food for human consumption for sale;	6842
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	6843 6844 6845 6846
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	6847 6848
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	6849 6850
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	6851 6852 6853 6854
(30) Sales and installation of agricultural land tile, as	6855

defined in division (B) (5) (a) of section 5739.01 of the Revised Code; 6856
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(31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the Revised Code; 6858
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(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property; 6861
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(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters; 6867
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(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B) (42) (a) or (n) of this section to which the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite 6872
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broadcasting service.	6886
(35) (a) Sales where the purpose of the consumer is to use	6887
or consume the things transferred in making retail sales and	6888
consisting of newspaper inserts, catalogues, coupons, flyers,	6889
gift certificates, or other advertising material that prices and	6890
describes tangible personal property offered for retail sale.	6891
(b) Sales to direct marketing vendors of preliminary	6892
materials such as photographs, artwork, and typesetting that	6893
will be used in printing advertising material; and of printed	6894
matter that offers free merchandise or chances to win sweepstake	6895
prizes and that is mailed to potential customers with	6896
advertising material described in division (B) (35) (a) of this	6897
section;	6898
(c) Sales of equipment such as telephones, computers,	6899
facsimile machines, and similar tangible personal property	6900
primarily used to accept orders for direct marketing retail	6901
sales.	6902
(d) Sales of automatic food vending machines that preserve	6903
food with a shelf life of forty-five days or less by	6904
refrigeration and dispense it to the consumer.	6905
For purposes of division (B) (35) of this section, "direct	6906
marketing" means the method of selling where consumers order	6907
tangible personal property by United States mail, delivery	6908
service, or telecommunication and the vendor delivers or ships	6909
the tangible personal property sold to the consumer from a	6910
warehouse, catalogue distribution center, or similar fulfillment	6911
facility by means of the United States mail, delivery service,	6912
or common carrier.	6913
(36) Sales to a person engaged in the business of	6914

horticulture or producing livestock of materials to be 6915
incorporated into a horticulture structure or livestock 6916
structure; 6917

(37) Sales of personal computers, computer monitors, 6918
computer keyboards, modems, and other peripheral computer 6919
equipment to an individual who is licensed or certified to teach 6920
in an elementary or a secondary school in this state for use by 6921
that individual in preparation for teaching elementary or 6922
secondary school students; 6923

(38) Sales of tangible personal property that is not 6924
required to be registered or licensed under the laws of this 6925
state to a citizen of a foreign nation that is not a citizen of 6926
the United States, provided the property is delivered to a 6927
person in this state that is not a related member of the 6928
purchaser, is physically present in this state for the sole 6929
purpose of temporary storage and package consolidation, and is 6930
subsequently delivered to the purchaser at a delivery address in 6931
a foreign nation. As used in division (B)(38) of this section, 6932
"related member" has the same meaning as in section 5733.042 of 6933
the Revised Code, and "temporary storage" means the storage of 6934
tangible personal property for a period of not more than sixty 6935
days. 6936

(39) Sales of used manufactured homes and used mobile 6937
homes, as defined in section 5739.0210 of the Revised Code, made 6938
on or after January 1, 2000; 6939

(40) Sales of tangible personal property and services to a 6940
provider of electricity used or consumed directly and primarily 6941
in generating, transmitting, or distributing electricity for use 6942
by others, including property that is or is to be incorporated 6943
into and will become a part of the consumer's production, 6944

transmission, or distribution system and that retains its 6945
classification as tangible personal property after 6946
incorporation; fuel or power used in the production, 6947
transmission, or distribution of electricity; energy conversion 6948
equipment as defined in section 5727.01 of the Revised Code; and 6949
tangible personal property and services used in the repair and 6950
maintenance of the production, transmission, or distribution 6951
system, including only those motor vehicles as are specially 6952
designed and equipped for such use. The exemption provided in 6953
this division shall be in lieu of all other exemptions in 6954
division (B) (42) (a) or (n) of this section to which a provider 6955
of electricity may otherwise be entitled based on the use of the 6956
tangible personal property or service purchased in generating, 6957
transmitting, or distributing electricity. 6958

(41) Sales to a person providing services under division 6959
(B) (3) (p) of section 5739.01 of the Revised Code of tangible 6960
personal property and services used directly and primarily in 6961
providing taxable services under that section. 6962

(42) Sales where the purpose of the purchaser is to do any 6963
of the following: 6964

(a) To incorporate the thing transferred as a material or 6965
a part into tangible personal property to be produced for sale 6966
by manufacturing, assembling, processing, or refining; or to use 6967
or consume the thing transferred directly in producing tangible 6968
personal property for sale by mining, including, without 6969
limitation, the extraction from the earth of all substances that 6970
are classed geologically as minerals, or directly in the 6971
rendition of a public utility service, except that the sales tax 6972
levied by this section shall be collected upon all meals, 6973
drinks, and food for human consumption sold when transporting 6974

persons. This paragraph does not exempt from "retail sale" or 6975
"sales at retail" the sale of tangible personal property that is 6976
to be incorporated into a structure or improvement to real 6977
property. 6978

(b) To hold the thing transferred as security for the 6979
performance of an obligation of the vendor; 6980

(c) To resell, hold, use, or consume the thing transferred 6981
as evidence of a contract of insurance; 6982

(d) To use or consume the thing directly in commercial 6983
fishing; 6984

(e) To incorporate the thing transferred as a material or 6985
a part into, or to use or consume the thing transferred directly 6986
in the production of, magazines distributed as controlled 6987
circulation publications; 6988

(f) To use or consume the thing transferred in the 6989
production and preparation in suitable condition for market and 6990
sale of printed, imprinted, overprinted, lithographic, 6991
multilithic, blueprinted, photostatic, or other productions or 6992
reproductions of written or graphic matter; 6993

(g) To use the thing transferred, as described in section 6994
5739.011 of the Revised Code, primarily in a manufacturing 6995
operation to produce tangible personal property for sale; 6996

(h) To use the benefit of a warranty, maintenance or 6997
service contract, or similar agreement, as described in division 6998
(B) (7) of section 5739.01 of the Revised Code, to repair or 6999
maintain tangible personal property, if all of the property that 7000
is the subject of the warranty, contract, or agreement would not 7001
be subject to the tax imposed by this section; 7002

- (i) To use the thing transferred as qualified research and development equipment; 7003
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- (j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B) (3) (e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B) (35) of this section. 7005
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- (k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B) (7) of section 5739.01 of the Revised Code; 7018
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- (l) To use or consume the thing transferred in the production of a newspaper for distribution to the public; 7025
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- (m) To use tangible personal property to perform a service listed in division (B) (3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service; 7027
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(n) To use or consume the thing transferred primarily in producing tangible personal property for sale by farming, agriculture, horticulture, or floriculture. Persons engaged in rendering farming, agriculture, horticulture, or floriculture services for others are deemed engaged primarily in farming, agriculture, horticulture, or floriculture. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(o) To use or consume the thing transferred in acquiring, formatting, editing, storing, and disseminating data or information by electronic publishing;

(p) To provide the thing transferred to the owner or lessee of a motor vehicle that is being repaired or serviced, if the thing transferred is a rented motor vehicle and the purchaser is reimbursed for the cost of the rented motor vehicle by a manufacturer, warrantor, or provider of a maintenance, service, or other similar contract or agreement, with respect to the motor vehicle that is being repaired or serviced;

(q) To use or consume the thing transferred directly in production of crude oil and natural gas for sale. Persons engaged in rendering production services for others are deemed engaged in production.

As used in division (B) (42) (q) of this section, "production" means operations and tangible personal property directly used to expose and evaluate an underground reservoir that may contain hydrocarbon resources, prepare the wellbore for production, and lift and control all substances yielded by the reservoir to the surface of the earth.

(i) For the purposes of division (B) (42) (q) of this section, the "thing transferred" includes, but is not limited to, any of the following:	7061 7062 7063
(I) Services provided in the construction of permanent access roads, services provided in the construction of the well site, and services provided in the construction of temporary impoundments;	7064 7065 7066 7067
(II) Equipment and rigging used for the specific purpose of creating with integrity a wellbore pathway to underground reservoirs;	7068 7069 7070
(III) Drilling and workover services used to work within a subsurface wellbore, and tangible personal property directly used in providing such services;	7071 7072 7073
(IV) Casing, tubulars, and float and centralizing equipment;	7074 7075
(V) Trailers to which production equipment is attached;	7076
(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;	7077 7078 7079
(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;	7080 7081 7082
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	7083 7084 7085 7086
(IX) Pressure pumping equipment;	7087

(X) Artificial lift systems equipment;	7088
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	7089 7090 7091
(XII) Tangible personal property directly used to control production equipment.	7092 7093
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	7094 7095 7096
(I) Tangible personal property used primarily in the exploration and production of any mineral resource regulated under Chapter 1509. of the Revised Code other than oil or gas;	7097 7098 7099
(II) Tangible personal property used primarily in storing, holding, or delivering solutions or chemicals used in well stimulation as defined in section 1509.01 of the Revised Code;	7100 7101 7102
(III) Tangible personal property used primarily in preparing, installing, or reclaiming foundations for drilling or pumping equipment or well stimulation material tanks;	7103 7104 7105
(IV) Tangible personal property used primarily in transporting, delivering, or removing equipment to or from the well site or storing such equipment before its use at the well site;	7106 7107 7108 7109
(V) Tangible personal property used primarily in gathering operations occurring off the well site, including gathering pipelines transporting hydrocarbon gas or liquids away from a crude oil or natural gas production facility;	7110 7111 7112 7113
(VI) Tangible personal property that is to be incorporated into a structure or improvement to real property;	7114 7115

(VII) Well site fencing, lighting, or security systems;	7116
(VIII) Communication devices or services;	7117
(IX) Office supplies;	7118
(X) Trailers used as offices or lodging;	7119
(XI) Motor vehicles of any kind;	7120
(XII) Tangible personal property used primarily for the storage of drilling byproducts and fuel not used for production;	7121 7122
(XIII) Tangible personal property used primarily as a safety device;	7123 7124
(XIV) Data collection or monitoring devices;	7125
(XV) Access ladders, stairs, or platforms attached to storage tanks.	7126 7127
The enumeration of tangible personal property in division (B) (42) (q) (ii) of this section is not intended to be exhaustive, and any tangible personal property not so enumerated shall not necessarily be construed to be a "thing transferred" for the purposes of division (B) (42) (q) of this section.	7128 7129 7130 7131 7132
The commissioner shall adopt and promulgate rules under sections 119.01 to 119.13 of the Revised Code that the commissioner deems necessary to administer division (B) (42) (q) of this section.	7133 7134 7135 7136
As used in division (B) (42) of this section, "thing" includes all transactions included in divisions (B) (3) (a), (b), and (e) of section 5739.01 of the Revised Code.	7137 7138 7139
(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents	7140 7141 7142

or wax, to the consumer for the consumer's use on the premises 7143
in washing, cleaning, or waxing a motor vehicle, provided no 7144
other personal property or personal service is provided as part 7145
of the transaction. 7146

(44) Sales of replacement and modification parts for 7147
engines, airframes, instruments, and interiors in, and paint 7148
for, aircraft used primarily in a fractional aircraft ownership 7149
program, and sales of services for the repair, modification, and 7150
maintenance of such aircraft, and machinery, equipment, and 7151
supplies primarily used to provide those services. 7152

(45) Sales of telecommunications service that is used 7153
directly and primarily to perform the functions of a call 7154
center. As used in this division, "call center" means any 7155
physical location where telephone calls are placed or received 7156
in high volume for the purpose of making sales, marketing, 7157
customer service, technical support, or other specialized 7158
business activity, and that employs at least fifty individuals 7159
that engage in call center activities on a full-time basis, or 7160
sufficient individuals to fill fifty full-time equivalent 7161
positions. 7162

(46) Sales by a telecommunications service vendor of 900 7163
service to a subscriber. This division does not apply to 7164
information services. 7165

(47) Sales of value-added non-voice data service. This 7166
division does not apply to any similar service that is not 7167
otherwise a telecommunications service. 7168

(48) Sales of feminine hygiene products. 7169

(49) Sales of materials, parts, equipment, or engines used 7170
in the repair or maintenance of aircraft or avionics systems of 7171

such aircraft, and sales of repair, remodeling, replacement, or 7172
maintenance services in this state performed on aircraft or on 7173
an aircraft's avionics, engine, or component materials or parts. 7174
As used in division (B) (49) of this section, "aircraft" means 7175
aircraft of more than six thousand pounds maximum certified 7176
takeoff weight or used exclusively in general aviation. 7177

