

As Introduced

**134th General Assembly
Regular Session
2021-2022**

S. B. No. 203

Senator Manning

A BILL

To amend sections 1547.11, 3701.143, and 4511.19 of
the Revised Code to change the laws pertaining
to operating a vehicle or watercraft while under
the influence of marihuana and the admissibility
of evidence regarding the testing of a person's
whole blood, blood serum or plasma, urine,
breath, or other bodily substance for purposes
of OVI statutes.

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

Section 1. That sections 1547.11, 3701.143, and 4511.19 of
the Revised Code be amended to read as follows:

Sec. 1547.11. (A) No person shall operate or be in
physical control of any vessel underway or shall manipulate any
water skis, aquaplane, or similar device on the waters in this
state if, at the time of the operation, control, or
manipulation, any of the following applies:

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

(2) The person has a concentration of eight-hundredths of
one per cent or more by weight of alcohol per unit volume in the

person's whole blood. 20

(3) The person has a concentration of ninety-six- 21
thousandths of one per cent or more by weight per unit volume of 22
alcohol in the person's blood serum or plasma. 23

(4) The person has a concentration of eleven-hundredths of 24
one gram or more by weight of alcohol per one hundred 25
milliliters of the person's urine. 26

(5) The person has a concentration of eight-hundredths of 27
one gram or more by weight of alcohol per two hundred ten liters 28
of the person's breath. 29

(6) Except as provided in division ~~(H)~~ (I) of this 30
section, the person has a concentration of any of the following 31
controlled substances or metabolites of a controlled substance 32
in the person's whole blood, blood serum or plasma, or urine 33
that equals or exceeds any of the following: 34

(a) The person has a concentration of amphetamine in the 35
person's urine of at least five hundred nanograms of amphetamine 36
per milliliter of the person's urine or has a concentration of 37
amphetamine in the person's whole blood or blood serum or plasma 38
of at least one hundred nanograms of amphetamine per milliliter 39
of the person's whole blood or blood serum or plasma. 40

(b) The person has a concentration of cocaine in the 41
person's urine of at least one hundred fifty nanograms of 42
cocaine per milliliter of the person's urine or has a 43
concentration of cocaine in the person's whole blood or blood 44
serum or plasma of at least fifty nanograms of cocaine per 45
milliliter of the person's whole blood or blood serum or plasma. 46

(c) The person has a concentration of cocaine metabolite 47
in the person's urine of at least one hundred fifty nanograms of 48

cocaine metabolite per milliliter of the person's urine or has a 49
concentration of cocaine metabolite in the person's whole blood 50
or blood serum or plasma of at least fifty nanograms of cocaine 51
metabolite per milliliter of the person's whole blood or blood 52
serum or plasma. 53

(d) The person has a concentration of heroin in the 54
person's urine of at least two thousand nanograms of heroin per 55
milliliter of the person's urine or has a concentration of 56
heroin in the person's whole blood or blood serum or plasma of 57
at least fifty nanograms of heroin per milliliter of the 58
person's whole blood or blood serum or plasma. 59

(e) The person has a concentration of heroin metabolite 60
(6-monoacetyl morphine) in the person's urine of at least ten 61
nanograms of heroin metabolite (6-monoacetyl morphine) per 62
milliliter of the person's urine or has a concentration of 63
heroin metabolite (6-monoacetyl morphine) in the person's whole 64
blood or blood serum or plasma of at least ten nanograms of 65
heroin metabolite (6-monoacetyl morphine) per milliliter of the 66
person's whole blood or blood serum or plasma. 67

(f) The person has a concentration of L.S.D. in the 68
person's urine of at least twenty-five nanograms of L.S.D. per 69
milliliter of the person's urine or has a concentration of 70
L.S.D. in the person's whole blood or blood serum or plasma of 71
at least ten nanograms of L.S.D. per milliliter of the person's 72
whole blood or blood serum or plasma. 73

~~(g) The person has a concentration of marihuana in the 74
person's urine of at least ten nanograms of marihuana per 75
milliliter of the person's urine or has a concentration of 76
marihuana in the person's whole blood or blood serum or plasma 77
of at least two nanograms of marihuana per milliliter of the 78~~

~~person's whole blood or blood serum or plasma.~~ 79

~~(h) The state board of pharmacy has adopted a rule~~ 80
~~pursuant to section 4729.041 of the Revised Code that specifies~~ 81
~~the amount of salvia divinorum and the amount of salvinorin A~~ 82
~~that constitute concentrations of salvia divinorum and~~ 83
~~salvinorin A in a person's urine, in a person's whole blood, or~~ 84
~~in a person's blood serum or plasma at or above which the person~~ 85
~~is impaired for purposes of operating or being in physical~~ 86
~~control of any vessel underway or manipulating any water skis,~~ 87
~~aquaplane, or similar device on the waters of this state, the~~ 88
~~rule is in effect, and the person has a concentration of salvia~~ 89
~~divinorum or salvinorin A of at least that amount so specified~~ 90
~~by rule in the person's urine, in the person's whole blood, or~~ 91
~~in the person's blood serum or plasma.~~ 92

~~(i) Either of the following applies:~~ 93

~~(i) The person is under the influence of alcohol, a drug~~ 94
~~of abuse, or a combination of them, and, as measured by gas-~~ 95
~~chromatography mass spectrometry, the person has a concentration-~~ 96
~~of marihuana metabolite in the person's urine of at least-~~ 97
~~fifteen nanograms of marihuana metabolite per milliliter of the~~ 98
~~person's urine or has a concentration of marihuana metabolite in-~~ 99
~~the person's whole blood or blood serum or plasma of at least~~ 100
~~five nanograms of marihuana metabolite per milliliter of the~~ 101
~~person's whole blood or blood serum or plasma.~~ 102

~~(ii) As measured by gas chromatography mass spectrometry,~~ 103
~~the person has a concentration of marihuana metabolite in the~~ 104
~~person's urine of at least thirty-five nanograms of marihuana-~~ 105
~~metabolite per milliliter of the person's urine or has a~~ 106
~~concentration of marihuana metabolite in the person's whole~~ 107
~~blood or blood serum or plasma of at least fifty nanograms of-~~ 108

~~marihuana metabolite per milliliter of the person's whole blood-~~ 109
~~or blood serum or plasma.~~ 110

~~(j)~~ (h) The person has a concentration of methamphetamine 111
in the person's urine of at least five hundred nanograms of 112
methamphetamine per milliliter of the person's urine or has a 113
concentration of methamphetamine in the person's whole blood or 114
blood serum or plasma of at least one hundred nanograms of 115
methamphetamine per milliliter of the person's whole blood or 116
blood serum or plasma. 117

~~(k)~~ (i) The person has a concentration of phencyclidine in 118
the person's urine of at least twenty-five nanograms of 119
phencyclidine per milliliter of the person's urine or has a 120
concentration of phencyclidine in the person's whole blood or 121
blood serum or plasma of at least ten nanograms of phencyclidine 122
per milliliter of the person's whole blood or blood serum or 123
plasma. 124

(B) No person under twenty-one years of age shall operate 125
or be in physical control of any vessel underway or shall 126
manipulate any water skis, aquaplane, or similar device on the 127
waters in this state if, at the time of the operation, control, 128
or manipulation, any of the following applies: 129

(1) The person has a concentration of at least two- 130
hundredths of one per cent, but less than eight-hundredths of 131
one per cent by weight per unit volume of alcohol in the 132
person's whole blood. 133

(2) The person has a concentration of at least three- 134
hundredths of one per cent but less than ninety-six-thousandths 135
of one per cent by weight per unit volume of alcohol in the 136
person's blood serum or plasma. 137

(3) The person has a concentration of at least twenty- 138
eight one-thousandths of one gram, but less than eleven- 139
hundredths of one gram by weight of alcohol per one hundred 140
milliliters of the person's urine. 141

(4) The person has a concentration of at least two- 142
hundredths of one gram, but less than eight-hundredths of one 143
gram by weight of alcohol per two hundred ten liters of the 144
person's breath. 145

(C) In any proceeding arising out of one incident, a 146
person may be charged with a violation of division (A)(1) and a 147
violation of division (B)(1), (2), (3), or (4) of this section, 148
but the person shall not be convicted of more than one violation 149
of those divisions. 150

(D)(1)(a) In any criminal prosecution or juvenile court 151
proceeding for a violation of division (A) or (B) of this 152
section or for an equivalent offense that is watercraft-related, 153
the result of any test of any blood or urine withdrawn and 154
analyzed at any health care provider, as defined in section 155
2317.02 of the Revised Code, may be admitted with expert 156
testimony to be considered with any other relevant and competent 157
evidence in determining the guilt or innocence of the defendant. 158

(b) In any criminal prosecution or juvenile court 159
proceeding for a violation of division (A) or (B) of this 160
section or for an equivalent offense that is watercraft-related, 161
the court may admit evidence on the concentration of alcohol, 162
drugs of abuse, controlled substances, metabolites of a 163
controlled substance, or a combination of them in the 164
defendant's or child's whole blood, blood serum or plasma, 165
urine, or breath at the time of the alleged violation as shown 166
by chemical analysis of the substance withdrawn, or specimen 167

taken within three hours of the time of the alleged violation. 168
The three-hour time limit specified in this division regarding 169
the admission of evidence does not extend or affect the two-hour 170
time limit specified in division (C) of section 1547.111 of the 171
Revised Code as the maximum period of time during which a person 172
may consent to a chemical test or tests as described in that 173
section. The court may admit evidence on the concentration of 174
alcohol, drugs of abuse, or a combination of them as described 175
in this division when a person submits to a blood, breath, 176
urine, or other bodily substance test at the request of a law 177
enforcement officer under section 1547.111 of the Revised Code 178
or a blood or urine sample is obtained pursuant to a search 179
warrant. Only a physician, a registered nurse, an emergency 180
medical technician-intermediate, an emergency medical 181
technician-paramedic, or a qualified technician, chemist, or 182
phlebotomist shall withdraw blood for the purpose of determining 183
the alcohol, drug, controlled substance, metabolite of a 184
controlled substance, or combination content of the whole blood, 185
blood serum, or blood plasma. This limitation does not apply to 186
the taking of breath or urine specimens. A person authorized to 187
withdraw blood under this division may refuse to withdraw blood 188
under this division if, in that person's opinion, the physical 189
welfare of the defendant or child would be endangered by 190
withdrawing blood. 191

The whole blood, blood serum or plasma, urine, or breath 192
withdrawn under division (D) (1) (b) of this section shall be 193
analyzed in accordance with methods approved by the director of 194
health by an individual possessing a valid permit issued by the 195
director pursuant to section 3701.143 of the Revised Code. 196

(c) (i) Any evidence or testimony proposed to be admitted 197
under division (D) (1) (b) of this section is subject to the Rules 198

<u>of Evidence, including Evid. R. 702 regarding expert testimony.</u>	199
<u>(ii) The admissibility of any evidence or testimony under</u>	200
<u>division (D)(1)(b) of this section regarding the concentration</u>	201
<u>of alcohol, a drug of abuse, or a combination of them in a</u>	202
<u>person's whole blood, blood serum or plasma, urine, breath, or</u>	203
<u>other bodily substance does not affect, impair, or limit the</u>	204
<u>admissibility of either of the following that is otherwise</u>	205
<u>admissible under the Rules of Evidence:</u>	206
<u>(I) Any evidence or testimony regarding the analysis of a</u>	207
<u>person's whole blood, blood serum or plasma, urine, breath, or</u>	208
<u>other bodily substance under section 3701.143 of the Revised</u>	209
<u>Code;</u>	210
<u>(II) Any evidence or testimony regarding the method,</u>	211
<u>process, reliability, or equipment used in the process of</u>	212
<u>analyzing a person's whole blood, blood serum or plasma, urine,</u>	213
<u>breath, or other bodily substance under section 3701.143 of the</u>	214
<u>Revised Code.</u>	215
<u>The trier of fact shall give any evidence or testimony</u>	216
<u>admitted by the court under division (D)(1)(c) of this section</u>	217
<u>whatever weight the trier of fact considers to be appropriate.</u>	218
(2) In a criminal prosecution or juvenile court proceeding	219
for a violation of division (A) of this section or for an	220
equivalent offense that is watercraft-related, if there was at	221
the time the bodily substance was taken a concentration of less	222
than the applicable concentration of alcohol specified for a	223
violation of division (A)(2), (3), (4), or (5) of this section	224
or less than the applicable concentration of a listed controlled	225
substance or a listed metabolite of a controlled substance	226
specified for a violation of division (A)(6) of this section,	227

that fact may be considered with other competent evidence in 228
determining the guilt or innocence of the defendant or in making 229
an adjudication for the child. This division does not limit or 230
affect a criminal prosecution or juvenile court proceeding for a 231
violation of division (B) of this section or for a violation of 232
a prohibition that is substantially equivalent to that division. 233

(3) Upon the request of the person who was tested, the 234
results of the chemical test shall be made available to the 235
person or the person's attorney immediately upon completion of 236
the test analysis. 237

If the chemical test was administered pursuant to division 238
(D) (1) (b) of this section, the person tested may have a 239
physician, a registered nurse, or a qualified technician, 240
chemist, or phlebotomist of the person's own choosing administer 241
a chemical test or tests in addition to any administered at the 242
direction of a law enforcement officer, and shall be so advised. 243
The failure or inability to obtain an additional test by a 244
person shall not preclude the admission of evidence relating to 245
the test or tests taken at the direction of a law enforcement 246
officer. 247

(E) (1) In any criminal prosecution or juvenile court 248
proceeding for a violation of division (A) or (B) of this 249
section, of a municipal ordinance relating to operating or being 250
in physical control of any vessel underway or to manipulating 251
any water skis, aquaplane, or similar device on the waters of 252
this state while under the influence of alcohol, a drug of 253
abuse, or a combination of them, or of a municipal ordinance 254
relating to operating or being in physical control of any vessel 255
underway or to manipulating any water skis, aquaplane, or 256
similar device on the waters of this state with a prohibited 257

concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine, if a law enforcement officer has administered a field sobriety test to the operator or person found to be in physical control of the vessel underway involved in the violation or the person manipulating the water skis, aquaplane, or similar device involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for reliable, credible, and generally accepted field sobriety tests for vehicles that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that have been set by the national highway traffic safety administration, that by their nature are not clearly inapplicable regarding the operation or physical control of vessels underway or the manipulation of water skis, aquaplanes, or similar devices, all of the following apply:

(a) The officer may testify concerning the results of the field sobriety test so administered.

(b) The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.

(c) If testimony is presented or evidence is introduced under division (E)(1)(a) or (b) of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence, and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.

(2) Division (E)(1) of this section does not limit or

preclude a court, in its determination of whether the arrest of 288
a person was supported by probable cause or its determination of 289
any other matter in a criminal prosecution or juvenile court 290
proceeding of a type described in that division, from 291
considering evidence or testimony that is not otherwise 292
disallowed by division (E) (1) of this section. 293

(F) (1) A trier of fact may infer that a person is under 294
the influence of marihuana in violation of division (A) (1) of 295
this section if any of the following apply: 296

(a) The person has a concentration of at least twenty-five 297
nanograms of delta-9-tetrahydrocannabinol per milliliter of the 298
person's urine. 299

(b) The person has a concentration of at least five 300
nanograms of delta-9-tetrahydrocannabinol per milliliter of the 301
person's whole blood or blood serum or plasma. 302

(2) (a) If the court admits any evidence or testimony 303
submitted by the prosecution under division (D) (1) (b) of this 304
section that demonstrates that a person had a concentration of 305
delta-9-tetrahydrocannabinol that exceeds one of the levels 306
specified in division (F) (1) of this section, the trier of fact 307
without expert testimony, may infer that the person was under 308
the influence of marihuana in violation of division (A) (1) of 309
this section. 310

(b) The inference that a person was under the influence of 311
marihuana in violation of division (A) (1) of this section may be 312
supported or rebutted by either party with any evidence or 313
testimony that complies with the Rules of Evidence. 314

(3) In determining whether a person was under the 315
influence of marihuana, the trier of fact shall consider all 316

relevant and competent evidence, including the inference, and 317
give the evidence whatever weight the trier of fact considers to 318
be appropriate. 319

(G) Subject to division ~~(F) (3)~~ (G) (3) of this section, in 320
any criminal prosecution or juvenile court proceeding for a 321
violation of division (A) or (B) of this section or for an 322
equivalent offense that is substantially equivalent to either of 323
those divisions, the court shall admit as prima-facie evidence a 324
laboratory report from any laboratory personnel issued a permit 325
by the department of health authorizing an analysis as described 326
in this division that contains an analysis of the whole blood, 327
blood serum or plasma, breath, urine, or other bodily substance 328
tested and that contains all of the information specified in 329
this division. The laboratory report shall contain all of the 330
following: 331

(a) The signature, under oath, of any person who performed 332
the analysis; 333

(b) Any findings as to the identity and quantity of 334
alcohol, a drug of abuse, a controlled substance, a metabolite 335
of a controlled substance, or a combination of them that was 336
found; 337

(c) A copy of a notarized statement by the laboratory 338
director or a designee of the director that contains the name of 339
each certified analyst or test performer involved with the 340
report, the analyst's or test performer's employment 341
relationship with the laboratory that issued the report, and a 342
notation that performing an analysis of the type involved is 343
part of the analyst's or test performer's regular duties; 344

(d) An outline of the analyst's or test performer's 345

education, training, and experience in performing the type of 346
analysis involved and a certification that the laboratory 347
satisfies appropriate quality control standards in general and, 348
in this particular analysis, under rules of the department of 349
health. 350

(2) Notwithstanding any other provision of law regarding 351
the admission of evidence, a report of the type described in 352
division ~~(F)(1)~~(G)(1) of this section is not admissible against 353
the defendant or child to whom it pertains in any proceeding, 354
other than a preliminary hearing or a grand jury proceeding, 355
unless the prosecutor has served a copy of the report on the 356
defendant's or child's attorney or, if the defendant or child 357
has no attorney, on the defendant or child. 358

(3) A report of the type described in division ~~(F)(1)~~(G) 359
(1) of this section shall not be prima-facie evidence of the 360
contents, identity, or amount of any substance if, within seven 361
days after the defendant or child to whom the report pertains or 362
the defendant's or child's attorney receives a copy of the 363
report, the defendant or child or the defendant's or child's 364
attorney demands the testimony of the person who signed the 365
report. The judge in the case may extend the seven-day time 366
limit in the interest of justice. 367

~~(G)~~(H) Except as otherwise provided in this division, any 368
physician, registered nurse, emergency medical technician- 369
intermediate, emergency medical technician-paramedic, or 370
qualified technician, chemist, or phlebotomist who withdraws 371
blood from a person pursuant to this section or section 1547.111 372
of the Revised Code, and a hospital, first-aid station, or 373
clinic at which blood is withdrawn from a person pursuant to 374
this section or section 1547.111 of the Revised Code, is immune 375

from criminal and civil liability based upon a claim of assault 376
and battery or any other claim that is not a claim of 377
malpractice, for any act performed in withdrawing blood from the 378
person. The immunity provided in this division also extends to 379
an emergency medical service organization that employs an 380
emergency medical technician-intermediate, or an emergency 381
medical technician-paramedic who withdraws blood under this 382
section. The immunity provided in this division is not available 383
to a person who withdraws blood if the person engages in willful 384
or wanton misconduct. 385

~~(H)~~ (I) Division (A) (6) of this section does not apply to 386
a person who operates or is in physical control of a vessel 387
underway or manipulates any water skis, aquaplane, or similar 388
device while the person has a concentration of a listed 389
controlled substance or a listed metabolite of a controlled 390
substance in the person's whole blood, blood serum or plasma, or 391
urine that equals or exceeds the amount specified in that 392
division, if both of the following apply: 393