(50) Sales of full flight simulators that are used for 7178
pilot or flight-crew training, sales of repair or replacement 7179
parts or components, and sales of repair or maintenance services 7180
for such full flight simulators. "Full flight simulator" means a 7181
replica of a specific type, or make, model, and series of 7182
aircraft cockpit. It includes the assemblage of equipment and 7183
computer programs necessary to represent aircraft operations in 7184
ground and flight conditions, a visual system providing an out- 7185
of-the-cockpit view, and a system that provides cues at least 7186
equivalent to those of a three-degree-of-freedom motion system, 7187
and has the full range of capabilities of the systems installed 7188
in the device as described in appendices A and B of part 60 of 7189
chapter 1 of title 14 of the Code of Federal Regulations. 7190

(51) Any transfer or lease of tangible personal property 7191
between the state and JobsOhio in accordance with section 7192
4313.02 of the Revised Code. 7193

(52) (a) Sales to a qualifying corporation. 7194

(b) As used in division (B) (52) of this section: 7195

(i) "Qualifying corporation" means a nonprofit corporation 7196
organized in this state that leases from an eligible county 7197
land, buildings, structures, fixtures, and improvements to the 7198
land that are part of or used in a public recreational facility 7199
used by a major league professional athletic team or a class A 7200

to class AAA minor league affiliate of a major league 7201
professional athletic team for a significant portion of the 7202
team's home schedule, provided the following apply: 7203

(I) The facility is leased from the eligible county 7204
pursuant to a lease that requires substantially all of the 7205
revenue from the operation of the business or activity conducted 7206
by the nonprofit corporation at the facility in excess of 7207
operating costs, capital expenditures, and reserves to be paid 7208
to the eligible county at least once per calendar year. 7209

(II) Upon dissolution and liquidation of the nonprofit 7210
corporation, all of its net assets are distributable to the 7211
board of commissioners of the eligible county from which the 7212
corporation leases the facility. 7213

(ii) "Eligible county" has the same meaning as in section 7214
307.695 of the Revised Code. 7215

(53) Sales to or by a cable service provider, video 7216
service provider, or radio or television broadcast station 7217
regulated by the federal government of cable service or 7218
programming, video service or programming, audio service or 7219
programming, or electronically transferred digital audiovisual 7220
or audio work. As used in division (B) (53) of this section, 7221
"cable service" and "cable service provider" have the same 7222
meanings as in section 1332.01 of the Revised Code, and "video 7223
service," "video service provider," and "video programming" have 7224
the same meanings as in section 1332.21 of the Revised Code. 7225

(54) Sales of a digital audio work electronically 7226
transferred for delivery through use of a machine, such as a 7227
juke box, that does all of the following: 7228

(a) Accepts direct payments to operate; 7229

(b) Automatically plays a selected digital audio work for a single play upon receipt of a payment described in division (B) (54) (a) of this section;	7230 7231 7232
(c) Operates exclusively for the purpose of playing digital audio works in a commercial establishment.	7233 7234
(55) (a) Sales of the following occurring on the first Friday of August and the following Saturday and Sunday of each year, beginning in 2018:	7235 7236 7237
(i) An item of clothing, the price of which is seventy-five dollars or less;	7238 7239
(ii) An item of school supplies, the price of which is twenty dollars or less;	7240 7241
(iii) An item of school instructional material, the price of which is twenty dollars or less.	7242 7243
(b) As used in division (B) (55) of this section:	7244
(i) "Clothing" means all human wearing apparel suitable for general use. "Clothing" includes, but is not limited to, aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; diapers, children and adult, including disposable diapers; earmuffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed shoes; underwear; uniforms, athletic and nonathletic; and wedding apparel. "Clothing" does not include items purchased for use in a trade or business; clothing accessories or equipment; protective	7245 7246 7247 7248 7249 7250 7251 7252 7253 7254 7255 7256 7257 7258

equipment; sports or recreational equipment; belt buckles sold 7259
separately; costume masks sold separately; patches and emblems 7260
sold separately; sewing equipment and supplies including, but 7261
not limited to, knitting needles, patterns, pins, scissors, 7262
sewing machines, sewing needles, tape measures, and thimbles; 7263
and sewing materials that become part of "clothing" including, 7264
but not limited to, buttons, fabric, lace, thread, yarn, and 7265
zippers. 7266

(ii) "School supplies" means items commonly used by a 7267
student in a course of study. "School supplies" includes only 7268
the following items: binders; book bags; calculators; cellophane 7269
tape; blackboard chalk; compasses; composition books; crayons; 7270
erasers; folders, expandable, pocket, plastic, and manila; glue, 7271
paste, and paste sticks; highlighters; index cards; index card 7272
boxes; legal pads; lunch boxes; markers; notebooks; paper, 7273
loose-leaf ruled notebook paper, copy paper, graph paper, 7274
tracing paper, manila paper, colored paper, poster board, and 7275
construction paper; pencil boxes and other school supply boxes; 7276
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 7277
and writing tablets. "School supplies" does not include any item 7278
purchased for use in a trade or business. 7279

(iii) "School instructional material" means written 7280
material commonly used by a student in a course of study as a 7281
reference and to learn the subject being taught. "School 7282
instructional material" includes only the following items: 7283
reference books, reference maps and globes, textbooks, and 7284
workbooks. "School instructional material" does not include any 7285
material purchased for use in a trade or business. 7286

(56) (a) Sales of diapers or incontinence underpads sold 7287
pursuant to a prescription, for the benefit of a medicaid 7288

recipient with a diagnosis of incontinence, and by a medicaid 7289
provider that maintains a valid provider agreement under section 7290
5164.30 of the Revised Code with the department of medicaid, 7291
provided that the medicaid program covers diapers or 7292
incontinence underpads as an incontinence garment. 7293

(b) As used in division (B) (56) (a) of this section: 7294

(i) "Diaper" means an absorbent garment worn by humans who 7295
are incapable of, or have difficulty, controlling their bladder 7296
or bowel movements. 7297

(ii) "Incontinence underpad" means an absorbent product, 7298
not worn on the body, designed to protect furniture or other 7299
tangible personal property from soiling or damage due to human 7300
incontinence. 7301

(57) Sales of investment metal bullion and investment 7302
coins. "Investment metal bullion" means any bullion described in 7303
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 7304
whether that bullion is in the physical possession of a trustee. 7305
"Investment coin" means any coin composed primarily of gold, 7306
silver, platinum, or palladium. 7307

(C) For the purpose of the proper administration of this 7308
chapter, and to prevent the evasion of the tax, it is presumed 7309
that all sales made in this state are subject to the tax until 7310
the contrary is established. 7311

(D) The tax collected by the vendor from the consumer 7312
under this chapter is not part of the price, but is a tax 7313
collection for the benefit of the state, and of counties levying 7314
an additional sales tax pursuant to section 5739.021 or 5739.026 7315
of the Revised Code and of transit authorities levying an 7316
additional sales tax pursuant to section 5739.023 of the Revised 7317

Code. Except for the discount authorized under section 5739.12 7318
of the Revised Code and the effects of any rounding pursuant to 7319
section 5703.055 of the Revised Code, no person other than the 7320
state or such a county or transit authority shall derive any 7321
benefit from the collection or payment of the tax levied by this 7322
section or section 5739.021, 5739.023, or 5739.026 of the 7323
Revised Code. 7324

Sec. 5739.021. (A) For the purpose of providing additional 7325
general revenues for the county, supporting criminal and 7326
administrative justice services in the county, funding a 7327
regional transportation improvement project under section 7328
5595.06 of the Revised Code, or any combination of the 7329
foregoing, and to pay the expenses of administering such levy, 7330
any county may levy a tax at the rate of not more than one per 7331
cent upon every retail sale made in the county, except sales of 7332
watercraft and outboard motors required to be titled pursuant to 7333
Chapter 1548. of the Revised Code and sales of motor vehicles 7334
and marijuana, and may increase the rate of an existing tax to 7335
not more than one per cent. The rate of any tax levied pursuant 7336
to this section shall be a multiple of one-twentieth of one per 7337
cent. The rate levied under this section in any county other 7338
than a county that adopted a charter under Article X, Section 3, 7339
Ohio Constitution, may exceed one per cent, but may not exceed 7340
one and one-half per cent minus the amount by which the rate 7341
levied under section 5739.023 of the Revised Code by the county 7342
transit authority exceeds one per cent. 7343

The tax shall be levied and the rate increased pursuant to 7344
a resolution of the board of county commissioners. The 7345
resolution shall state the purpose for which the tax is to be 7346
levied and the number of years for which the tax is to be 7347
levied, or that it is for a continuing period of time. If the 7348

tax is to be levied for the purpose of providing additional 7349
general revenues and for the purpose of supporting criminal and 7350
administrative justice services, the resolution shall state the 7351
rate or amount of the tax to be apportioned to each such 7352
purpose. The rate or amount may be different for each year the 7353
tax is to be levied, but the rates or amounts actually 7354
apportioned each year shall not be different from that stated in 7355
the resolution for that year. Any amount by which the rate of 7356
the tax exceeds one per cent shall be apportioned exclusively 7357
for the construction, operation, acquisition, equipping, or 7358
repair of a detention facility in the county. 7359

If the resolution is adopted as an emergency measure 7360
necessary for the immediate preservation of the public peace, 7361
health, or safety, it must receive an affirmative vote of all of 7362
the members of the board of county commissioners and shall state 7363
the reasons for such necessity. The board shall deliver a 7364
certified copy of the resolution to the tax commissioner, not 7365
later than the sixty-fifth day prior to the date on which the 7366
tax is to become effective, which shall be the first day of the 7367
calendar quarter. A resolution proposing to levy a tax at a rate 7368
that would cause the rate levied under this section to exceed 7369
one per cent may not be adopted as an emergency measure. 7370

Prior to the adoption of any resolution under this 7371
section, the board of county commissioners shall conduct two 7372
public hearings on the resolution, the second hearing to be not 7373
less than three nor more than ten days after the first. Notice 7374
of the date, time, and place of the hearings shall be given by 7375
publication in a newspaper of general circulation in the county, 7376
or as provided in section 7.16 of the Revised Code, once a week 7377
on the same day of the week for two consecutive weeks, the 7378
second publication being not less than ten nor more than thirty 7379

days prior to the first hearing. 7380

Except as provided in division (B) (1) or (3) of this 7381
section, the resolution shall be subject to a referendum as 7382
provided in sections 305.31 to 305.41 of the Revised Code. 7383

If a petition for a referendum is filed, the county 7384
auditor with whom the petition was filed shall, within five 7385
days, notify the board of county commissioners and the tax 7386
commissioner of the filing of the petition by certified mail. If 7387
the board of elections with which the petition was filed 7388
declares the petition invalid, the board of elections, within 7389
five days, shall notify the board of county commissioners and 7390
the tax commissioner of that declaration by certified mail. If 7391
the petition is declared to be invalid, the effective date of 7392
the tax or increased rate of tax levied by this section shall be 7393
the first day of a calendar quarter following the expiration of 7394
sixty-five days from the date the commissioner receives notice 7395
from the board of elections that the petition is invalid. 7396

(B) (1) A resolution that is not adopted as an emergency 7397
measure may direct the board of elections to submit the question 7398
of levying the tax or increasing the rate of tax to the electors 7399
of the county at a special election held on the date specified 7400
by the board of county commissioners in the resolution, provided 7401
that the election occurs not less than ninety days after a 7402
certified copy of such resolution is transmitted to the board of 7403
elections and the election is not held in August of any year. A 7404
resolution proposing to levy a tax at a rate that would cause 7405
the rate levied under this section to exceed one per cent may 7406
not go into effect unless the question is submitted to electors 7407
under this division. Upon transmission of the resolution to the 7408
board of elections, the board of county commissioners shall 7409

notify the tax commissioner in writing of the levy question to 7410
be submitted to the electors. No resolution adopted under this 7411
division shall go into effect unless approved by a majority of 7412
those voting upon it, and, except as provided in division (B) (3) 7413
of this section, shall become effective on the first day of a 7414
calendar quarter following the expiration of sixty-five days 7415
from the date the tax commissioner receives notice from the 7416
board of elections of the affirmative vote. 7417

(2) A resolution that is adopted as an emergency measure 7418
shall go into effect as provided in division (A) of this 7419
section, but may direct the board of elections to submit the 7420
question of repealing the tax or increase in the rate of the tax 7421
to the electors of the county at the next general election in 7422
the county occurring not less than ninety days after a certified 7423
copy of the resolution is transmitted to the board of elections. 7424
Upon transmission of the resolution to the board of elections, 7425
the board of county commissioners shall notify the tax 7426
commissioner in writing of the levy question to be submitted to 7427
the electors. The ballot question shall be the same as that 7428
prescribed in section 5739.022 of the Revised Code. The board of 7429
elections shall notify the board of county commissioners and the 7430
tax commissioner of the result of the election immediately after 7431
the result has been declared. If a majority of the qualified 7432
electors voting on the question of repealing the tax or increase 7433
in the rate of the tax vote for repeal of the tax or repeal of 7434
the increase, the board of county commissioners, on the first 7435
day of a calendar quarter following the expiration of sixty-five 7436
days after the date the board and tax commissioner receive 7437
notice of the result of the election, shall, in the case of a 7438
repeal of the tax, cease to levy the tax, or, in the case of a 7439
repeal of an increase in the rate of the tax, cease to levy the 7440

increased rate and levy the tax at the rate at which it was 7441
imposed immediately prior to the increase in rate. 7442