(1) The person obtained the controlled substance pursuant 394
to a prescription issued by a licensed health professional 395
authorized to prescribe drugs. 396

(2) The person injected, ingested, or inhaled the 397
controlled substance in accordance with the health 398
professional's directions. 399

~~(I)~~ (J) As used in this section and section 1547.111 of 400
the Revised Code: 401

(1) "Equivalent offense" has the same meaning as in 402
section 4511.181 of the Revised Code. 403

(2) "National highway traffic safety administration" has 404

the same meaning as in section 4511.19 of the Revised Code. 405

(3) "Operate" means that a vessel is being used on the 406
waters in this state when the vessel is not securely affixed to 407
a dock or to shore or to any permanent structure to which the 408
vessel has the right to affix or that a vessel is not anchored 409
in a designated anchorage area or boat camping area that is 410
established by the United States coast guard, this state, or a 411
political subdivision and in which the vessel has the right to 412
anchor. 413

(4) "Controlled substance" and "marihuana" have the same 414
meanings as in section 3719.01 of the Revised Code. 415

(5) "Cocaine" and "L.S.D." have the same meanings as in 416
section 2925.01 of the Revised Code. 417

(6) "Equivalent offense that is watercraft-related" means 418
an equivalent offense that is one of the following: 419

(a) A violation of division (A) or (B) of this section; 420

(b) A violation of a municipal ordinance prohibiting a 421
person from operating or being in physical control of any vessel 422
underway or from manipulating any water skis, aquaplane, or 423
similar device on the waters of this state while under the 424
influence of alcohol, a drug of abuse, or a combination of them 425
or prohibiting a person from operating or being in physical 426
control of any vessel underway or from manipulating any water 427
skis, aquaplane, or similar device on the waters of this state 428
with a prohibited concentration of alcohol, a controlled 429
substance, or a metabolite of a controlled substance in the 430
whole blood, blood serum or plasma, breath, or urine; 431

(c) A violation of an existing or former municipal 432
ordinance, law of another state, or law of the United States 433

that is substantially equivalent to division (A) or (B) of this section; 434
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(d) A violation of a former law of this state that was substantially equivalent to division (A) or (B) of this section. 436
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(7) "Emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in section 4765.01 of the Revised Code. 438
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Sec. 3701.143. (A) As used in this section, "drug of abuse" has the same meaning as in section 4506.01 of the Revised Code. 441
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(B) For purposes of sections 1547.11, 4511.19, and 4511.194 of the Revised Code, the director of health shall determine, or cause to be determined, techniques or methods for chemically analyzing a person's whole blood, blood serum or plasma, urine, breath, or other bodily substance in order to ascertain the amount of alcohol, a drug of abuse, controlled substance, metabolite of a controlled substance, or combination of them in the person's whole blood, blood serum or plasma, urine, breath, or other bodily substance. The director shall approve satisfactory techniques or methods, ascertain the qualifications of individuals to conduct such analyses, and issue permits to qualified persons authorizing them to perform such analyses. Such permits shall be subject to termination or revocation at the discretion of the director. 444
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~~As used in this section, "drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.~~ 458
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(C) (1) The authority granted under this section, and any rules adopted pursuant to that authority, does not affect, impair, or limit the admissibility of any evidence regarding 460
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either of the following that is otherwise admissible under the 463
Rules of Evidence: 464

(a) Any evidence or testimony regarding the analysis of a 465
person's whole blood, blood serum or plasma, urine, breath, or 466
other bodily substance under this section, division (D)(1)(b) of 467
section 1547.11, or division (D)(1)(b) of section 4511.19 of the 468
Revised Code; 469

(b) Any evidence or testimony regarding the method, 470
process, reliability, or equipment used in the process of 471
analyzing a person's whole blood, blood serum or plasma, urine, 472
breath, or other bodily substance under this section, division 473
(D)(1)(b) of section 1547.11, or division (D)(1)(b) of section 474
4511.19 of the Revised Code. 475

Any evidence or testimony proposed to be admitted under 476
this section, and any evidence or testimony admitted under this 477
section, is subject to division (D)(1)(c) of section 1547.11 or 478
division (D)(1)(c) of section 4511.19 of the Revised Code, as 479
applicable. 480

Sec. 4511.19. (A) (1) No person shall operate any vehicle, 481
streetcar, or trackless trolley within this state, if, at the 482
time of the operation, any of the following apply: 483

(a) The person is under the influence of alcohol, a drug 484
of abuse, or a combination of them. 485

(b) The person has a concentration of eight-hundredths of 486
one per cent or more but less than seventeen-hundredths of one 487
per cent by weight per unit volume of alcohol in the person's 488
whole blood. 489

(c) The person has a concentration of ninety-six- 490
thousandths of one per cent or more but less than two hundred 491

four-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma. 492
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(d) The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath. 494
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(e) The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine. 498
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(f) The person has a concentration of seventeen-hundredths of one per cent or more by weight per unit volume of alcohol in the person's whole blood. 502
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(g) The person has a concentration of two hundred four-thousandths of one per cent or more by weight per unit volume of alcohol in the person's blood serum or plasma. 505
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(h) The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath. 508
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(i) The person has a concentration of two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine. 511
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(j) Except as provided in division (K) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following: 514
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(i) The person has a concentration of amphetamine in the 519

person's urine of at least five hundred nanograms of amphetamine 520
per milliliter of the person's urine or has a concentration of 521
amphetamine in the person's whole blood or blood serum or plasma 522
of at least one hundred nanograms of amphetamine per milliliter 523
of the person's whole blood or blood serum or plasma. 524

(ii) The person has a concentration of cocaine in the 525
person's urine of at least one hundred fifty nanograms of 526
cocaine per milliliter of the person's urine or has a 527
concentration of cocaine in the person's whole blood or blood 528
serum or plasma of at least fifty nanograms of cocaine per 529
milliliter of the person's whole blood or blood serum or plasma. 530

(iii) The person has a concentration of cocaine metabolite 531
in the person's urine of at least one hundred fifty nanograms of 532
cocaine metabolite per milliliter of the person's urine or has a 533
concentration of cocaine metabolite in the person's whole blood 534
or blood serum or plasma of at least fifty nanograms of cocaine 535
metabolite per milliliter of the person's whole blood or blood 536
serum or plasma. 537

(iv) The person has a concentration of heroin in the 538
person's urine of at least two thousand nanograms of heroin per 539
milliliter of the person's urine or has a concentration of 540
heroin in the person's whole blood or blood serum or plasma of 541
at least fifty nanograms of heroin per milliliter of the 542
person's whole blood or blood serum or plasma. 543

(v) The person has a concentration of heroin metabolite 544
(6-monoacetyl morphine) in the person's urine of at least ten 545
nanograms of heroin metabolite (6-monoacetyl morphine) per 546
milliliter of the person's urine or has a concentration of 547
heroin metabolite (6-monoacetyl morphine) in the person's whole 548
blood or blood serum or plasma of at least ten nanograms of 549

heroin metabolite (6-monoacetyl morphine) per milliliter of the 550
person's whole blood or blood serum or plasma. 551

(vi) The person has a concentration of L.S.D. in the 552
person's urine of at least twenty-five nanograms of L.S.D. per 553
milliliter of the person's urine or a concentration of L.S.D. in 554
the person's whole blood or blood serum or plasma of at least 555
ten nanograms of L.S.D. per milliliter of the person's whole 556
blood or blood serum or plasma. 557

~~(vii) The person has a concentration of marihuana in the 558
person's urine of at least ten nanograms of marihuana per 559
milliliter of the person's urine or has a concentration of 560
marihuana in the person's whole blood or blood serum or plasma 561
of at least two nanograms of marihuana per milliliter of the 562
person's whole blood or blood serum or plasma. 563~~

~~(viii) Either of the following applies: 564~~

~~(I) The person is under the influence of alcohol, a drug 565
of abuse, or a combination of them, and the person has a 566
concentration of marihuana metabolite in the person's urine of 567
at least fifteen nanograms of marihuana metabolite per 568
milliliter of the person's urine or has a concentration of 569
marihuana metabolite in the person's whole blood or blood serum 570
or plasma of at least five nanograms of marihuana metabolite per 571
milliliter of the person's whole blood or blood serum or plasma. 572~~

~~(II) The person has a concentration of marihuana 573
metabolite in the person's urine of at least thirty five 574
nanograms of marihuana metabolite per milliliter of the person's 575
urine or has a concentration of marihuana metabolite in the 576
person's whole blood or blood serum or plasma of at least fifty 577
nanograms of marihuana metabolite per milliliter of the person's 578~~

~~whole blood or blood serum or plasma.~~ 579

~~(ix)~~ The person has a concentration of methamphetamine in 580
the person's urine of at least five hundred nanograms of 581
methamphetamine per milliliter of the person's urine or has a 582
concentration of methamphetamine in the person's whole blood or 583
blood serum or plasma of at least one hundred nanograms of 584
methamphetamine per milliliter of the person's whole blood or 585
blood serum or plasma. 586

~~(x)~~ (viii) The person has a concentration of phencyclidine 587
in the person's urine of at least twenty-five nanograms of 588
phencyclidine per milliliter of the person's urine or has a 589
concentration of phencyclidine in the person's whole blood or 590
blood serum or plasma of at least ten nanograms of phencyclidine 591
per milliliter of the person's whole blood or blood serum or 592
plasma. 593

~~(xi)~~ (ix) The state board of pharmacy has adopted a rule 594
pursuant to section 4729.041 of the Revised Code that specifies 595
the amount of salvia divinorum and the amount of salvinorin A 596
that constitute concentrations of salvia divinorum and 597
salvinorin A in a person's urine, in a person's whole blood, or 598
in a person's blood serum or plasma at or above which the person 599
is impaired for purposes of operating any vehicle, streetcar, or 600
trackless trolley within this state, the rule is in effect, and 601
the person has a concentration of salvia divinorum or salvinorin 602
A of at least that amount so specified by rule in the person's 603
urine, in the person's whole blood, or in the person's blood 604
serum or plasma. 605

(2) No person who, within twenty years of the conduct 606
described in division (A) (2) (a) of this section, previously has 607
been convicted of or pleaded guilty to a violation of this 608

division, a violation of division (A)(1) or (B) of this section, 609
or any other equivalent offense shall do both of the following: 610

(a) Operate any vehicle, streetcar, or trackless trolley 611
within this state while under the influence of alcohol, a drug 612
of abuse, or a combination of them; 613

(b) Subsequent to being arrested for operating the 614
vehicle, streetcar, or trackless trolley as described in 615
division (A)(2)(a) of this section, being asked by a law 616
enforcement officer to submit to a chemical test or tests under 617
section 4511.191 of the Revised Code, and being advised by the 618
officer in accordance with section 4511.192 of the Revised Code 619
of the consequences of the person's refusal or submission to the 620
test or tests, refuse to submit to the test or tests. 621

(B) No person under twenty-one years of age shall operate 622
any vehicle, streetcar, or trackless trolley within this state, 623
if, at the time of the operation, any of the following apply: 624

(1) The person has a concentration of at least two- 625
hundredths of one per cent but less than eight-hundredths of one 626
per cent by weight per unit volume of alcohol in the person's 627
whole blood. 628

(2) The person has a concentration of at least three- 629
hundredths of one per cent but less than ninety-six-thousandths 630
of one per cent by weight per unit volume of alcohol in the 631
person's blood serum or plasma. 632

(3) The person has a concentration of at least two- 633
hundredths of one gram but less than eight-hundredths of one 634
gram by weight of alcohol per two hundred ten liters of the 635
person's breath. 636

(4) The person has a concentration of at least twenty- 637

eight one-thousandths of one gram but less than eleven- 638
hundredths of one gram by weight of alcohol per one hundred 639
milliliters of the person's urine. 640

(C) In any proceeding arising out of one incident, a 641
person may be charged with a violation of division (A) (1) (a) or 642
(A) (2) and a violation of division (B) (1), (2), or (3) of this 643
section, but the person may not be convicted of more than one 644
violation of these divisions. 645

(D) (1) (a) In any criminal prosecution or juvenile court 646
proceeding for a violation of division (A) (1) (a) of this section 647
or for an equivalent offense that is vehicle-related, the result 648
of any test of any blood or urine withdrawn and analyzed at any 649
health care provider, as defined in section 2317.02 of the 650
Revised Code, may be admitted with expert testimony to be 651
considered with any other relevant and competent evidence in 652
determining the guilt or innocence of the defendant. 653

(b) In any criminal prosecution or juvenile court 654
proceeding for a violation of division (A) or (B) of this 655
section or for an equivalent offense that is vehicle-related, 656
the court may admit evidence on the concentration of alcohol, 657
drugs of abuse, controlled substances, metabolites of a 658
controlled substance, or a combination of them in the 659
defendant's whole blood, blood serum or plasma, breath, urine, 660
or other bodily substance at the time of the alleged violation 661
as shown by chemical analysis of the substance withdrawn within 662
three hours of the time of the alleged violation. The three-hour 663
time limit specified in this division regarding the admission of 664
evidence does not extend or affect the two-hour time limit 665
specified in division (A) of section 4511.192 of the Revised 666
Code as the maximum period of time during which a person may 667

consent to a chemical test or tests as described in that 668
section. The court may admit evidence on the concentration of 669
alcohol, drugs of abuse, or a combination of them as described 670
in this division when a person submits to a blood, breath, 671
urine, or other bodily substance test at the request of a law 672
enforcement officer under section 4511.191 of the Revised Code 673
or a blood or urine sample is obtained pursuant to a search 674
warrant. Only a physician, a registered nurse, an emergency 675
medical technician-intermediate, an emergency medical 676
technician-paramedic, or a qualified technician, chemist, or 677
phlebotomist shall withdraw a blood sample for the purpose of 678
determining the alcohol, drug, controlled substance, metabolite 679
of a controlled substance, or combination content of the whole 680
blood, blood serum, or blood plasma. This limitation does not 681
apply to the taking of breath or urine specimens. A person 682
authorized to withdraw blood under this division may refuse to 683
withdraw blood under this division, if in that person's opinion, 684
the physical welfare of the person would be endangered by the 685
withdrawing of blood. 686

The bodily substance withdrawn under division (D) (1) (b) of 687
this section shall be analyzed in accordance with methods 688
approved by the director of health by an individual possessing a 689
valid permit issued by the director pursuant to section 3701.143 690
of the Revised Code. 691

~~(e)~~(c) (i) Any evidence or testimony proposed to be 692
admitted under division (D) (1) (b) of this section is subject to 693
the Rules of Evidence, including Evid. R. 702 regarding expert 694
testimony. 695

(ii) The admissibility of any evidence or testimony under 696
division (D) (1) (b) of this section regarding the concentration 697

of alcohol, a drug of abuse, or a combination of them in a 698
person's whole blood, blood serum or plasma, urine, breath, or 699
other bodily substance does not affect, impair, or limit the 700
admissibility of either of the following that is otherwise 701
admissible under the Rules of Evidence: 702

(I) Any evidence or testimony regarding the analysis of a 703
person's whole blood, blood serum or plasma, urine, breath, or 704
other bodily substance under section 3701.143 of the Revised 705
Code; 706

(II) Any evidence or testimony regarding the method, 707
process, reliability, or equipment used in the process of 708
analyzing a person's whole blood, blood serum or plasma, urine, 709
breath, or other bodily substance under section 3701.143 of the 710
Revised Code. 711

The trier of fact shall give any evidence or testimony 712
admitted by the court under division (D)(1)(c) of this section 713
whatever weight the trier of fact considers to be appropriate. 714

(d) As used in division (D)(1)(b) of this section, 715
"emergency medical technician-intermediate" and "emergency 716
medical technician-paramedic" have the same meanings as in 717
section 4765.01 of the Revised Code. 718

(2) In a criminal prosecution or juvenile court proceeding 719
for a violation of division (A) of this section or for an 720
equivalent offense that is vehicle-related, if there was at the 721
time the bodily substance was withdrawn a concentration of less 722
than the applicable concentration of alcohol specified in 723
divisions (A)(1)(b), (c), (d), and (e) of this section or less 724
than the applicable concentration of a listed controlled 725
substance or a listed metabolite of a controlled substance 726

specified for a violation of division (A) (1) (j) of this section, 727
that fact may be considered with other competent evidence in 728
determining the guilt or innocence of the defendant. This 729
division does not limit or affect a criminal prosecution or 730
juvenile court proceeding for a violation of division (B) of 731
this section or for an equivalent offense that is substantially 732
equivalent to that division. 733

(3) Upon the request of the person who was tested, the 734
results of the chemical test shall be made available to the 735
person or the person's attorney, immediately upon the completion 736
of the chemical test analysis. 737

If the chemical test was obtained pursuant to division (D) 738
(1) (b) of this section, the person tested may have a physician, 739
a registered nurse, or a qualified technician, chemist, or 740
phlebotomist of the person's own choosing administer a chemical 741
test or tests, at the person's expense, in addition to any 742
administered at the request of a law enforcement officer. If the 743
person was under arrest as described in division (A) (5) of 744
section 4511.191 of the Revised Code, the arresting officer 745
shall advise the person at the time of the arrest that the 746
person may have an independent chemical test taken at the 747
person's own expense. If the person was under arrest other than 748
described in division (A) (5) of section 4511.191 of the Revised 749
Code, the form to be read to the person to be tested, as 750
required under section 4511.192 of the Revised Code, shall state 751
that the person may have an independent test performed at the 752
person's expense. The failure or inability to obtain an 753
additional chemical test by a person shall not preclude the 754
admission of evidence relating to the chemical test or tests 755
taken at the request of a law enforcement officer. 756

(4) (a) As used in divisions (D) (4) (b) and (c) of this 757
section, "national highway traffic safety administration" means 758
the national highway traffic safety administration established 759
as an administration of the United States department of 760
transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105. 761

(b) In any criminal prosecution or juvenile court 762
proceeding for a violation of division (A) or (B) of this 763
section, of a municipal ordinance relating to operating a 764
vehicle while under the influence of alcohol, a drug of abuse, 765
or alcohol and a drug of abuse, or of a municipal ordinance 766
relating to operating a vehicle with a prohibited concentration 767
of alcohol, a controlled substance, or a metabolite of a 768
controlled substance in the whole blood, blood serum or plasma, 769
breath, or urine, if a law enforcement officer has administered 770
a field sobriety test to the operator of the vehicle involved in 771
the violation and if it is shown by clear and convincing 772
evidence that the officer administered the test in substantial 773
compliance with the testing standards for any reliable, 774
credible, and generally accepted field sobriety tests that were 775
in effect at the time the tests were administered, including, 776
but not limited to, any testing standards then in effect that 777
were set by the national highway traffic safety administration, 778
all of the following apply: 779

(i) The officer may testify concerning the results of the 780
field sobriety test so administered. 781

(ii) The prosecution may introduce the results of the 782
field sobriety test so administered as evidence in any 783
proceedings in the criminal prosecution or juvenile court 784
proceeding. 785

(iii) If testimony is presented or evidence is introduced 786

under division (D) (4) (b) (i) or (ii) of this section and if the 787
testimony or evidence is admissible under the Rules of Evidence, 788
the court shall admit the testimony or evidence and the trier of 789
fact shall give it whatever weight the trier of fact considers 790
to be appropriate. 791

(c) Division (D) (4) (b) of this section does not limit or 792
preclude a court, in its determination of whether the arrest of 793
a person was supported by probable cause or its determination of 794
any other matter in a criminal prosecution or juvenile court 795
proceeding of a type described in that division, from 796
considering evidence or testimony that is not otherwise 797
disallowed by division (D) (4) (b) of this section. 798