(3) If a vendor makes a sale in this state by printed 7443
catalog and the consumer computed the tax on the sale based on 7444
local rates published in the catalog, any tax levied or repealed 7445
or rate changed under this section shall not apply to such a 7446
sale until the first day of a calendar quarter following the 7447
expiration of one hundred twenty days from the date of notice by 7448
the tax commissioner pursuant to division (H) of this section. 7449

(C) If a resolution is rejected at a referendum or if a 7450
resolution adopted after January 1, 1982, as an emergency 7451
measure is repealed by the electors pursuant to division (B) (2) 7452
of this section or section 5739.022 of the Revised Code, then 7453
for one year after the date of the election at which the 7454
resolution was rejected or repealed the board of county 7455
commissioners may not adopt any resolution authorized by this 7456
section as an emergency measure. 7457

(D) The board of county commissioners, at any time while a 7458
tax levied under this section is in effect, may by resolution 7459
reduce the rate at which the tax is levied to a lower rate 7460
authorized by this section. Any reduction in the rate at which 7461
the tax is levied shall be made effective on the first day of a 7462
calendar quarter next following the sixty-fifth day after a 7463
certified copy of the resolution is delivered to the tax 7464
commissioner. 7465

(E) The tax on every retail sale subject to a tax levied 7466
pursuant to this section shall be in addition to the tax levied 7467
by section 5739.02 of the Revised Code and any tax levied 7468
pursuant to section 5739.023 or 5739.026 of the Revised Code. 7469

A county that levies a tax pursuant to this section shall 7470
levy a tax at the same rate pursuant to section 5741.021 of the 7471
Revised Code. 7472

The additional tax levied by the county shall be collected 7473
pursuant to section 5739.025 of the Revised Code. If the 7474
additional tax or some portion thereof is levied for the purpose 7475
of criminal and administrative justice services or specifically 7476
for the purpose of constructing, operating, acquiring, 7477
equipping, or repairing a detention facility, the revenue from 7478
the tax, or the amount or rate apportioned to that purpose, 7479
shall be credited to one or more special funds created in the 7480
county treasury for receipt of that revenue. 7481

Any tax levied pursuant to this section is subject to the 7482
exemptions provided in section 5739.02 of the Revised Code and 7483
in addition shall not be applicable to sales not within the 7484
taxing power of a county under the Constitution of the United 7485
States or the Ohio Constitution. 7486

(F) For purposes of this section, a copy of a resolution 7487
is "certified" when it contains a written statement attesting 7488
that the copy is a true and exact reproduction of the original 7489
resolution. 7490

(G) If a board of commissioners intends to adopt a 7491
resolution to levy a tax in whole or in part for the purpose of 7492
criminal and administrative justice services, the board shall 7493
prepare and make available at the first public hearing at which 7494
the resolution is considered a statement containing the 7495
following information: 7496

(1) For each of the two preceding fiscal years, the amount 7497
of expenditures made by the county from the county general fund 7498

for the purpose of criminal and administrative justice services; 7499

(2) For the fiscal year in which the resolution is 7500
adopted, the board's estimate of the amount of expenditures to 7501
be made by the county from the county general fund for the 7502
purpose of criminal and administrative justice services; 7503

(3) For each of the two fiscal years after the fiscal year 7504
in which the resolution is adopted, the board's preliminary plan 7505
for expenditures to be made from the county general fund for the 7506
purpose of criminal and administrative justice services, both 7507
under the assumption that the tax will be imposed for that 7508
purpose and under the assumption that the tax would not be 7509
imposed for that purpose, and for expenditures to be made from 7510
the special fund created under division (E) of this section 7511
under the assumption that the tax will be imposed for that 7512
purpose. 7513

The board shall prepare the statement and the preliminary 7514
plan using the best information available to the board at the 7515
time the statement is prepared. Neither the statement nor the 7516
preliminary plan shall be used as a basis to challenge the 7517
validity of the tax in any court of competent jurisdiction, nor 7518
shall the statement or preliminary plan limit the authority of 7519
the board to appropriate, pursuant to section 5705.38 of the 7520
Revised Code, an amount different from that specified in the 7521
preliminary plan. 7522

(H) Upon receipt from a board of county commissioners of a 7523
certified copy of a resolution required by division (A) or (D) 7524
of this section, or from the board of elections of a notice of 7525
the results of an election required by division (A) or (B) (1) or 7526
(2) of this section, the tax commissioner shall provide notice 7527
of a tax rate change in a manner that is reasonably accessible 7528

to all affected vendors. The commissioner shall provide this 7529
notice at least sixty days prior to the effective date of the 7530
rate change. The commissioner, by rule, may establish the method 7531
by which notice will be provided. 7532

(I) As used in this section: 7533

(1) "Criminal and administrative justice services" means 7534
the exercise by the county sheriff of all powers and duties 7535
vested in that office by law; the exercise by the county 7536
prosecuting attorney of all powers and duties vested in that 7537
office by law; the exercise by any court in the county of all 7538
powers and duties vested in that court; the exercise by the 7539
clerk of the court of common pleas, any clerk of a municipal 7540
court having jurisdiction throughout the county, or the clerk of 7541
any county court of all powers and duties vested in the clerk by 7542
law except, in the case of the clerk of the court of common 7543
pleas, the titling of motor vehicles or watercraft pursuant to 7544
Chapter 1548. or 4505. of the Revised Code; the exercise by the 7545
county coroner of all powers and duties vested in that office by 7546
law; making payments to any other public agency or a private, 7547
nonprofit agency, the purposes of which in the county include 7548
the diversion, adjudication, detention, or rehabilitation of 7549
criminals or juvenile offenders; the operation and maintenance 7550
of any detention facility; and the construction, acquisition, 7551
equipping, or repair of such a detention facility. 7552

(2) "Detention facility" has the same meaning as in 7553
section 2921.01 of the Revised Code. 7554

(3) "Construction, operation, acquisition, equipping, or 7555
repair" of a detention facility includes the payment of any debt 7556
charges incurred in the issuance of securities pursuant to 7557
Chapter 133. of the Revised Code for the purpose of 7558

constructing, acquiring, equipping, or repairing such a 7559
facility. 7560

Sec. 5739.023. (A) (1) For the purpose of providing 7561
additional general revenues for a transit authority, funding a 7562
regional transportation improvement project under section 7563
5595.06 of the Revised Code, or funding public infrastructure 7564
projects as described in section 306.353 of the Revised Code, 7565
and to pay the expenses of administering such levy, any transit 7566
authority may levy a tax upon every retail sale made in the 7567
territory of the transit authority, except sales of watercraft 7568
and outboard motors required to be titled pursuant to Chapter 7569
1548. of the Revised Code and sales of motor vehicles and 7570
marijuana, and may increase the rate of an existing tax. The 7571
rate of any tax levied pursuant to this section shall be a 7572
multiple of one-twentieth of one per cent. The rate shall not 7573
exceed one and one-half per cent minus the amount by which the 7574
rate levied under section 5739.021 of the Revised Code by a 7575
county located in the territory of the transit authority exceeds 7576
one per cent. The tax shall be levied and the rate increased 7577
pursuant to a resolution of the legislative authority of the 7578
transit authority and a certified copy of the resolution shall 7579
be delivered by the fiscal officer to the board of elections as 7580
provided in section 3505.071 of the Revised Code and to the tax 7581
commissioner. The resolution shall specify the number of years 7582
for which the tax is to be in effect or that the tax is for a 7583
continuing period of time, the purpose or purposes of the levy, 7584
and the date of the election on the question of the tax pursuant 7585
to section 306.70 of the Revised Code. The board of elections 7586
shall certify the results of the election to the transit 7587
authority and tax commissioner. 7588

A resolution adopted under this section may not specify 7589

that the sole purpose of the tax is to fund infrastructure 7590
projects as described in section 306.353 of the Revised Code; 7591
that purpose must be combined with the purpose of providing 7592
additional general revenues for the transit authority, funding a 7593
regional transportation improvement project under section 7594
5595.06 of the Revised Code, or both. The resolution may specify 7595
the percentage of the proceeds of the tax that will be allocated 7596
among each of the purposes for which the tax is to be levied. If 7597
one of the purposes of the tax is to provide general revenue for 7598
the transit authority, the resolution may identify specific 7599
projects, functions, or other uses to which that general revenue 7600
will be allocated and the percentage of the tax proceeds to be 7601
allocated to each of those projects, functions, or other uses. 7602

(2) Except as provided in division (C) of this section, 7603
the tax levied by the resolution shall become effective on the 7604
first day of a calendar quarter next following the sixty-fifth 7605
day following the date the tax commissioner receives from the 7606
board of elections the certification of the results of the 7607
election on the question of the tax. 7608

(B) The legislative authority may, at any time while the 7609
tax is in effect, by resolution fix the rate of the tax at any 7610
rate authorized by this section and not in excess of that 7611
approved by the voters pursuant to section 306.70 of the Revised 7612
Code. Except as provided in division (C) of this section, any 7613
change in the rate of the tax shall be made effective on the 7614
first day of a calendar quarter next following the sixty-fifth 7615
day following the date the tax commissioner receives the 7616
certification of the resolution; provided, that in any case 7617
where bonds, or notes in anticipation of bonds, of a regional 7618
transit authority have been issued under section 306.40 of the 7619
Revised Code without a vote of the electors while the tax 7620

proposed to be reduced was in effect, the board of trustees of 7621
the regional transit authority shall continue to levy and 7622
collect under authority of the original election authorizing the 7623
tax a rate of tax that the board of trustees reasonably 7624
estimates will produce an amount in that year equal to the 7625
amount of principal of and interest on those bonds as is payable 7626
in that year. 7627

(C) Upon receipt from the board of elections of the 7628
certification of the results of the election required by 7629
division (A) of this section, or from the legislative authority 7630
of the certification of a resolution under division (B) of this 7631
section, the tax commissioner shall provide notice of a tax rate 7632
change in a manner that is reasonably accessible to all affected 7633
vendors. The commissioner shall provide this notice at least 7634
sixty days prior to the effective date of the rate change. The 7635
commissioner, by rule, may establish the method by which notice 7636
will be provided. 7637

(D) If a vendor makes a sale in this state by printed 7638
catalog and the consumer computed the tax on the sale based on 7639
local rates published in the catalog, any tax levied or rate 7640
changed under this section shall not apply to such a sale until 7641
the first day of a calendar quarter following the expiration of 7642
one hundred twenty days from the date of notice by the tax 7643
commissioner pursuant to division (C) of this section. 7644

(E) The tax on every retail sale subject to a tax levied 7645
pursuant to this section is in addition to the tax levied by 7646
section 5739.02 of the Revised Code and any tax levied pursuant 7647
to section 5739.021 or 5739.026 of the Revised Code. 7648

(F) The additional tax levied by the transit authority 7649
shall be collected pursuant to section 5739.025 of the Revised 7650

Code. 7651

(G) Any tax levied pursuant to this section is subject to 7652
the exemptions provided in section 5739.02 of the Revised Code 7653
and in addition shall not be applicable to sales not within the 7654
taxing power of a transit authority under the constitution of 7655
the United States or the constitution of this state. 7656

(H) The rate of a tax levied under this section is subject 7657
to reduction under section 5739.028 of the Revised Code, if a 7658
ballot question is approved by voters pursuant to that section. 7659

Sec. 5739.026. (A) A board of county commissioners may 7660
levy a tax on every retail sale in the county, except sales of 7661
watercraft and outboard motors required to be titled pursuant to 7662
Chapter 1548. of the Revised Code and sales of motor vehicles 7663
and marijuana, at a rate of not more than one-half of one per 7664
cent and may increase the rate of an existing tax to not more 7665
than one-half of one per cent to pay the expenses of 7666
administering the tax and, except as provided in division (A) (6) 7667
of this section, for any one or more of the following purposes 7668
provided that the aggregate levy for all such purposes does not 7669
exceed one-half of one per cent: 7670

(1) To provide additional revenues for the payment of 7671
bonds or notes issued in anticipation of bonds issued by a 7672
convention facilities authority established by the board of 7673
county commissioners under Chapter 351. of the Revised Code and 7674
to provide additional operating revenues for the convention 7675
facilities authority; 7676

(2) To provide additional revenues for a transit authority 7677
operating in the county; 7678