(5) (a) A trier of fact may infer that a person is under 799
the influence of marihuana in violation of division (A) (1) (a) of 800
this section if any of the following apply: 801

(i) The person has a concentration of at least twenty-five 802
nanograms of delta-9-tetrahydrocannabinol per milliliter of the 803
person's urine. 804

(ii) The person has a concentration of at least five 805
nanograms of delta-9-tetrahydrocannabinol per milliliter of the 806
person's whole blood or blood serum or plasma. 807

(b) (i) If the court admits any evidence or testimony 808
submitted by the prosecution under division (D) (1) (b) of this 809
section that demonstrates that a person had a concentration of 810
delta-9-tetrahydrocannabinol that exceeds one of the levels 811
specified in division (D) (5) (a) of this section, the trier of 812
fact may, without expert testimony, infer that the person was 813
under the influence of marihuana in violation of division (A) (1) 814
(a) of this section. 815

(ii) The inference that a person was under the influence of marihuana in violation of division (A) (1) (a) of this section may be supported or rebutted by either party with any evidence or testimony that complies with the Rules of Evidence. 816
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(c) In determining whether a person was under the influence of marihuana, the trier of fact shall consider all relevant and competent evidence, including the inference, and give the evidence whatever weight the trier of fact considers to be appropriate. 820
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(E) (1) Subject to division (E) (3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of division (A) (1) (b), (c), (d), (e), (f), (g), (h), (i), or (j) or (B) (1), (2), (3), or (4) of this section or for an equivalent offense that is substantially equivalent to any of those divisions, a laboratory report from any laboratory personnel issued a permit by the department of health authorizing an analysis as described in this division that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this division shall be admitted as prima-facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following: 825
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(a) The signature, under oath, of any person who performed the analysis; 839
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(b) Any findings as to the identity and quantity of alcohol, a drug of abuse, a controlled substance, a metabolite of a controlled substance, or a combination of them that was found; 841
842
843
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(c) A copy of a notarized statement by the laboratory 845
director or a designee of the director that contains the name of 846
each certified analyst or test performer involved with the 847
report, the analyst's or test performer's employment 848
relationship with the laboratory that issued the report, and a 849
notation that performing an analysis of the type involved is 850
part of the analyst's or test performer's regular duties; 851

(d) An outline of the analyst's or test performer's 852
education, training, and experience in performing the type of 853
analysis involved and a certification that the laboratory 854
satisfies appropriate quality control standards in general and, 855
in this particular analysis, under rules of the department of 856
health. 857

(2) Notwithstanding any other provision of law regarding 858
the admission of evidence, a report of the type described in 859
division (E) (1) of this section is not admissible against the 860
defendant to whom it pertains in any proceeding, other than a 861
preliminary hearing or a grand jury proceeding, unless the 862
prosecutor has served a copy of the report on the defendant's 863
attorney or, if the defendant has no attorney, on the defendant. 864

(3) A report of the type described in division (E) (1) of 865
this section shall not be prima-facie evidence of the contents, 866
identity, or amount of any substance if, within seven days after 867
the defendant to whom the report pertains or the defendant's 868
attorney receives a copy of the report, the defendant or the 869
defendant's attorney demands the testimony of the person who 870
signed the report. The judge in the case may extend the seven- 871
day time limit in the interest of justice. 872

(F) Except as otherwise provided in this division, any 873
physician, registered nurse, emergency medical technician- 874

intermediate, emergency medical technician-paramedic, or 875
qualified technician, chemist, or phlebotomist who withdraws 876
blood from a person pursuant to this section or section 4511.191 877
or 4511.192 of the Revised Code, and any hospital, first-aid 878
station, or clinic at which blood is withdrawn from a person 879
pursuant to this section or section 4511.191 or 4511.192 of the 880
Revised Code, is immune from criminal liability and civil 881
liability based upon a claim of assault and battery or any other 882
claim that is not a claim of malpractice, for any act performed 883
in withdrawing blood from the person. The immunity provided in 884
this division also extends to an emergency medical service 885
organization that employs an emergency medical technician- 886
intermediate or emergency medical technician-paramedic who 887
withdraws blood under this section. The immunity provided in 888
this division is not available to a person who withdraws blood 889
if the person engages in willful or wanton misconduct. 890

As used in this division, "emergency medical technician- 891
intermediate" and "emergency medical technician-paramedic" have 892
the same meanings as in section 4765.01 of the Revised Code. 893

(G) (1) Whoever violates any provision of divisions (A) (1) 894
(a) to (i) or (A) (2) of this section is guilty of operating a 895
vehicle under the influence of alcohol, a drug of abuse, or a 896
combination of them. Whoever violates division (A) (1) (j) of this 897
section is guilty of operating a vehicle while under the 898
influence of a listed controlled substance or a listed 899
metabolite of a controlled substance. The court shall sentence 900
the offender for either offense under Chapter 2929. of the 901
Revised Code, except as otherwise authorized or required by 902
divisions (G) (1) (a) to (e) of this section: 903

(a) Except as otherwise provided in division (G) (1) (b), 904

(c), (d), or (e) of this section, the offender is guilty of a 905
misdemeanor of the first degree, and the court shall sentence 906
the offender to all of the following: 907

(i) If the sentence is being imposed for a violation of 908
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, 909
a mandatory jail term of three consecutive days. As used in this 910
division, three consecutive days means seventy-two consecutive 911
hours. The court may sentence an offender to both an 912
intervention program and a jail term. The court may impose a 913
jail term in addition to the three-day mandatory jail term or 914
intervention program. However, in no case shall the cumulative 915
jail term imposed for the offense exceed six months. 916

The court may suspend the execution of the three-day jail 917
term under this division if the court, in lieu of that suspended 918
term, places the offender under a community control sanction 919
pursuant to section 2929.25 of the Revised Code and requires the 920
offender to attend, for three consecutive days, a drivers' 921
intervention program certified under section 5119.38 of the 922
Revised Code. The court also may suspend the execution of any 923
part of the three-day jail term under this division if it places 924
the offender under a community control sanction pursuant to 925
section 2929.25 of the Revised Code for part of the three days, 926
requires the offender to attend for the suspended part of the 927
term a drivers' intervention program so certified, and sentences 928
the offender to a jail term equal to the remainder of the three 929
consecutive days that the offender does not spend attending the 930
program. The court may require the offender, as a condition of 931
community control and in addition to the required attendance at 932
a drivers' intervention program, to attend and satisfactorily 933
complete any treatment or education programs that comply with 934
the minimum standards adopted pursuant to Chapter 5119. of the 935

Revised Code by the director of mental health and addiction 936
services that the operators of the drivers' intervention program 937
determine that the offender should attend and to report 938
periodically to the court on the offender's progress in the 939
programs. The court also may impose on the offender any other 940
conditions of community control that it considers necessary. 941

If the court grants unlimited driving privileges to a 942
first-time offender under section 4510.022 of the Revised Code, 943
all penalties imposed upon the offender by the court under 944
division (G) (1) (a) (i) of this section for the offense apply, 945
except that the court shall suspend any mandatory or additional 946
jail term imposed by the court under division (G) (1) (a) (i) of 947
this section upon granting unlimited driving privileges in 948
accordance with section 4510.022 of the Revised Code. 949

(ii) If the sentence is being imposed for a violation of 950
division (A) (1) (f), (g), (h), or (i) or division (A) (2) of this 951
section, except as otherwise provided in this division, a 952
mandatory jail term of at least three consecutive days and a 953
requirement that the offender attend, for three consecutive 954
days, a drivers' intervention program that is certified pursuant 955
to section 5119.38 of the Revised Code. As used in this 956
division, three consecutive days means seventy-two consecutive 957
hours. If the court determines that the offender is not 958
conducive to treatment in a drivers' intervention program, if 959
the offender refuses to attend a drivers' intervention program, 960
or if the jail at which the offender is to serve the jail term 961
imposed can provide a driver's intervention program, the court 962
shall sentence the offender to a mandatory jail term of at least 963
six consecutive days. 964

If the court grants unlimited driving privileges to a 965

first-time offender under section 4510.022 of the Revised Code, 966
all penalties imposed upon the offender by the court under 967
division (G) (1) (a) (ii) of this section for the offense apply, 968
except that the court shall suspend any mandatory or additional 969
jail term imposed by the court under division (G) (1) (a) (ii) of 970
this section upon granting unlimited driving privileges in 971
accordance with section 4510.022 of the Revised Code. 972

The court may require the offender, under a community 973
control sanction imposed under section 2929.25 of the Revised 974
Code, to attend and satisfactorily complete any treatment or 975
education programs that comply with the minimum standards 976
adopted pursuant to Chapter 5119. of the Revised Code by the 977
director of mental health and addiction services, in addition to 978
the required attendance at drivers' intervention program, that 979
the operators of the drivers' intervention program determine 980
that the offender should attend and to report periodically to 981
the court on the offender's progress in the programs. The court 982
also may impose any other conditions of community control on the 983
offender that it considers necessary. 984

(iii) In all cases, a fine of not less than three hundred 985
seventy-five and not more than one thousand seventy-five 986
dollars; 987

(iv) In all cases, a suspension of the offender's driver's 988
or commercial driver's license or permit or nonresident 989
operating privilege for a definite period of one to three years. 990
The court may grant limited driving privileges relative to the 991
suspension under sections 4510.021 and 4510.13 of the Revised 992
Code. The court may grant unlimited driving privileges with an 993
ignition interlock device relative to the suspension and may 994
reduce the period of suspension as authorized under section 995

4510.022 of the Revised Code. 996

(b) Except as otherwise provided in division (G)(1)(e) of 997
this section, an offender who, within ten years of the offense, 998
previously has been convicted of or pleaded guilty to one 999
violation of division (A) or (B) of this section or one other 1000
equivalent offense is guilty of a misdemeanor of the first 1001
degree. The court shall sentence the offender to all of the 1002
following: 1003

(i) If the sentence is being imposed for a violation of 1004
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, 1005
a mandatory jail term of ten consecutive days. The court shall 1006
impose the ten-day mandatory jail term under this division 1007
unless, subject to division (G)(3) of this section, it instead 1008
imposes a sentence under that division consisting of both a jail 1009
term and a term of house arrest with electronic monitoring, with 1010
continuous alcohol monitoring, or with both electronic 1011
monitoring and continuous alcohol monitoring. The court may 1012
impose a jail term in addition to the ten-day mandatory jail 1013
term. The cumulative jail term imposed for the offense shall not 1014
exceed six months. 1015

In addition to the jail term or the term of house arrest 1016
with electronic monitoring or continuous alcohol monitoring or 1017
both types of monitoring and jail term, the court shall require 1018
the offender to be assessed by a community addiction services 1019
provider that is authorized by section 5119.21 of the Revised 1020
Code, subject to division (I) of this section, and shall order 1021
the offender to follow the treatment recommendations of the 1022
services provider. The purpose of the assessment is to determine 1023
the degree of the offender's alcohol usage and to determine 1024
whether or not treatment is warranted. Upon the request of the 1025

court, the services provider shall submit the results of the 1026
assessment to the court, including all treatment recommendations 1027
and clinical diagnoses related to alcohol use. 1028

(ii) If the sentence is being imposed for a violation of 1029
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1030
section, except as otherwise provided in this division, a 1031
mandatory jail term of twenty consecutive days. The court shall 1032
impose the twenty-day mandatory jail term under this division 1033
unless, subject to division (G)(3) of this section, it instead 1034
imposes a sentence under that division consisting of both a jail 1035
term and a term of house arrest with electronic monitoring, with 1036
continuous alcohol monitoring, or with both electronic 1037
monitoring and continuous alcohol monitoring. The court may 1038
impose a jail term in addition to the twenty-day mandatory jail 1039
term. The cumulative jail term imposed for the offense shall not 1040
exceed six months. 1041

In addition to the jail term or the term of house arrest 1042
with electronic monitoring or continuous alcohol monitoring or 1043
both types of monitoring and jail term, the court shall require 1044
the offender to be assessed by a community addiction service 1045
provider that is authorized by section 5119.21 of the Revised 1046
Code, subject to division (I) of this section, and shall order 1047
the offender to follow the treatment recommendations of the 1048
services provider. The purpose of the assessment is to determine 1049
the degree of the offender's alcohol usage and to determine 1050
whether or not treatment is warranted. Upon the request of the 1051
court, the services provider shall submit the results of the 1052
assessment to the court, including all treatment recommendations 1053
and clinical diagnoses related to alcohol use. 1054

(iii) In all cases, notwithstanding the fines set forth in 1055

Chapter 2929. of the Revised Code, a fine of not less than five 1056
hundred twenty-five and not more than one thousand six hundred 1057
twenty-five dollars; 1058

(iv) In all cases, a suspension of the offender's driver's 1059
license, commercial driver's license, temporary instruction 1060
permit, probationary license, or nonresident operating privilege 1061
for a definite period of one to seven years. The court may grant 1062
limited driving privileges relative to the suspension under 1063
sections 4510.021 and 4510.13 of the Revised Code. 1064

(v) In all cases, if the vehicle is registered in the 1065
offender's name, immobilization of the vehicle involved in the 1066
offense for ninety days in accordance with section 4503.233 of 1067
the Revised Code and impoundment of the license plates of that 1068
vehicle for ninety days. 1069

(c) Except as otherwise provided in division (G) (1) (e) of 1070
this section, an offender who, within ten years of the offense, 1071
previously has been convicted of or pleaded guilty to two 1072
violations of division (A) or (B) of this section or other 1073
equivalent offenses is guilty of a misdemeanor. The court shall 1074
sentence the offender to all of the following: 1075

(i) If the sentence is being imposed for a violation of 1076
division (A) (1) (a), (b), (c), (d), (e), or (j) of this section, 1077
a mandatory jail term of thirty consecutive days. The court 1078
shall impose the thirty-day mandatory jail term under this 1079
division unless, subject to division (G) (3) of this section, it 1080
instead imposes a sentence under that division consisting of 1081
both a jail term and a term of house arrest with electronic 1082
monitoring, with continuous alcohol monitoring, or with both 1083
electronic monitoring and continuous alcohol monitoring. The 1084
court may impose a jail term in addition to the thirty-day 1085

mandatory jail term. Notwithstanding the jail terms set forth in 1086
sections 2929.21 to 2929.28 of the Revised Code, the additional 1087
jail term shall not exceed one year, and the cumulative jail 1088
term imposed for the offense shall not exceed one year. 1089

(ii) If the sentence is being imposed for a violation of 1090
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1091
section, a mandatory jail term of sixty consecutive days. The 1092
court shall impose the sixty-day mandatory jail term under this 1093
division unless, subject to division (G)(3) of this section, it 1094
instead imposes a sentence under that division consisting of 1095
both a jail term and a term of house arrest with electronic 1096
monitoring, with continuous alcohol monitoring, or with both 1097
electronic monitoring and continuous alcohol monitoring. The 1098
court may impose a jail term in addition to the sixty-day 1099
mandatory jail term. Notwithstanding the jail terms set forth in 1100
sections 2929.21 to 2929.28 of the Revised Code, the additional 1101
jail term shall not exceed one year, and the cumulative jail 1102
term imposed for the offense shall not exceed one year. 1103

(iii) In all cases, notwithstanding the fines set forth in 1104
Chapter 2929. of the Revised Code, a fine of not less than eight 1105
hundred fifty and not more than two thousand seven hundred fifty 1106
dollars; 1107

(iv) In all cases, a suspension of the offender's driver's 1108
license, commercial driver's license, temporary instruction 1109
permit, probationary license, or nonresident operating privilege 1110
for a definite period of two to twelve years. The court may 1111
grant limited driving privileges relative to the suspension 1112
under sections 4510.021 and 4510.13 of the Revised Code. 1113

(v) In all cases, if the vehicle is registered in the 1114
offender's name, criminal forfeiture of the vehicle involved in 1115

the offense in accordance with section 4503.234 of the Revised Code. Division (G) (6) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this division.

(vi) In all cases, the court shall order the offender to participate with a community addiction services provider authorized by section 5119.21 of the Revised Code, subject to division (I) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The operator of the services provider shall determine and assess the degree of the offender's alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

(d) Except as otherwise provided in division (G) (1) (e) of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or four violations of division (A) or (B) of this section or other equivalent offenses or an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature is guilty of a felony of the fourth degree. The court shall sentence the offender to all of the following:

(i) If the sentence is being imposed for a violation of division (A) (1) (a), (b), (c), (d), (e), or (j) of this section, a mandatory prison term of one, two, three, four, or five years as required by and in accordance with division (G) (2) of section 2929.13 of the Revised Code if the offender also is convicted of or also pleads guilty to a specification of the type described

in section 2941.1413 of the Revised Code or, in the discretion 1146
of the court, either a mandatory term of local incarceration of 1147
sixty consecutive days in accordance with division (G) (1) of 1148
section 2929.13 of the Revised Code or a mandatory prison term 1149
of sixty consecutive days in accordance with division (G) (2) of 1150
that section if the offender is not convicted of and does not 1151
plead guilty to a specification of that type. If the court 1152
imposes a mandatory term of local incarceration, it may impose a 1153
jail term in addition to the sixty-day mandatory term, the 1154
cumulative total of the mandatory term and the jail term for the 1155
offense shall not exceed one year, and, except as provided in 1156
division (A) (1) of section 2929.13 of the Revised Code, no 1157
prison term is authorized for the offense. If the court imposes 1158
a mandatory prison term, notwithstanding division (A) (4) of 1159
section 2929.14 of the Revised Code, it also may sentence the 1160
offender to a definite prison term that shall be not less than 1161
six months and not more than thirty months and the prison terms 1162
shall be imposed as described in division (G) (2) of section 1163
2929.13 of the Revised Code. If the court imposes a mandatory 1164
prison term or mandatory prison term and additional prison term, 1165
in addition to the term or terms so imposed, the court also may 1166
sentence the offender to a community control sanction for the 1167
offense, but the offender shall serve all of the prison terms so 1168
imposed prior to serving the community control sanction. 1169

(ii) If the sentence is being imposed for a violation of 1170
division (A) (1) (f), (g), (h), or (i) or division (A) (2) of this 1171
section, a mandatory prison term of one, two, three, four, or 1172
five years as required by and in accordance with division (G) (2) 1173
of section 2929.13 of the Revised Code if the offender also is 1174
convicted of or also pleads guilty to a specification of the 1175
type described in section 2941.1413 of the Revised Code or, in 1176

the discretion of the court, either a mandatory term of local incarceration of one hundred twenty consecutive days in accordance with division (G)(1) of section 2929.13 of the Revised Code or a mandatory prison term of one hundred twenty consecutive days in accordance with division (G)(2) of that section if the offender is not convicted of and does not plead guilty to a specification of that type. If the court imposes a mandatory term of local incarceration, it may impose a jail term in addition to the one hundred twenty-day mandatory term, the cumulative total of the mandatory term and the jail term for the offense shall not exceed one year, and, except as provided in division (A)(1) of section 2929.13 of the Revised Code, no prison term is authorized for the offense. If the court imposes a mandatory prison term, notwithstanding division (A)(4) of section 2929.14 of the Revised Code, it also may sentence the offender to a definite prison term that shall be not less than six months and not more than thirty months and the prison terms shall be imposed as described in division (G)(2) of section 2929.13 of the Revised Code. If the court imposes a mandatory prison term or mandatory prison term and additional prison term, in addition to the term or terms so imposed, the court also may sentence the offender to a community control sanction for the offense, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

(iii) In all cases, notwithstanding section 2929.18 of the Revised Code, a fine of not less than one thousand three hundred fifty nor more than ten thousand five hundred dollars;