(3) To provide additional revenue for the county's general 7679

fund; 7680

(4) To provide additional revenue for permanent 7681
improvements to be distributed by the community improvements 7682
board in accordance with section 307.283 and to pay principal, 7683
interest, and premium on bonds issued under section 307.284 of 7684
the Revised Code; 7685

(5) To provide additional revenue for the acquisition, 7686
construction, equipping, or repair of any specific permanent 7687
improvement or any class or group of permanent improvements, 7688
which improvement or class or group of improvements shall be 7689
enumerated in the resolution required by division (D) of this 7690
section, and to pay principal, interest, premium, and other 7691
costs associated with the issuance of bonds or notes in 7692
anticipation of bonds issued pursuant to Chapter 133. of the 7693
Revised Code for the acquisition, construction, equipping, or 7694
repair of the specific permanent improvement or class or group 7695
of permanent improvements; 7696

(6) To provide revenue for the implementation and 7697
operation of a 9-1-1 system in the county. If the tax is levied 7698
or the rate increased exclusively for such purpose, the tax 7699
shall not be levied or the rate increased for more than five 7700
years. At the end of the last year the tax is levied or the rate 7701
increased, any balance remaining in the special fund established 7702
for such purpose shall remain in that fund and be used 7703
exclusively for such purpose until the fund is completely 7704
expended, and, notwithstanding section 5705.16 of the Revised 7705
Code, the board of county commissioners shall not petition for 7706
the transfer of money from such special fund, and the tax 7707
commissioner shall not approve such a petition. 7708

If the tax is levied or the rate increased for such 7709

purpose for more than five years, the board of county 7710
commissioners also shall levy the tax or increase the rate of 7711
the tax for one or more of the purposes described in divisions 7712
(A) (1) to (5) of this section and shall prescribe the method for 7713
allocating the revenues from the tax each year in the manner 7714
required by division (C) of this section. 7715

(7) To provide additional revenue for the operation or 7716
maintenance of a detention facility, as that term is defined 7717
under division (F) of section 2921.01 of the Revised Code; 7718

(8) To provide revenue to finance the construction or 7719
renovation of a sports facility, but only if the tax is levied 7720
for that purpose in the manner prescribed by section 5739.028 of 7721
the Revised Code. 7722

As used in division (A) (8) of this section: 7723

(a) "Sports facility" means a facility intended to house 7724
major league professional athletic teams. 7725

(b) "Constructing" or "construction" includes providing 7726
fixtures, furnishings, and equipment. 7727

(9) To provide additional revenue for the acquisition of 7728
agricultural easements, as defined in section 5301.67 of the 7729
Revised Code; to pay principal, interest, and premium on bonds 7730
issued under section 133.60 of the Revised Code; and for the 7731
supervision and enforcement of agricultural easements held by 7732
the county; 7733

(10) To provide revenue for the provision of ambulance, 7734
paramedic, or other emergency medical services; 7735

(11) To provide revenue for the operation of a lake 7736
facilities authority and the remediation of an impacted 7737

watershed by a lake facilities authority, as provided in Chapter 7738
353. of the Revised Code; 7739

(12) To provide additional revenue for a regional 7740
transportation improvement project under section 5595.06 of the 7741
Revised Code. 7742

Pursuant to section 755.171 of the Revised Code, a board 7743
of county commissioners may pledge and contribute revenue from a 7744
tax levied for the purpose of division (A)(5) of this section to 7745
the payment of debt charges on bonds issued under section 755.17 7746
of the Revised Code. 7747

The rate of tax shall be a multiple of one-twentieth of 7748
one per cent, unless a portion of the rate of an existing tax 7749
levied under section 5739.023 of the Revised Code has been 7750
reduced, and the rate of tax levied under this section has been 7751
increased, pursuant to section 5739.028 of the Revised Code, in 7752
which case the aggregate of the rates of tax levied under this 7753
section and section 5739.023 of the Revised Code shall be a 7754
multiple of one-twentieth of one per cent. 7755

The tax shall be levied and the rate increased pursuant to 7756
a resolution adopted by a majority of the members of the board. 7757
The board shall deliver a certified copy of the resolution to 7758
the tax commissioner, not later than the sixty-fifth day prior 7759
to the date on which the tax is to become effective, which shall 7760
be the first day of a calendar quarter. 7761

Prior to the adoption of any resolution to levy the tax or 7762
to increase the rate of tax exclusively for the purpose set 7763
forth in division (A)(3) of this section, the board of county 7764
commissioners shall conduct two public hearings on the 7765
resolution, the second hearing to be no fewer than three nor 7766

more than ten days after the first. Notice of the date, time, 7767
and place of the hearings shall be given by publication in a 7768
newspaper of general circulation in the county, or as provided 7769
in section 7.16 of the Revised Code, once a week on the same day 7770
of the week for two consecutive weeks. The second publication 7771
shall be no fewer than ten nor more than thirty days prior to 7772
the first hearing. Except as provided in division (E) of this 7773
section, the resolution shall be subject to a referendum as 7774
provided in sections 305.31 to 305.41 of the Revised Code. If 7775
the resolution is adopted as an emergency measure necessary for 7776
the immediate preservation of the public peace, health, or 7777
safety, it must receive an affirmative vote of all of the 7778
members of the board of county commissioners and shall state the 7779
reasons for the necessity. 7780

If the tax is for more than one of the purposes set forth 7781
in divisions (A)(1) to (7), (9), (10), and (12) of this section, 7782
or is exclusively for one of the purposes set forth in division 7783
(A)(1), (2), (4), (5), (6), (7), (9), (10), or (12) of this 7784
section, the resolution shall not go into effect unless it is 7785
approved by a majority of the electors voting on the question of 7786
the tax. 7787

(B) The board of county commissioners shall adopt a 7788
resolution under section 351.02 of the Revised Code creating the 7789
convention facilities authority, or under section 307.283 of the 7790
Revised Code creating the community improvements board, before 7791
adopting a resolution levying a tax for the purpose of a 7792
convention facilities authority under division (A)(1) of this 7793
section or for the purpose of a community improvements board 7794
under division (A)(4) of this section. 7795

(C)(1) If the tax is to be used for more than one of the 7796

purposes set forth in divisions (A) (1) to (7), (9), (10), and 7797
(12) of this section, the board of county commissioners shall 7798
establish the method that will be used to determine the amount 7799
or proportion of the tax revenue received by the county during 7800
each year that will be distributed for each of those purposes, 7801
including, if applicable, provisions governing the reallocation 7802
of a convention facilities authority's allocation if the 7803
authority is dissolved while the tax is in effect. The 7804
allocation method may provide that different proportions or 7805
amounts of the tax shall be distributed among the purposes in 7806
different years, but it shall clearly describe the method that 7807
will be used for each year. Except as otherwise provided in 7808
division (C) (2) of this section, the allocation method 7809
established by the board is not subject to amendment during the 7810
life of the tax. 7811

(2) Subsequent to holding a public hearing on the proposed 7812
amendment, the board of county commissioners may amend the 7813
allocation method established under division (C) (1) of this 7814
section for any year, if the amendment is approved by the 7815
governing board of each entity whose allocation for the year 7816
would be reduced by the proposed amendment. In the case of a tax 7817
that is levied for a continuing period of time, the board may 7818
not so amend the allocation method for any year before the sixth 7819
year that the tax is in effect. 7820

(a) If the additional revenues provided to the convention 7821
facilities authority are pledged by the authority for the 7822
payment of convention facilities authority revenue bonds for as 7823
long as such bonds are outstanding, no reduction of the 7824
authority's allocation of the tax shall be made for any year 7825
except to the extent that the reduced authority allocation, when 7826
combined with the authority's other revenues pledged for that 7827

purpose, is sufficient to meet the debt service requirements for 7828
that year on such bonds. 7829

(b) If the additional revenues provided to the county are 7830
pledged by the county for the payment of bonds or notes 7831
described in division (A) (4) or (5) of this section, for as long 7832
as such bonds or notes are outstanding, no reduction of the 7833
county's or the community improvements board's allocation of the 7834
tax shall be made for any year, except to the extent that the 7835
reduced county or community improvements board allocation is 7836
sufficient to meet the debt service requirements for that year 7837
on such bonds or notes. 7838

(c) If the additional revenues provided to the transit 7839
authority are pledged by the authority for the payment of 7840
revenue bonds issued under section 306.37 of the Revised Code, 7841
for as long as such bonds are outstanding, no reduction of the 7842
authority's allocation of tax shall be made for any year, except 7843
to the extent that the authority's reduced allocation, when 7844
combined with the authority's other revenues pledged for that 7845
purpose, is sufficient to meet the debt service requirements for 7846
that year on such bonds. 7847

(d) If the additional revenues provided to the county are 7848
pledged by the county for the payment of bonds or notes issued 7849
under section 133.60 of the Revised Code, for so long as the 7850
bonds or notes are outstanding, no reduction of the county's 7851
allocation of the tax shall be made for any year, except to the 7852
extent that the reduced county allocation is sufficient to meet 7853
the debt service requirements for that year on the bonds or 7854
notes. 7855

(D) (1) The resolution levying the tax or increasing the 7856
rate of tax shall state the rate of the tax or the rate of the 7857

increase; the purpose or purposes for which it is to be levied; 7858
the number of years for which it is to be levied or that it is 7859
for a continuing period of time; the allocation method required 7860
by division (C) of this section; and if required to be submitted 7861
to the electors of the county under division (A) of this 7862
section, the date of the election at which the proposal shall be 7863
submitted to the electors of the county, which shall be not less 7864
than ninety days after the certification of a copy of the 7865
resolution to the board of elections and, if the tax is to be 7866
levied exclusively for the purpose set forth in division (A) (3) 7867
of this section, shall not occur in August of any year. Upon 7868
certification of the resolution to the board of elections, the 7869
board of county commissioners shall notify the tax commissioner 7870
in writing of the levy question to be submitted to the electors. 7871
If approved by a majority of the electors, the tax shall become 7872
effective on the first day of a calendar quarter next following 7873
the sixty-fifth day following the date the board of county 7874
commissioners and tax commissioner receive from the board of 7875
elections the certification of the results of the election, 7876
except as provided in division (E) of this section. 7877

(2) (a) A resolution specifying that the tax is to be used 7878
exclusively for the purpose set forth in division (A) (3) of this 7879
section that is not adopted as an emergency measure may direct 7880
the board of elections to submit the question of levying the tax 7881
or increasing the rate of the tax to the electors of the county 7882
at a special election held on the date specified by the board of 7883
county commissioners in the resolution, provided that the 7884
election occurs not less than ninety days after the resolution 7885
is certified to the board of elections and the election is not 7886
held in August of any year. Upon certification of the resolution 7887
to the board of elections, the board of county commissioners 7888

shall notify the tax commissioner in writing of the levy 7889
question to be submitted to the electors. No resolution adopted 7890
under division (D) (2) (a) of this section shall go into effect 7891
unless approved by a majority of those voting upon it and, 7892
except as provided in division (E) of this section, not until 7893
the first day of a calendar quarter following the expiration of 7894
sixty-five days from the date the tax commissioner receives 7895
notice from the board of elections of the affirmative vote. 7896

(b) A resolution specifying that the tax is to be used 7897
exclusively for the purpose set forth in division (A) (3) of this 7898
section that is adopted as an emergency measure shall become 7899
effective as provided in division (A) of this section, but may 7900
direct the board of elections to submit the question of 7901
repealing the tax or increase in the rate of the tax to the 7902
electors of the county at the next general election in the 7903
county occurring not less than ninety days after the resolution 7904
is certified to the board of elections. Upon certification of 7905
the resolution to the board of elections, the board of county 7906
commissioners shall notify the tax commissioner in writing of 7907
the levy question to be submitted to the electors. The ballot 7908
question shall be the same as that prescribed in section 7909
5739.022 of the Revised Code. The board of elections shall 7910
notify the board of county commissioners and the tax 7911
commissioner of the result of the election immediately after the 7912
result has been declared. If a majority of the qualified 7913
electors voting on the question of repealing the tax or increase 7914
in the rate of the tax vote for repeal of the tax or repeal of 7915
the increase, the board of county commissioners, on the first 7916
day of a calendar quarter following the expiration of sixty-five 7917
days after the date the board and tax commissioner received 7918
notice of the result of the election, shall, in the case of a 7919

repeal of the tax, cease to levy the tax, or, in the case of a 7920
repeal of an increase in the rate of the tax, cease to levy the 7921
increased rate and levy the tax at the rate at which it was 7922
imposed immediately prior to the increase in rate. 7923

(c) A board of county commissioners, by resolution, may 7924
reduce the rate of a tax levied exclusively for the purpose set 7925
forth in division (A) (3) of this section to a lower rate 7926
authorized by this section. Any such reduction shall be made 7927
effective on the first day of the calendar quarter next 7928
following the sixty-fifth day after the tax commissioner 7929
receives a certified copy of the resolution from the board. 7930