(iv) In all cases, a class two license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in

division (A) (2) of section 4510.02 of the Revised Code. The 1208
court may grant limited driving privileges relative to the 1209
suspension under sections 4510.021 and 4510.13 of the Revised 1210
Code. 1211

(v) In all cases, if the vehicle is registered in the 1212
offender's name, criminal forfeiture of the vehicle involved in 1213
the offense in accordance with section 4503.234 of the Revised 1214
Code. Division (G) (6) of this section applies regarding any 1215
vehicle that is subject to an order of criminal forfeiture under 1216
this division. 1217

(vi) In all cases, the court shall order the offender to 1218
participate with a community addiction services provider 1219
authorized by section 5119.21 of the Revised Code, subject to 1220
division (I) of this section, and shall order the offender to 1221
follow the treatment recommendations of the services provider. 1222
The operator of the services provider shall determine and assess 1223
the degree of the offender's alcohol dependency and shall make 1224
recommendations for treatment. Upon the request of the court, 1225
the services provider shall submit the results of the assessment 1226
to the court, including all treatment recommendations and 1227
clinical diagnoses related to alcohol use. 1228

(vii) In all cases, if the court sentences the offender to 1229
a mandatory term of local incarceration, in addition to the 1230
mandatory term, the court, pursuant to section 2929.17 of the 1231
Revised Code, may impose a term of house arrest with electronic 1232
monitoring. The term shall not commence until after the offender 1233
has served the mandatory term of local incarceration. 1234

(e) An offender who previously has been convicted of or 1235
pleaded guilty to a violation of division (A) of this section 1236
that was a felony, regardless of when the violation and the 1237

conviction or guilty plea occurred, is guilty of a felony of the 1238
third degree. The court shall sentence the offender to all of 1239
the following: 1240

(i) If the offender is being sentenced for a violation of 1241
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, 1242
a mandatory prison term of one, two, three, four, or five years 1243
as required by and in accordance with division (G)(2) of section 1244
2929.13 of the Revised Code if the offender also is convicted of 1245
or also pleads guilty to a specification of the type described 1246
in section 2941.1413 of the Revised Code or a mandatory prison 1247
term of sixty consecutive days in accordance with division (G) 1248
(2) of section 2929.13 of the Revised Code if the offender is 1249
not convicted of and does not plead guilty to a specification of 1250
that type. The court may impose a prison term in addition to the 1251
mandatory prison term. The cumulative total of a sixty-day 1252
mandatory prison term and the additional prison term for the 1253
offense shall not exceed five years. In addition to the 1254
mandatory prison term or mandatory prison term and additional 1255
prison term the court imposes, the court also may sentence the 1256
offender to a community control sanction for the offense, but 1257
the offender shall serve all of the prison terms so imposed 1258
prior to serving the community control sanction. 1259

(ii) If the sentence is being imposed for a violation of 1260
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1261
section, a mandatory prison term of one, two, three, four, or 1262
five years as required by and in accordance with division (G)(2) 1263
of section 2929.13 of the Revised Code if the offender also is 1264
convicted of or also pleads guilty to a specification of the 1265
type described in section 2941.1413 of the Revised Code or a 1266
mandatory prison term of one hundred twenty consecutive days in 1267
accordance with division (G)(2) of section 2929.13 of the 1268

Revised Code if the offender is not convicted of and does not 1269
plead guilty to a specification of that type. The court may 1270
impose a prison term in addition to the mandatory prison term. 1271
The cumulative total of a one hundred twenty-day mandatory 1272
prison term and the additional prison term for the offense shall 1273
not exceed five years. In addition to the mandatory prison term 1274
or mandatory prison term and additional prison term the court 1275
imposes, the court also may sentence the offender to a community 1276
control sanction for the offense, but the offender shall serve 1277
all of the prison terms so imposed prior to serving the 1278
community control sanction. 1279

(iii) In all cases, notwithstanding section 2929.18 of the 1280
Revised Code, a fine of not less than one thousand three hundred 1281
fifty nor more than ten thousand five hundred dollars; 1282

(iv) In all cases, a class two license suspension of the 1283
offender's driver's license, commercial driver's license, 1284
temporary instruction permit, probationary license, or 1285
nonresident operating privilege from the range specified in 1286
division (A)(2) of section 4510.02 of the Revised Code. The 1287
court may grant limited driving privileges relative to the 1288
suspension under sections 4510.021 and 4510.13 of the Revised 1289
Code. 1290

(v) In all cases, if the vehicle is registered in the 1291
offender's name, criminal forfeiture of the vehicle involved in 1292
the offense in accordance with section 4503.234 of the Revised 1293
Code. Division (G)(6) of this section applies regarding any 1294
vehicle that is subject to an order of criminal forfeiture under 1295
this division. 1296

(vi) In all cases, the court shall order the offender to 1297
participate with a community addiction services provider 1298

authorized by section 5119.21 of the Revised Code, subject to 1299
division (I) of this section, and shall order the offender to 1300
follow the treatment recommendations of the services provider. 1301
The operator of the services provider shall determine and assess 1302
the degree of the offender's alcohol dependency and shall make 1303
recommendations for treatment. Upon the request of the court, 1304
the services provider shall submit the results of the assessment 1305
to the court, including all treatment recommendations and 1306
clinical diagnoses related to alcohol use. 1307

(2) An offender who is convicted of or pleads guilty to a 1308
violation of division (A) of this section and who subsequently 1309
seeks reinstatement of the driver's or occupational driver's 1310
license or permit or nonresident operating privilege suspended 1311
under this section as a result of the conviction or guilty plea 1312
shall pay a reinstatement fee as provided in division (F) (2) of 1313
section 4511.191 of the Revised Code. 1314

(3) If an offender is sentenced to a jail term under 1315
division (G) (1) (b) (i) or (ii) or (G) (1) (c) (i) or (ii) of this 1316
section and if, within sixty days of sentencing of the offender, 1317
the court issues a written finding on the record that, due to 1318
the unavailability of space at the jail where the offender is 1319
required to serve the term, the offender will not be able to 1320
begin serving that term within the sixty-day period following 1321
the date of sentencing, the court may impose an alternative 1322
sentence under this division that includes a term of house 1323
arrest with electronic monitoring, with continuous alcohol 1324
monitoring, or with both electronic monitoring and continuous 1325
alcohol monitoring. 1326

As an alternative to a mandatory jail term of ten 1327
consecutive days required by division (G) (1) (b) (i) of this 1328

section, the court, under this division, may sentence the 1329
offender to five consecutive days in jail and not less than 1330
eighteen consecutive days of house arrest with electronic 1331
monitoring, with continuous alcohol monitoring, or with both 1332
electronic monitoring and continuous alcohol monitoring. The 1333
cumulative total of the five consecutive days in jail and the 1334
period of house arrest with electronic monitoring, continuous 1335
alcohol monitoring, or both types of monitoring shall not exceed 1336
six months. The five consecutive days in jail do not have to be 1337
served prior to or consecutively to the period of house arrest. 1338

As an alternative to the mandatory jail term of twenty 1339
consecutive days required by division (G)(1)(b)(ii) of this 1340
section, the court, under this division, may sentence the 1341
offender to ten consecutive days in jail and not less than 1342
thirty-six consecutive days of house arrest with electronic 1343
monitoring, with continuous alcohol monitoring, or with both 1344
electronic monitoring and continuous alcohol monitoring. The 1345
cumulative total of the ten consecutive days in jail and the 1346
period of house arrest with electronic monitoring, continuous 1347
alcohol monitoring, or both types of monitoring shall not exceed 1348
six months. The ten consecutive days in jail do not have to be 1349
served prior to or consecutively to the period of house arrest. 1350

As an alternative to a mandatory jail term of thirty 1351
consecutive days required by division (G)(1)(c)(i) of this 1352
section, the court, under this division, may sentence the 1353
offender to fifteen consecutive days in jail and not less than 1354
fifty-five consecutive days of house arrest with electronic 1355
monitoring, with continuous alcohol monitoring, or with both 1356
electronic monitoring and continuous alcohol monitoring. The 1357
cumulative total of the fifteen consecutive days in jail and the 1358
period of house arrest with electronic monitoring, continuous 1359

alcohol monitoring, or both types of monitoring shall not exceed 1360
one year. The fifteen consecutive days in jail do not have to be 1361
served prior to or consecutively to the period of house arrest. 1362

As an alternative to the mandatory jail term of sixty 1363
consecutive days required by division (G) (1) (c) (ii) of this 1364
section, the court, under this division, may sentence the 1365
offender to thirty consecutive days in jail and not less than 1366
one hundred ten consecutive days of house arrest with electronic 1367
monitoring, with continuous alcohol monitoring, or with both 1368
electronic monitoring and continuous alcohol monitoring. The 1369
cumulative total of the thirty consecutive days in jail and the 1370
period of house arrest with electronic monitoring, continuous 1371
alcohol monitoring, or both types of monitoring shall not exceed 1372
one year. The thirty consecutive days in jail do not have to be 1373
served prior to or consecutively to the period of house arrest. 1374

(4) If an offender's driver's or occupational driver's 1375
license or permit or nonresident operating privilege is 1376
suspended under division (G) of this section and if section 1377
4510.13 of the Revised Code permits the court to grant limited 1378
driving privileges, the court may grant the limited driving 1379
privileges in accordance with that section. If division (A) (7) 1380
of that section requires that the court impose as a condition of 1381
the privileges that the offender must display on the vehicle 1382
that is driven subject to the privileges restricted license 1383
plates that are issued under section 4503.231 of the Revised 1384
Code, except as provided in division (B) of that section, the 1385
court shall impose that condition as one of the conditions of 1386
the limited driving privileges granted to the offender, except 1387
as provided in division (B) of section 4503.231 of the Revised 1388
Code. 1389

(5) Fines imposed under this section for a violation of 1390
division (A) of this section shall be distributed as follows: 1391