(E) If a vendor makes a sale in this state by printed 7931
catalog and the consumer computed the tax on the sale based on 7932
local rates published in the catalog, any tax levied or repealed 7933
or rate changed under this section shall not apply to such a 7934
sale until the first day of a calendar quarter following the 7935
expiration of one hundred twenty days from the date of notice by 7936
the tax commissioner pursuant to division (G) of this section. 7937

(F) The tax levied pursuant to this section shall be in 7938
addition to the tax levied by section 5739.02 of the Revised 7939
Code and any tax levied pursuant to section 5739.021 or 5739.023 7940
of the Revised Code. 7941

A county that levies a tax pursuant to this section shall 7942
levy a tax at the same rate pursuant to section 5741.023 of the 7943
Revised Code. 7944

The additional tax levied by the county shall be collected 7945
pursuant to section 5739.025 of the Revised Code. 7946

Any tax levied pursuant to this section is subject to the 7947
exemptions provided in section 5739.02 of the Revised Code and 7948

in addition shall not be applicable to sales not within the 7949
taxing power of a county under the Constitution of the United 7950
States or the Ohio Constitution. 7951

(G) Upon receipt from a board of county commissioners of a 7952
certified copy of a resolution required by division (A) of this 7953
section, or from the board of elections a notice of the results 7954
of an election required by division (D) (1), (2) (a), (b), or (c) 7955
of this section, the tax commissioner shall provide notice of a 7956
tax rate change in a manner that is reasonably accessible to all 7957
affected vendors. The commissioner shall provide this notice at 7958
least sixty days prior to the effective date of the rate change. 7959
The commissioner, by rule, may establish the method by which 7960
notice will be provided. 7961

Sec. 5739.21. (A) One hundred per cent of all money 7962
deposited into the state treasury under sections 5739.01 to 7963
5739.31 of the Revised Code that is not required to be 7964
distributed as provided in section 5739.102 or 5739.214 of the 7965
Revised Code or division (B) of this section shall be credited 7966
to the general revenue fund. 7967

(B) (1) In any case where any county or transit authority 7968
has levied a tax or taxes pursuant to section 5739.021, 7969
5739.023, or 5739.026 of the Revised Code, the tax commissioner 7970
shall, within forty-five days after the end of each month, 7971
determine and certify to the director of budget and management 7972
the amount of the proceeds of such tax or taxes received during 7973
that month from billings and assessments, or associated with tax 7974
returns or reports filed during that month, to be returned to 7975
the county or transit authority levying the tax or taxes. The 7976
amount to be returned to each county and transit authority shall 7977
be a fraction of the aggregate amount of money collected with 7978

respect to each area in which one or more of such taxes are 7979
concurrently in effect with the tax levied by section 5739.02 of 7980
the Revised Code. The numerator of the fraction is the rate of 7981
the tax levied by the county or transit authority and the 7982
denominator of the fraction is the aggregate rate of such taxes 7983
applicable to such area. The amount to be returned to each 7984
county or transit authority shall be reduced by the amount of 7985
any refunds of county or transit authority tax paid pursuant to 7986
section 5739.07 of the Revised Code during the same month, or 7987
transfers made pursuant to division (B) (2) of section 5703.052 7988
of the Revised Code. 7989

(2) On a periodic basis, using the best information 7990
available, the tax commissioner shall distribute any amount of a 7991
county or transit authority tax that cannot be distributed under 7992
division (B) (1) of this section. Through audit or other means, 7993
the commissioner shall attempt to obtain the information 7994
necessary to make the distribution as provided under that 7995
division and, on receipt of that information, shall make 7996
adjustments to distributions previously made under this 7997
division. 7998

(3) Eight and thirty-three one-hundredths of one per cent 7999
of the revenue collected from the tax due under division (A) of 8000
section 5739.029 of the Revised Code shall be distributed to the 8001
county where the sale of the motor vehicle is situated under 8002
section 5739.033 of the Revised Code. The amount to be so 8003
distributed to the county shall be apportioned on the basis of 8004
the rates of taxes the county levies pursuant to sections 8005
5739.021 and 5739.026 of the Revised Code, as applicable, and 8006
shall be credited to the funds of the county as provided in 8007
divisions (A) and (B) of section 5739.211 of the Revised Code. 8008

(C) The aggregate amount to be returned to any county or transit authority shall be reduced by one per cent, which shall be certified directly to the credit of the local sales tax administrative fund, which is hereby created in the state treasury. For the purpose of determining the amount to be returned to a county and transit authority in which the rate of tax imposed by the transit authority has been reduced under section 5739.028 of the Revised Code, the tax commissioner shall use the respective rates of tax imposed by the county or transit authority that results from the change in the rates authorized under that section.

(D) The director of budget and management shall transfer, from the same funds and in the same proportions specified in division (A) of this section, to the permissive tax distribution fund created by division (B) (1) of section 4301.423 of the Revised Code and to the local sales tax administrative fund, the amounts certified by the tax commissioner. The tax commissioner shall then, on or before the twentieth day of the month in which such certification is made, provide for payment of such respective amounts to the county treasurer and to the fiscal officer of the transit authority levying the tax or taxes. The amount transferred to the local sales tax administrative fund is for use by the tax commissioner in defraying costs incurred in administering such taxes levied by a county or transit authority.

Sec. 5739.214. (A) For the purpose of receiving, distributing, and accounting for amounts collected from the tax imposed under section 5739.02 of the Revised Code from the sale of marijuana and under section 5741.02 of the Revised Code from the storage, use, or other consumption of marijuana, the following funds are created in the state treasury:

<u>(1) The marijuana receipts fund;</u>	8040
<u>(2) The illegal drug trafficking enforcement fund, which</u>	8041
<u>the department of public safety shall use to combat illegal drug</u>	8042
<u>trafficking in this state;</u>	8043
<u>(3) The chemical dependency rehabilitation fund, which the</u>	8044
<u>department of mental health and addiction services shall use to</u>	8045
<u>assist individuals in this state suffering from chemical</u>	8046
<u>dependency or substance abuse.</u>	8047
<u>(B) All of the following shall be deposited into the</u>	8048
<u>marijuana receipts fund:</u>	8049
<u>(1) All amounts collected from the tax levied under</u>	8050
<u>section 5739.02 of the Revised Code from the sale of marijuana;</u>	8051
<u>(2) All amounts collected from the tax levied under</u>	8052
<u>section 5741.02 of the Revised Code from the storage, use, or</u>	8053
<u>other consumption of marijuana.</u>	8054
<u>(C) From the marijuana receipts fund, the director of</u>	8055
<u>budget and management shall transfer as needed to the tax refund</u>	8056
<u>fund amounts equal to the refunds certified by the tax</u>	8057
<u>commissioner under sections 5739.07 and 5741.10 of the Revised</u>	8058
<u>Code of any amounts described in division (B) of this section.</u>	8059
<u>(D) After making any transfers required by divisions (C)</u>	8060
<u>of this section, but not later than the fifteenth day of each</u>	8061
<u>month, the director of budget and management shall credit all</u>	8062
<u>amounts remaining in the marijuana receipts fund as follows:</u>	8063
<u>(1) Fifty per cent to the general revenue fund;</u>	8064
<u>(2) Twenty-five per cent to the illegal drug trafficking</u>	8065
<u>enforcement fund;</u>	8066

(3) Twenty-five per cent to the chemical dependency 8067
rehabilitation fund. 8068

(E) All investment earnings of funds created in this 8069
section shall be credited back to them. 8070

Sec. 5741.01. As used in this chapter: 8071

(A) "Person" includes individuals, receivers, assignees, 8072
trustees in bankruptcy, estates, firms, partnerships, 8073
associations, joint-stock companies, joint ventures, clubs, 8074
societies, corporations, business trusts, governments, and 8075
combinations of individuals of any form. 8076

(B) "Storage" means and includes any keeping or retention 8077
in this state for use or other consumption in this state. 8078

(C) "Use" means and includes the exercise of any right or 8079
power incidental to the ownership of the thing used. A thing is 8080
also "used" in this state if its consumer gives or otherwise 8081
distributes it, without charge, to recipients in this state. 8082

(D) "Purchase" means acquired or received for a 8083
consideration, whether such acquisition or receipt was effected 8084
by a transfer of title, or of possession, or of both, or a 8085
license to use or consume; whether such transfer was absolute or 8086
conditional, and by whatever means the transfer was effected; 8087
and whether the consideration was money, credit, barter, or 8088
exchange. Purchase includes production, even though the article 8089
produced was used, stored, or consumed by the producer. The 8090
transfer of copyrighted motion picture films for exhibition 8091
purposes is not a purchase, except such films as are used solely 8092
for advertising purposes. 8093

(E) "Seller" means the person from whom a purchase is 8094
made, and includes every person engaged in this state or 8095

elsewhere in the business of selling tangible personal property 8096
or providing a service for storage, use, or other consumption or 8097
benefit in this state; and when, in the opinion of the tax 8098
commissioner, it is necessary for the efficient administration 8099
of this chapter, to regard any salesperson, representative, 8100
peddler, or canvasser as the agent of a dealer, distributor, 8101
supervisor, or employer under whom the person operates, or from 8102
whom the person obtains tangible personal property, sold by the 8103
person for storage, use, or other consumption in this state, 8104
irrespective of whether or not the person is making such sales 8105
on the person's own behalf, or on behalf of such dealer, 8106
distributor, supervisor, or employer, the commissioner may 8107
regard the person as such agent, and may regard such dealer, 8108
distributor, supervisor, or employer as the seller. A 8109
marketplace facilitator shall be treated as the "seller" with 8110
respect to all sales facilitated by the marketplace facilitator 8111
on behalf of one or more marketplace sellers on and after the 8112
first day of the first month that begins at least thirty days 8113
after the marketplace facilitator first has substantial nexus 8114
with this state. Otherwise, "seller" does not include any person 8115
to the extent the person provides a communications medium, such 8116
as, but not limited to, newspapers, magazines, radio, 8117
television, or cable television, by means of which sellers 8118
solicit purchases of their goods or services. 8119

(F) "Consumer" means any person who has purchased tangible 8120
personal property or has been provided a service for storage, 8121
use, or other consumption or benefit in this state. "Consumer" 8122
does not include a person who receives, without charge, tangible 8123
personal property or a service. 8124

A person who performs a facility management or similar 8125
service contract for a contractee is a consumer of all tangible 8126

personal property and services purchased for use in connection 8127
with the performance of such contract, regardless of whether 8128
title to any such property vests in the contractee. The purchase 8129
of such property and services is not subject to the exception 8130
for resale under division (E) of section 5739.01 of the Revised 8131
Code. 8132

(G) (1) "Price," except as provided in divisions (G) (2) to 8133
(6) of this section, has the same meaning as in division (H) (1) 8134
of section 5739.01 of the Revised Code. 8135

(2) In the case of watercraft, outboard motors, or new 8136
motor vehicles, "price" has the same meaning as in divisions (H) 8137
(2) and (3) of section 5739.01 of the Revised Code. 8138

(3) In the case of a nonresident business consumer that 8139
purchases and uses tangible personal property outside this state 8140
and subsequently temporarily stores, uses, or otherwise consumes 8141
such tangible personal property in the conduct of business in 8142
this state, the consumer or the tax commissioner may determine 8143
the price based on the value of the temporary storage, use, or 8144
other consumption, in lieu of determining the price pursuant to 8145
division (G) (1) of this section. A price determination made by 8146
the consumer is subject to review and redetermination by the 8147
commissioner. 8148

(4) In the case of tangible personal property held in this 8149
state as inventory for sale or lease, and that is temporarily 8150
stored, used, or otherwise consumed in a taxable manner, the 8151
price is the value of the temporary use. A price determination 8152
made by the consumer is subject to review and redetermination by 8153
the commissioner. 8154

(5) In the case of tangible personal property originally 8155

purchased and used by the consumer outside this state, and that 8156
becomes permanently stored, used, or otherwise consumed in this 8157
state more than six months after its acquisition by the 8158
consumer, the consumer or the commissioner may determine the 8159
price based on the current value of such tangible personal 8160
property, in lieu of determining the price pursuant to division 8161
(G) (1) of this section. A price determination made by the 8162
consumer is subject to review and redetermination by the 8163
commissioner. 8164

(6) If a consumer produces tangible personal property for 8165
sale and removes that property from inventory for the consumer's 8166
own use, the price is the produced cost of that tangible 8167
personal property. 8168

(H) "Nexus with this state" means that the seller engages 8169
in continuous and widespread solicitation of purchases from 8170
residents of this state or otherwise purposefully directs its 8171
business activities at residents of this state. 8172

(I) (1) "Substantial nexus with this state" means that the 8173
seller has sufficient contact with this state, in accordance 8174
with Section 8 of Article I of the Constitution of the United 8175
States, to allow the state to require the seller to collect and 8176
remit use tax on sales of tangible personal property or services 8177
made to consumers in this state. 8178

(2) "Substantial nexus with this state" is presumed to 8179
exist when the seller does any of the following: 8180

(a) Uses an office, distribution facility, warehouse, 8181
storage facility, or similar place of business within this 8182
state, whether operated by the seller or any other person, other 8183
than a common carrier acting in its capacity as a common 8184

carrier. 8185

(b) Regularly uses employees, agents, representatives, 8186
solicitors, installers, repairers, salespersons, or other 8187
persons in this state for the purpose of conducting the business 8188
of the seller or either to engage in a business with the same or 8189
a similar industry classification as the seller selling a 8190
similar product or line of products as the seller, or to use 8191
trademarks, service marks, or trade names in this state that are 8192
the same or substantially similar to those used by the seller. 8193

(c) Uses any person, other than a common carrier acting in 8194
its capacity as a common carrier, in this state for any of the 8195
following purposes: 8196

(i) Receiving or processing orders of the seller's goods 8197
or services; 8198

(ii) Using that person's employees or facilities in this 8199
state to advertise, promote, or facilitate sales by the seller 8200
to customers; 8201

(iii) Delivering, installing, assembling, or performing 8202
maintenance services for the seller's customers; 8203

(iv) Facilitating the seller's delivery of tangible 8204
personal property to customers in this state by allowing the 8205
seller's customers to pick up property sold by the seller at an 8206
office, distribution facility, warehouse, storage facility, or 8207
similar place of business. 8208

(d) Makes regular deliveries of tangible personal property 8209
into this state by means other than common carrier. 8210

(e) Has an affiliated person that has substantial nexus 8211
with this state. 8212

(f) Owns tangible personal property that is rented or 8213
leased to a consumer in this state, or offers tangible personal 8214
property, on approval, to consumers in this state. 8215

(g) Has gross receipts in excess of one hundred thousand 8216
dollars in the current or preceding calendar year from the sale 8217
of tangible personal property for storage, use, or consumption 8218
in this state or from providing services the benefit of which is 8219
realized in this state. 8220

(h) Engages, in the current or preceding calendar year, in 8221
two hundred or more separate transactions selling tangible 8222
personal property for storage, use, or consumption in this state 8223
or providing services the benefit of which is realized in this 8224
state. 8225

(3) A seller presumed to have substantial nexus with this 8226
state under divisions (I) (2) (a) to (f), (g), and (h) of this 8227
section may rebut that presumption by demonstrating that 8228
activities described in any of those divisions that are 8229
conducted by a person in this state on the seller's behalf are 8230
not significantly associated with the seller's ability to 8231
establish or maintain a market in this state for the seller's 8232
sales. 8233

(4) A marketplace facilitator is presumed to have 8234
substantial nexus with this state if either of the following 8235
apply in the current or preceding calendar year: 8236

(a) The aggregate gross receipts derived from sales of 8237
tangible personal property for storage, use, or consumption in 8238
this state or services the benefit of which is realized in this 8239
state, including sales made by the marketplace facilitator on 8240
its own behalf and sales facilitated by the marketplace 8241

facilitator on behalf of one or more marketplace sellers, exceed 8242
one hundred thousand dollars; 8243

(b) The marketplace facilitator engages in on its own 8244
behalf, or facilitates on behalf of one or more marketplace 8245
sellers, two hundred or more separate transactions selling 8246
tangible personal property for storage, use, or consumption in 8247
this state or services the benefit of which is realized in this 8248
state. 8249

(5) A seller that does not have substantial nexus with 8250
this state, and any affiliated person of the seller, before 8251
selling or leasing tangible personal property or services to a 8252
state agency, shall register with the tax commissioner in the 8253
same manner as a seller described in division (A) (1) of section 8254
5741.17 of the Revised Code. 8255

(6) As used in division (I) of this section: 8256

(a) "Affiliated person" means any person that is a member 8257
of the same controlled group of corporations as the seller or 8258
any other person that, notwithstanding the form of organization, 8259
bears the same ownership relationship to the seller as a 8260
corporation that is a member of the same controlled group of 8261
corporations. 8262

(b) "Controlled group of corporations" has the same 8263
meaning as in section 1563(a) of the Internal Revenue Code. 8264

(c) "State agency" has the same meaning as in section 1.60 8265
of the Revised Code. 8266

(J) "Fiscal officer" means, with respect to a regional 8267
transit authority, the secretary-treasurer thereof, and with 8268
respect to a county which is a transit authority, the fiscal 8269
officer of the county transit board appointed pursuant to 8270

section 306.03 of the Revised Code or, if the board of county
commissioners operates the county transit system, the county
auditor.

(K) "Territory of the transit authority" means all of the
area included within the territorial boundaries of a transit
authority as they from time to time exist. Such territorial
boundaries must at all times include all the area of a single
county or all the area of the most populous county which is a
part of such transit authority. County population shall be
measured by the most recent census taken by the United States
census bureau.

(L) "Transit authority" means a regional transit authority
created pursuant to section 306.31 of the Revised Code or a
county in which a county transit system is created pursuant to
section 306.01 of the Revised Code. For the purposes of this
chapter, a transit authority must extend to at least the entire
area of a single county. A transit authority which includes
territory in more than one county must include all the area of
the most populous county which is a part of such transit
authority. County population shall be measured by the most
recent census taken by the United States census bureau.

(M) "Providing a service" has the same meaning as in
section 5739.01 of the Revised Code.

(N) "Other consumption" includes receiving the benefits of
a service.

(O) "Lease" or "rental" has the same meaning as in section
5739.01 of the Revised Code.

(P) "Certified service provider" has the same meaning as
in section 5740.01 of the Revised Code.

(Q) "Marketplace facilitator" means a person that owns, 8300
operates, or controls a physical or electronic marketplace 8301
through which retail sales are facilitated on behalf of one or 8302
more marketplace sellers, or an affiliate of such a person. 8303
"Marketplace facilitator" does not include a person that 8304
provides advertising services, including tangible personal 8305
property or services listed for sale, if the advertising service 8306
platform or forum does not engage directly or indirectly through 8307
one or more affiliated persons in the activities described in 8308
division (T) (2) of this section. 8309

(R) "Marketplace seller" means a person on behalf of which 8310
a marketplace facilitator facilitates the sale of tangible 8311
personal property for storage, use, or consumption in this state 8312
or services the benefit of which are realized in this state, 8313
regardless of whether or not the person has a substantial nexus 8314
with this state. 8315

(S) "Electronic marketplace" includes digital distribution 8316
services, digital distribution platforms, online portals, 8317
application stores, computer software applications, in-app 8318
purchase mechanisms, or other digital products. 8319

(T) A sale is "facilitated" by a marketplace facilitator 8320
on behalf of a marketplace seller if it satisfies divisions (T) 8321
(1), (2), and (3) of this section: 8322

(1) The marketplace facilitator, directly or indirectly, 8323
does any of the following: 8324

(a) Lists, makes available, or advertises the tangible 8325
personal property or services that are the subject of the sale 8326
in a physical or electronic marketplace owned, operated, or 8327
controlled by the marketplace facilitator; 8328

- (b) Transmits or otherwise communicates an offer or 8329
acceptance of the sale between the marketplace seller and the 8330
purchaser in a shop, store, booth, catalog, internet site, or 8331
other similar forum; 8332
- (c) Owns, rents, licenses, makes available, or operates 8333
any electronic or physical infrastructure or any property, 8334
process, method, copyright, trademark, or patent that connects 8335
the marketplace seller to the purchaser for the purpose of 8336
making sales; 8337
- (d) Provides the marketplace in which the sale was made or 8338
otherwise facilitates the sale regardless of ownership or 8339
control of the tangible personal property or services that are 8340
the subject of the sale; 8341
- (e) Provides software development or research and 8342
development services directly related to a physical or 8343
electronic marketplace that is involved in one or more of the 8344
activities described in division (T)(1) of this section; 8345
- (f) Provides fulfillment or storage services for the 8346
marketplace seller that are related to the tangible personal 8347
property or services that are the subject of the sale; 8348
- (g) Sets the price of the sale on behalf of the 8349
marketplace seller; 8350
- (h) Provides or offers customer service to the marketplace 8351
seller or the marketplace seller's customers, or accepts or 8352
assists with taking orders, returns, or exchanges of the 8353
tangible personal property or services that are the subject of 8354
the sale; 8355
- (i) Brands or otherwise identifies the sale as a sale of 8356
the marketplace facilitator. 8357

(2) The marketplace facilitator, directly or indirectly, 8358
does any of the following: 8359

(a) Collects the price of the tangible personal property 8360
or services sold to the consumer; 8361

(b) Provides payment processing services for the sale; 8362

(c) Collects payment in connection with the sale from the 8363
consumer through terms and conditions, agreements, or 8364
arrangements with a third party, and transmits that payment to 8365
the marketplace seller, regardless of whether the person 8366
collecting and transmitting such payment receives compensation 8367
or other consideration in exchange for the service; 8368

(d) Provides virtual currency that consumers are allowed 8369
or required to use to purchase the tangible personal property or 8370
services that are the subject of the sale. 8371

(3) The subject of the sale is tangible personal property 8372
or services other than lodging by a hotel that is or is to be 8373
furnished to transient guests. 8374

(U) "Marijuana" means marihuana as defined in section 8375
3719.01 of the Revised Code. "Marijuana" does not include 8376
medical marijuana as defined in section 3796.01 of the Revised 8377
Code. 8378

Sec. 5741.02. (A) (1) For the use of the general revenue 8379
fund of the state, an excise tax is hereby levied on the 8380
storage, use, or other consumption in this state of tangible 8381
personal property or the benefit realized in this state of any 8382
service provided. The tax shall be collected as provided in 8383
section 5739.025 of the Revised Code. The rate of the tax shall 8384
be ten per cent for the storage, use, or other consumption of 8385
marijuana and five and three-fourths per cent for the storage, 8386

use, or other consumption of any other tangible personal 8387
property and benefit realized of any service provided. 8388

(2) In the case of the lease or rental, with a fixed term 8389
of more than thirty days or an indefinite term with a minimum 8390
period of more than thirty days, of any motor vehicles designed 8391
by the manufacturer to carry a load of not more than one ton, 8392
watercraft, outboard motor, or aircraft, or of any tangible 8393
personal property, other than motor vehicles designed by the 8394
manufacturer to carry a load of more than one ton, to be used by 8395
the lessee or renter primarily for business purposes, the tax 8396
shall be collected by the seller at the time the lease or rental 8397
is consummated and shall be calculated by the seller on the 8398
basis of the total amount to be paid by the lessee or renter 8399
under the lease or rental agreement. If the total amount of the 8400
consideration for the lease or rental includes amounts that are 8401
not calculated at the time the lease or rental is executed, the 8402
tax shall be calculated and collected by the seller at the time 8403
such amounts are billed to the lessee or renter. In the case of 8404
an open-end lease or rental, the tax shall be calculated by the 8405
seller on the basis of the total amount to be paid during the 8406
initial fixed term of the lease or rental, and for each 8407
subsequent renewal period as it comes due. As used in this 8408
division, "motor vehicle" has the same meaning as in section 8409
4501.01 of the Revised Code, and "watercraft" includes an 8410
outdrive unit attached to the watercraft. 8411

(3) Except as provided in division (A) (2) of this section, 8412
in the case of a transaction, the price of which consists in 8413
whole or part of the lease or rental of tangible personal 8414
property, the tax shall be measured by the installments of those 8415
leases or rentals. 8416

(B) Each consumer, storing, using, or otherwise consuming 8417
in this state tangible personal property or realizing in this 8418
state the benefit of any service provided, shall be liable for 8419
the tax, and such liability shall not be extinguished until the 8420
tax has been paid to this state; provided, that the consumer 8421
shall be relieved from further liability for the tax if the tax 8422
has been paid to a seller in accordance with section 5741.04 of 8423
the Revised Code or prepaid by the seller in accordance with 8424
section 5741.06 of the Revised Code. 8425

(C) The tax does not apply to the storage, use, or 8426
consumption in this state of the following described tangible 8427
personal property or services, nor to the storage, use, or 8428
consumption or benefit in this state of tangible personal 8429
property or services purchased under the following described 8430
circumstances: 8431

(1) When the sale of property or service in this state is 8432
subject to the excise tax imposed by sections 5739.01 to 5739.31 8433
of the Revised Code, provided said tax has been paid; 8434

(2) Except as provided in division (D) of this section, 8435
tangible personal property or services, the acquisition of 8436
which, if made in Ohio, would be a sale not subject to the tax 8437
imposed by sections 5739.01 to 5739.31 of the Revised Code; 8438

(3) Property or services, the storage, use, or other 8439
consumption of or benefit from which this state is prohibited 8440
from taxing by the Constitution of the United States, laws of 8441
the United States, or the Constitution of this state. This 8442
exemption shall not exempt from the application of the tax 8443
imposed by this section the storage, use, or consumption of 8444
tangible personal property that was purchased in interstate 8445
commerce, but that has come to rest in this state, provided that 8446

fuel to be used or transported in carrying on interstate 8447
commerce that is stopped within this state pending transfer from 8448
one conveyance to another is exempt from the excise tax imposed 8449
by this section and section 5739.02 of the Revised Code; 8450

(4) Transient use of tangible personal property in this 8451
state by a nonresident tourist or vacationer, or a nonbusiness 8452
use within this state by a nonresident of this state, if the 8453
property so used was purchased outside this state for use 8454
outside this state and is not required to be registered or 8455
licensed under the laws of this state; 8456

(5) Tangible personal property or services rendered, upon 8457
which taxes have been paid to another jurisdiction to the extent 8458
of the amount of the tax paid to such other jurisdiction. Where 8459
the amount of the tax imposed by this section and imposed 8460
pursuant to section 5741.021, 5741.022, or 5741.023 of the 8461
Revised Code exceeds the amount paid to another jurisdiction, 8462
the difference shall be allocated between the tax imposed by 8463
this section and any tax imposed by a county or a transit 8464
authority pursuant to section 5741.021, 5741.022, or 5741.023 of 8465
the Revised Code, in proportion to the respective rates of such 8466
taxes. 8467

As used in this subdivision, "taxes paid to another 8468
jurisdiction" means the total amount of retail sales or use tax 8469
or similar tax based upon the sale, purchase, or use of tangible 8470
personal property or services rendered legally, levied by and 8471
paid to another state or political subdivision thereof, or to 8472
the District of Columbia, where the payment of such tax does not 8473
entitle the taxpayer to any refund or credit for such payment. 8474

(6) The transfer of a used manufactured home or used 8475
mobile home, as defined by section 5739.0210 of the Revised 8476

Code, made on or after January 1, 2000; 8477

(7) Drugs that are or are intended to be distributed free 8478
of charge to a practitioner licensed to prescribe, dispense, and 8479
administer drugs to a human being in the course of a 8480
professional practice and that by law may be dispensed only by 8481
or upon the order of such a practitioner; 8482

(8) Computer equipment and related software leased from a 8483
lessor located outside this state and initially received in this 8484
state on behalf of the consumer by a third party that will 8485
retain possession of such property for not more than ninety days 8486
and that will, within that ninety-day period, deliver such 8487
property to the consumer at a location outside this state. 8488
Division (C) (8) of this section does not provide exemption from 8489
taxation for any otherwise taxable charges associated with such 8490
property while it is in this state or for any subsequent 8491
storage, use, or consumption of such property in this state by 8492
or on behalf of the consumer. 8493

(9) Tangible personal property held for sale by a person 8494
but not for that person's own use and donated by that person, 8495
without charge or other compensation, to either of the 8496
following: 8497

(a) A nonprofit organization operated exclusively for 8498
charitable purposes in this state, no part of the net income of 8499
which inures to the benefit of any private shareholder or 8500
individual and no substantial part of the activities of which 8501
consists of carrying on propaganda or otherwise attempting to 8502
influence legislation; or 8503

(b) This state or any political subdivision of this state, 8504
but only if donated for exclusively public purposes. 8505

For the purposes of division (C) (9) of this section, 8506
"charitable purposes" has the same meaning as in division (B) 8507
(12) of section 5739.02 of the Revised Code. 8508

(10) Equipment stored, used, or otherwise consumed in this 8509
state by an out-of-state disaster business during a disaster 8510
response period during which the business conducts disaster work 8511
pursuant to a qualifying solicitation received by the business, 8512
provided the equipment is removed from the state before the last 8513
day of that period. All terms used in division (C) (10) of this 8514
section have the same meanings as in section 5703.94 of the 8515
Revised Code. 8516

(D) The tax applies to the storage, use, or other 8517
consumption in this state of tangible personal property or 8518
services, the acquisition of which at the time of sale was 8519
excepted under division (E) of section 5739.01 of the Revised 8520
Code from the tax imposed by section 5739.02 of the Revised 8521
Code, but which has subsequently been temporarily or permanently 8522
stored, used, or otherwise consumed in a taxable manner. 8523

(E) (1) (a) If any transaction is claimed to be exempt under 8524
division (E) of section 5739.01 of the Revised Code or under 8525
section 5739.02 of the Revised Code, with the exception of 8526
divisions (B) (1) to (11) or (28) of section 5739.02 of the 8527
Revised Code, the consumer shall provide to the seller, and the 8528
seller shall obtain from the consumer, a certificate specifying 8529
the reason that the transaction is not subject to the tax. The 8530
certificate shall be in such form, and shall be provided either 8531
in a hard copy form or electronic form, as the tax commissioner 8532
prescribes. 8533

(b) A seller that obtains a fully completed exemption 8534
certificate from a consumer is relieved of liability for 8535

collecting and remitting tax on any sale covered by that 8536
certificate. If it is determined the exemption was improperly 8537
claimed, the consumer shall be liable for any tax due on that 8538
sale under this chapter. Relief under this division from 8539
liability does not apply to any of the following: 8540

(i) A seller that fraudulently fails to collect tax; 8541

(ii) A seller that solicits consumers to participate in 8542
the unlawful claim of an exemption; 8543

(iii) A seller that accepts an exemption certificate from 8544
a consumer that claims an exemption based on who purchases or 8545
who sells property or a service, when the subject of the 8546
transaction sought to be covered by the exemption certificate is 8547
actually received by the consumer at a location operated by the 8548
seller in this state, and this state has posted to its web site 8549
an exemption certificate form that clearly and affirmatively 8550
indicates that the claimed exemption is not available in this 8551
state; 8552

(iv) A seller that accepts an exemption certificate from a 8553
consumer who claims a multiple points of use exemption under 8554
division (D) of section 5739.033 of the Revised Code, if the 8555
item purchased is tangible personal property, other than 8556
prewritten computer software. 8557

(2) The seller shall maintain records, including exemption 8558
certificates, of all sales on which a consumer has claimed an 8559
exemption, and provide them to the tax commissioner on request. 8560

(3) If no certificate is provided or obtained within 8561
ninety days after the date on which the transaction is 8562
consummated, it shall be presumed that the tax applies. Failure 8563
to have so provided or obtained a certificate shall not preclude 8564

a seller, within one hundred twenty days after the tax 8565
commissioner gives written notice of intent to levy an 8566
assessment, from either establishing that the transaction is not 8567
subject to the tax, or obtaining, in good faith, a fully 8568
completed exemption certificate. 8569

(4) If a transaction is claimed to be exempt under 8570
division (B)(13) of section 5739.02 of the Revised Code, the 8571
contractor shall obtain certification of the claimed exemption 8572
from the contractee. This certification shall be in addition to 8573
an exemption certificate provided by the contractor to the 8574
seller. A contractee that provides a certification under this 8575
division shall be deemed to be the consumer of all items 8576
purchased by the contractor under the claim of exemption, if it 8577
is subsequently determined that the exemption is not properly 8578
claimed. The certification shall be in such form as the tax 8579
commissioner prescribes. 8580

(F) A seller who files a petition for reassessment 8581
contesting the assessment of tax on transactions for which the 8582
seller obtained no valid exemption certificates, and for which 8583
the seller failed to establish that the transactions were not 8584
subject to the tax during the one-hundred-twenty-day period 8585
allowed under division (E) of this section, may present to the 8586
tax commissioner additional evidence to prove that the 8587
transactions were exempt. The seller shall file such evidence 8588
within ninety days of the receipt by the seller of the notice of 8589
assessment, except that, upon application and for reasonable 8590
cause, the tax commissioner may extend the period for submitting 8591
such evidence thirty days. 8592

(G) For the purpose of the proper administration of 8593
sections 5741.01 to 5741.22 of the Revised Code, and to prevent 8594

the evasion of the tax hereby levied, it shall be presumed that 8595
any use, storage, or other consumption of tangible personal 8596
property in this state is subject to the tax until the contrary 8597
is established. 8598

(H) The tax collected by the seller from the consumer 8599
under this chapter is not part of the price, but is a tax 8600
collection for the benefit of the state, and of counties levying 8601
an additional use tax pursuant to section 5741.021 or 5741.023 8602
of the Revised Code and of transit authorities levying an 8603
additional use tax pursuant to section 5741.022 of the Revised 8604
Code. Except for the discount authorized under section 5741.12 8605
of the Revised Code and the effects of any rounding pursuant to 8606
section 5703.055 of the Revised Code, no person other than the 8607
state or such a county or transit authority shall derive any 8608
benefit from the collection of such tax. 8609

Sec. 5741.021. (A) For the purpose of providing additional 8610
general revenues for the county, supporting criminal and 8611
administrative justice services in the county, funding a 8612
regional transportation improvement project under section 8613
5595.06 of the Revised Code, or any combination of the 8614
foregoing, and to pay the expenses of administering such levy, 8615
any county which levies a tax pursuant to section 5739.021 of 8616
the Revised Code shall levy a tax at the same rate levied 8617
pursuant to section 5739.021 of the Revised Code on the storage, 8618
use, or other consumption in the county of the following: 8619

(1) Motor vehicles, and watercraft and outboard motors 8620
required to be titled in the county pursuant to Chapter 1548. of 8621
the Revised Code and acquired by a transaction subject to the 8622
tax imposed by section 5739.02 of the Revised Code; 8623

(2) In addition to the tax imposed by section 5741.02 of 8624

the Revised Code, tangible personal property, except marijuana, 8625
and services subject to the tax levied by this state as provided 8626
in section 5741.02 of the Revised Code, and tangible personal 8627
property, except marijuana, and services purchased in another 8628
county within this state by a transaction subject to the tax 8629
imposed by section 5739.02 of the Revised Code. 8630

The tax shall be levied pursuant to a resolution of the 8631
board of county commissioners which shall be adopted after 8632
publication of notice and hearing in the same manner as provided 8633
in section 5739.021 of the Revised Code. Such resolution shall 8634
be adopted and shall become effective on the same day as the 8635
resolution adopted by the board of county commissioners levying 8636
a sales tax pursuant to section 5739.021 of the Revised Code and 8637
shall remain in effect until such sales tax is repealed. 8638

(B) The tax levied pursuant to this section on the 8639
storage, use, or other consumption of tangible personal property 8640
and on the benefit of a service realized shall be in addition to 8641
the tax levied by section 5741.02 of the Revised Code and, 8642
except as provided in division (D) of this section, any tax 8643
levied pursuant to sections 5741.022 and 5741.023 of the Revised 8644
Code. 8645

(C) The additional tax levied by the county shall be 8646
collected pursuant to section 5739.025 of the Revised Code. If 8647
the additional tax or some portion thereof is levied for the 8648
purpose of criminal and administrative justice services, the 8649
revenue from the tax, or the amount or rate apportioned to that 8650
purpose, shall be credited to a special fund created in the 8651
county treasury for receipt of that revenue. 8652

(D) The tax levied pursuant to this section shall not be 8653
applicable to any benefit of a service realized or to any 8654

storage, use, or consumption of property not within the taxing 8655
power of a county under the constitution of the United States or 8656
the constitution of this state, or to property or services on 8657
which a tax levied by a county or transit authority pursuant to 8658
this section or section 5739.021, 5739.023, 5739.026, 5741.022, 8659
or 5741.023 of the Revised Code has been paid, if the sum of the 8660
taxes paid pursuant to those sections is equal to or greater 8661
than the sum of the taxes due under this section and sections 8662
5741.022 and 5741.023 of the Revised Code. If the sum of the 8663
taxes paid is less than the sum of the taxes due under this 8664
section and sections 5741.022 and 5741.023 of the Revised Code, 8665
the amount of tax paid shall be credited against the amount of 8666
tax due. 8667

(E) As used in this section, "criminal and administrative 8668
justice services" has the same meaning as in section 5739.021 of 8669
the Revised Code. 8670

Sec. 5741.022. (A) For the purpose of providing additional 8671
general revenues for the transit authority, funding a regional 8672
transportation improvement project under section 5595.06 of the 8673
Revised Code, or funding public infrastructure projects as 8674
described in section 306.353 of the Revised Code, and to pay the 8675
expenses of administering such levy, any transit authority that 8676
levies a tax pursuant to section 5739.023 of the Revised Code 8677
shall levy a tax at the same rate levied pursuant to such 8678
section on the storage, use, or other consumption in the 8679
territory of the transit authority of the following: 8680

(1) Motor vehicles, and watercraft and outboard motors 8681
required to be titled in the county pursuant to Chapter 1548. of 8682
the Revised Code and acquired by a transaction subject to the 8683
tax imposed by section 5739.02 of the Revised Code; 8684

(2) In addition to the tax imposed by section 5741.02 of 8685
the Revised Code, tangible personal property, except marijuana, 8686
and services subject to the tax levied by this state as provided 8687
in section 5741.02 of the Revised Code, and tangible personal 8688
property, except marijuana, and services purchased in another 8689
county within this state by a transaction subject to the tax 8690
imposed by section 5739.02 of the Revised Code. 8691

The tax shall be in effect at the same time and at the 8692
same rate and shall be levied pursuant to the resolution of the 8693
legislative authority of the transit authority levying a sales 8694
tax pursuant to section 5739.023 of the Revised Code. 8695

(B) The tax levied pursuant to this section on the 8696
storage, use, or other consumption of tangible personal property 8697
and on the benefit of a service realized shall be in addition to 8698
the tax levied by section 5741.02 of the Revised Code and, 8699
except as provided in division (D) of this section, any tax 8700
levied pursuant to sections 5741.021 and 5741.023 of the Revised 8701
Code. 8702

(C) The additional tax levied by the authority shall be 8703
collected pursuant to section 5739.025 of the Revised Code. 8704

(D) The tax levied pursuant to this section shall not be 8705
applicable to any benefit of a service realized or to any 8706
storage, use, or consumption of property not within the taxing 8707
power of a transit authority under the constitution of the 8708
United States or the constitution of this state, or to property 8709
or services on which a tax levied by a county or transit 8710
authority pursuant to this section or section 5739.021, 8711
5739.023, 5739.026, 5741.021, or 5741.023 of the Revised Code 8712
has been paid, if the sum of the taxes paid pursuant to those 8713
sections is equal to or greater than the sum of the taxes due 8714

under this section and sections 5741.021 and 5741.023 of the Revised Code. If the sum of the taxes paid is less than the sum of the taxes due under this section and sections 5741.021 and 5741.023 of the Revised Code, the amount of tax paid shall be credited against the amount of tax due.

(E) The rate of a tax levied under this section is subject to reduction under section 5739.028 of the Revised Code if a ballot question is approved by voters pursuant to that section.

Sec. 5741.023. (A) For the same purposes for which it has imposed a tax under section 5739.026 of the Revised Code, any county that levies a tax pursuant to such section shall levy a tax at the same rate levied pursuant to such section on the storage, use, or other consumption in the county of the following:

(1) Motor vehicles, and watercraft and outboard motors required to be titled in the county pursuant to Chapter 1548. of the Revised Code, acquired by a transaction subject to the tax imposed by section 5739.02 of the Revised Code;

(2) In addition to the tax imposed by section 5741.02 of the Revised Code, tangible personal property, except marijuana, and services subject to the tax levied by this state as provided in section 5741.02 of the Revised Code, and tangible personal property, except marijuana, and services purchased in another county within this state by a transaction subject to the tax imposed by section 5739.02 of the Revised Code.

The tax shall be levied pursuant to a resolution of the board of county commissioners, which shall be adopted in the same manner as provided in section 5739.026 of the Revised Code. Such resolution shall be adopted and shall become effective on

the same day as the resolution adopted by the board of county commissioners levying a sales tax pursuant to such section and shall remain in effect until such sales tax is repealed or expires.

(B) The tax levied pursuant to this section shall be in addition to the tax levied by section 5741.02 of the Revised Code and, except as provided in division (D) of this section, any tax levied pursuant to sections 5741.021 and 5741.022 of the Revised Code.

(C) The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code.

(D) The tax levied pursuant to this section shall not be applicable to any benefit of a service realized or to any storage, use, or consumption of property not within the taxing power of a county under the constitution of the United States or the constitution of this state, or to property or services on which tax levied by a county or transit authority pursuant to this section or section 5739.021, 5739.023, 5739.026, 5741.021, or 5741.022 of the Revised Code has been paid, if the sum of the taxes paid pursuant to those sections is equal to or greater than the sum of the taxes due under this section and sections 5741.021 and 5741.022 of the Revised Code. If the sum of the taxes paid is less than the sum of the taxes due under this section and sections 5741.021 and 5741.022 of the Revised Code, the amount of tax paid shall be credited against the amount of tax due.

Sec. 5741.03. (A) One hundred per cent of all money deposited into the state treasury under sections 5741.01 to 5741.22 of the Revised Code that is not required to be distributed as provided in division (B) or (C) of this section

shall be credited to the general revenue fund. 8774

(B) In any case where any county or transit authority has 8775
levied a tax or taxes pursuant to section 5741.021, 5741.022, or 8776
5741.023 of the Revised Code, the tax commissioner shall, within 8777
forty-five days after the end of each month, determine and 8778
certify to the director of budget and management the amount of 8779
the proceeds of such tax or taxes from billings and assessments 8780
received during that month, or shown on tax returns or reports 8781
filed during that month, to be returned to the county or transit 8782
authority levying the tax or taxes, which amounts shall be 8783
determined in the manner provided in section 5739.21 of the 8784
Revised Code. The director of budget and management shall 8785
transfer, from the general revenue fund, to the permissive tax 8786
distribution fund created by division (B)(1) of section 4301.423 8787
of the Revised Code and to the local sales tax administrative 8788
fund created by division (C) of section 5739.21 of the Revised 8789
Code, the amounts certified by the tax commissioner. The tax 8790
commissioner shall then, on or before the twentieth day of the 8791
month in which such certification is made, provide for payment 8792
of such respective amounts to the county treasurer or to the 8793
fiscal officer of the transit authority levying the tax or 8794
taxes. The amount transferred to the local sales tax 8795
administrative fund is for use by the tax commissioner in 8796
defraying costs the commissioner incurs in administering such 8797
taxes levied by a county or transit authority. 8798

(C) One hundred per cent of the money collected pursuant 8799
to the tax levied under section 5741.02 of the Revised Code for 8800
the storage, use, or other consumption of marijuana shall be 8801
credited to the marijuana receipts fund created in section 8802
5739.214 of the Revised Code. 8803

Section 2. That existing sections 109.572, 2925.02, 8804
2925.03, 2925.04, 2925.11, 2925.12, 2925.14, 2925.36, 2925.38, 8805
3796.01, 3796.02, 3796.03, 3796.032, 3796.05, 3796.06, 3796.061, 8806
3796.07, 3796.08, 3796.09, 3796.10, 3796.11, 3796.12, 3796.13, 8807
3796.14, 3796.15, 3796.16, 3796.17, 3796.18, 3796.19, 3796.20, 8808
3796.21, 3796.22, 3796.23, 3796.24, 3796.27, 3796.28, 3796.29, 8809
3796.30, 4123.34, 4510.17, 4729.24, 4729.75, 4729.772, 4729.80, 8810
4729.84, 4729.85, 4729.86, 4731.30, 4731.301, 4776.01, 5739.01, 8811
5739.02, 5739.021, 5739.023, 5739.026, 5739.21, 5741.01, 8812
5741.02, 5741.021, 5741.022, 5741.023, and 5741.03 of the 8813
Revised Code are hereby repealed. 8814

Section 3. That sections 2925.141, 3796.021, 3796.031, 8815
3796.04, 4729.771, and 4731.302 of the Revised Code are hereby 8816
repealed. 8817

Section 4. (A) Not later than two hundred forty days after 8818
the effective date of this section, the Medical Marijuana 8819
Control Program in the State Board of Pharmacy is abolished. All 8820
records of the Medical Marijuana Control Program in the State 8821
Board of Pharmacy shall be transferred to the Department of 8822
Commerce Division of Marijuana Control, and all of its other 8823
assets and liabilities relating to the Medical Marijuana Control 8824
Program shall be transferred to the Department of Commerce. The 8825
Division of Marijuana Control in the Department of Commerce is 8826
successor to, and assumes the obligations of, the Medical 8827
Marijuana Control Program in the State Board of Pharmacy. Any 8828
business commenced, but not completed by the State Board of 8829
Pharmacy Medical Marijuana Control Program two hundred forty 8830
days after the effective date of this section shall be completed 8831
by the Director of Commerce in the same manner, and with the 8832
same effect, as if completed by the State Board of Pharmacy. No 8833
validation, cure, right, privilege, remedy, obligation, or 8834

liability is lost or impaired by reason of the transfer required 8835
by this section. 8836

(B) Any license issued by the State Board of Pharmacy 8837
pursuant to section 3796.10 of the Revised Code remains in 8838
effect for the remainder of the license's term, unless otherwise 8839
suspended or revoked. Any registration issued by the State Board 8840
of Pharmacy pursuant to section 3796.08 of the Revised Code 8841
remains in effect for the remainder of the registration's term, 8842
unless otherwise revoked. Renewals shall be conducted through 8843
the Division of Marijuana Control. 8844

(C) Any form of marijuana approved by the State Board of 8845
Pharmacy pursuant to section 3796.061 of the Revised Code as it 8846
existed prior to the effective date of the amendment to that 8847
section shall remain approved until the Department of Commerce 8848
revokes that approval. The Department of Commerce may revoke the 8849
approval of a form of marijuana made by the State Board of 8850
Pharmacy prior to that effective date. If the Department revokes 8851
approval, the Department shall notify in writing the person who 8852
filed the petition pursuant to section 3796.061 of the Revised 8853
Code and shall post notice of that revocation on the web site of 8854
the Division of Marijuana Control. 8855

(D) The rules adopted by the State Board of Pharmacy 8856
regulating the Medical Marijuana Control Program in existence on 8857
the effective date of this section continue in effect until 8858
repealed or amended by the Department of Commerce. 8859

(E) Unless removed by the Department of Commerce within 8860
sixty days after the effective date of this section, any 8861
qualifying medical conditions added by the State Medical Board 8862
pursuant to section 4731.302 of the Revised Code, as that 8863
section existed immediately prior to being repealed in this act, 8864

continues to be a qualifying medical condition. 8865

Section 5. The General Assembly, applying the principle 8866
stated in division (B) of section 1.52 of the Revised Code that 8867
amendments are to be harmonized if reasonably capable of 8868
simultaneous operation, finds that the following sections, 8869
presented in this act as composites of the sections as amended 8870
by the acts indicated, are the resulting versions of the 8871
sections in effect prior to the effective date of the sections 8872
as presented in this act: 8873

Section 109.572 of the Revised Code as amended by H.B. 110 8874
and S.B. 3 of the 134th General Assembly and H.B. 263 and S.B. 8875
260 of the 133rd General Assembly. 8876

Section 2925.02 of the Revised Code as amended by both 8877
S.B. 1 and S.B. 201 of the 132nd General Assembly. 8878

Section 2925.03 of the Revised Code as amended by H.B. 8879
111, S.B. 1, S.B. 201, and S.B. 229, all of the 132nd General 8880
Assembly. 8881

Section 2925.04 of the Revised Code as amended by both 8882
S.B. 1 and S.B. 201 of the 132nd General Assembly. 8883

Section 2925.11 of the Revised Code as amended by S.B. 1, 8884
S.B. 201, and S.B. 229, all of the 132nd General Assembly. 8885

Section 4510.17 of the Revised Code as amended by both 8886
H.B. 388 and S.B. 204 of the 131st General Assembly. 8887

Section 4776.01 of the Revised Code as amended by both 8888
H.B. 166 and S.B. 57 of the 133rd General Assembly. 8889

Section 109.572 of the Revised Code is presented in this 8890
act as a composite of the section as amended by H.B. 110 and 8891
S.B. 3 of the 134th General Assembly and H.B. 263 and S.B. 260 8892

of the 133rd General Assembly. The General Assembly, applying 8893
the principle stated in division (B) of section 1.52 of the 8894
Revised Code that amendments are to be harmonized if reasonably 8895
capable of simultaneous operation, finds that the composite is 8896
the resulting version of the section in effect prior to the 8897
effective date of the section as presented in this act. 8898

Section 6. In enacting this section, it is the intent of 8899
the General Assembly to urge the Congress of the United States 8900
to enact H.R. 3105 of the 117th Congress, or substantially 8901
similar legislation. In addition, it is the intent of the 8902
General Assembly to urge Congress to protect the United States 8903
Constitution Second Amendment rights of Ohioans that are engaged 8904
in the legal use of cannabis under the laws of this state. The 8905
Clerk of the Ohio House of Representatives shall send a letter 8906
to the Speaker and Minority Leader of the United States House of 8907
Representatives, the President and Minority Leader of the United 8908
States Senate, the President of the United States, the Ohio 8909
congressional delegation, and the media urging the United States 8910
Congress to enact H.R. 3105 of the 117th Congress or 8911
substantially similar legislation and to protect the Second 8912
Amendment rights of Ohioans that are engaged in the legal use of 8913
cannabis. 8914