(a) Twenty-five dollars of the fine imposed under division 1392
(G) (1) (a) (iii), thirty-five dollars of the fine imposed under 1393
division (G) (1) (b) (iii), one hundred twenty-three dollars of the 1394
fine imposed under division (G) (1) (c) (iii), and two hundred ten 1395
dollars of the fine imposed under division (G) (1) (d) (iii) or (e) 1396
(iii) of this section shall be paid to an enforcement and 1397
education fund established by the legislative authority of the 1398
law enforcement agency in this state that primarily was 1399
responsible for the arrest of the offender, as determined by the 1400
court that imposes the fine. The agency shall use this share to 1401
pay only those costs it incurs in enforcing this section or a 1402
municipal OVI ordinance and in informing the public of the laws 1403
governing the operation of a vehicle while under the influence 1404
of alcohol, the dangers of the operation of a vehicle under the 1405
influence of alcohol, and other information relating to the 1406
operation of a vehicle under the influence of alcohol and the 1407
consumption of alcoholic beverages. 1408

(b) Fifty dollars of the fine imposed under division (G) 1409
(1) (a) (iii) of this section shall be paid to the political 1410
subdivision that pays the cost of housing the offender during 1411
the offender's term of incarceration. If the offender is being 1412
sentenced for a violation of division (A) (1) (a), (b), (c), (d), 1413
(e), or (j) of this section and was confined as a result of the 1414
offense prior to being sentenced for the offense but is not 1415
sentenced to a term of incarceration, the fifty dollars shall be 1416
paid to the political subdivision that paid the cost of housing 1417
the offender during that period of confinement. The political 1418
subdivision shall use the share under this division to pay or 1419
reimburse incarceration or treatment costs it incurs in housing 1420

or providing drug and alcohol treatment to persons who violate 1421
this section or a municipal OVI ordinance, costs of any 1422
immobilizing or disabling device used on the offender's vehicle, 1423
and costs of electronic house arrest equipment needed for 1424
persons who violate this section. 1425

(c) Twenty-five dollars of the fine imposed under division 1426
(G) (1) (a) (iii) and fifty dollars of the fine imposed under 1427
division (G) (1) (b) (iii) of this section shall be deposited into 1428
the county or municipal indigent drivers' alcohol treatment fund 1429
under the control of that court, as created by the county or 1430
municipal corporation under division (F) of section 4511.191 of 1431
the Revised Code. 1432

(d) One hundred fifteen dollars of the fine imposed under 1433
division (G) (1) (b) (iii), two hundred seventy-seven dollars of 1434
the fine imposed under division (G) (1) (c) (iii), and four hundred 1435
forty dollars of the fine imposed under division (G) (1) (d) (iii) 1436
or (e) (iii) of this section shall be paid to the political 1437
subdivision that pays the cost of housing the offender during 1438
the offender's term of incarceration. The political subdivision 1439
shall use this share to pay or reimburse incarceration or 1440
treatment costs it incurs in housing or providing drug and 1441
alcohol treatment to persons who violate this section or a 1442
municipal OVI ordinance, costs for any immobilizing or disabling 1443
device used on the offender's vehicle, and costs of electronic 1444
house arrest equipment needed for persons who violate this 1445
section. 1446

(e) Fifty dollars of the fine imposed under divisions (G) 1447
(1) (a) (iii), (G) (1) (b) (iii), (G) (1) (c) (iii), (G) (1) (d) (iii), and 1448
(G) (1) (e) (iii) of this section shall be deposited into the 1449
special projects fund of the court in which the offender was 1450

convicted and that is established under division (E) (1) of 1451
section 2303.201, division (B) (1) of section 1901.26, or 1452
division (B) (1) of section 1907.24 of the Revised Code, to be 1453
used exclusively to cover the cost of immobilizing or disabling 1454
devices, including certified ignition interlock devices, and 1455
remote alcohol monitoring devices for indigent offenders who are 1456
required by a judge to use either of these devices. If the court 1457
in which the offender was convicted does not have a special 1458
projects fund that is established under division (E) (1) of 1459
section 2303.201, division (B) (1) of section 1901.26, or 1460
division (B) (1) of section 1907.24 of the Revised Code, the 1461
fifty dollars shall be deposited into the indigent drivers 1462
interlock and alcohol monitoring fund under division (I) of 1463
section 4511.191 of the Revised Code. 1464

(f) Seventy-five dollars of the fine imposed under 1465
division (G) (1) (a) (iii), one hundred twenty-five dollars of the 1466
fine imposed under division (G) (1) (b) (iii), two hundred fifty 1467
dollars of the fine imposed under division (G) (1) (c) (iii), and 1468
five hundred dollars of the fine imposed under division (G) (1) 1469
(d) (iii) or (e) (iii) of this section shall be transmitted to the 1470
treasurer of state for deposit into the indigent defense support 1471
fund established under section 120.08 of the Revised Code. 1472

(g) The balance of the fine imposed under division (G) (1) 1473
(a) (iii), (b) (iii), (c) (iii), (d) (iii), or (e) (iii) of this 1474
section shall be disbursed as otherwise provided by law. 1475

(6) If title to a motor vehicle that is subject to an 1476
order of criminal forfeiture under division (G) (1) (c), (d), or 1477
(e) of this section is assigned or transferred and division (B) 1478
(2) or (3) of section 4503.234 of the Revised Code applies, in 1479
addition to or independent of any other penalty established by 1480

law, the court may fine the offender the value of the vehicle as 1481
determined by publications of the national automobile dealers 1482
association. The proceeds of any fine so imposed shall be 1483
distributed in accordance with division (C) (2) of that section. 1484

(7) In all cases in which an offender is sentenced under 1485
division (G) of this section, the offender shall provide the 1486
court with proof of financial responsibility as defined in 1487
section 4509.01 of the Revised Code. If the offender fails to 1488
provide that proof of financial responsibility, the court, in 1489
addition to any other penalties provided by law, may order 1490
restitution pursuant to section 2929.18 or 2929.28 of the 1491
Revised Code in an amount not exceeding five thousand dollars 1492
for any economic loss arising from an accident or collision that 1493
was the direct and proximate result of the offender's operation 1494
of the vehicle before, during, or after committing the offense 1495
for which the offender is sentenced under division (G) of this 1496
section. 1497

(8) A court may order an offender to reimburse a law 1498
enforcement agency for any costs incurred by the agency with 1499
respect to a chemical test or tests administered to the offender 1500
if all of the following apply: 1501

(a) The offender is convicted of or pleads guilty to a 1502
violation of division (A) of this section. 1503

(b) The test or tests were of the offender's whole blood, 1504
blood serum or plasma, or urine. 1505

(c) The test or tests indicated that the offender had a 1506
prohibited concentration of a controlled substance or a 1507
metabolite of a controlled substance in the offender's whole 1508
blood, blood serum or plasma, or urine at the time of the 1509

offense. 1510

(9) As used in division (G) of this section, "electronic 1511
monitoring," "mandatory prison term," and "mandatory term of 1512
local incarceration" have the same meanings as in section 1513
2929.01 of the Revised Code. 1514

(H) Whoever violates division (B) of this section is 1515
guilty of operating a vehicle after underage alcohol consumption 1516
and shall be punished as follows: 1517

(1) Except as otherwise provided in division (H) (2) of 1518
this section, the offender is guilty of a misdemeanor of the 1519
fourth degree. In addition to any other sanction imposed for the 1520
offense, the court shall impose a class six suspension of the 1521
offender's driver's license, commercial driver's license, 1522
temporary instruction permit, probationary license, or 1523
nonresident operating privilege from the range specified in 1524
division (A) (6) of section 4510.02 of the Revised Code. The 1525
court may grant limited driving privileges relative to the 1526
suspension under sections 4510.021 and 4510.13 of the Revised 1527
Code. The court may grant unlimited driving privileges with an 1528
ignition interlock device relative to the suspension and may 1529
reduce the period of suspension as authorized under section 1530
4510.022 of the Revised Code. If the court grants unlimited 1531
driving privileges under section 4510.022 of the Revised Code, 1532
the court shall suspend any jail term imposed under division (H) 1533
(1) of this section as required under that section. 1534

(2) If, within one year of the offense, the offender 1535
previously has been convicted of or pleaded guilty to one or 1536
more violations of division (A) or (B) of this section or other 1537
equivalent offenses, the offender is guilty of a misdemeanor of 1538
the third degree. In addition to any other sanction imposed for 1539

the offense, the court shall impose a class four suspension of 1540
the offender's driver's license, commercial driver's license, 1541
temporary instruction permit, probationary license, or 1542
nonresident operating privilege from the range specified in 1543
division (A) (4) of section 4510.02 of the Revised Code. The 1544
court may grant limited driving privileges relative to the 1545
suspension under sections 4510.021 and 4510.13 of the Revised 1546
Code. 1547

(3) If the offender also is convicted of or also pleads 1548
guilty to a specification of the type described in section 1549
2941.1416 of the Revised Code and if the court imposes a jail 1550
term for the violation of division (B) of this section, the 1551
court shall impose upon the offender an additional definite jail 1552
term pursuant to division (E) of section 2929.24 of the Revised 1553
Code. 1554

(4) The offender shall provide the court with proof of 1555
financial responsibility as defined in section 4509.01 of the 1556
Revised Code. If the offender fails to provide that proof of 1557
financial responsibility, then, in addition to any other 1558
penalties provided by law, the court may order restitution 1559
pursuant to section 2929.28 of the Revised Code in an amount not 1560
exceeding five thousand dollars for any economic loss arising 1561
from an accident or collision that was the direct and proximate 1562
result of the offender's operation of the vehicle before, 1563
during, or after committing the violation of division (B) of 1564
this section. 1565

(I) (1) No court shall sentence an offender to an alcohol 1566
treatment program under this section unless the treatment 1567
program complies with the minimum standards for alcohol 1568
treatment programs adopted under Chapter 5119. of the Revised 1569

Code by the director of mental health and addiction services. 1570

(2) An offender who stays in a drivers' intervention 1571
program or in an alcohol treatment program under an order issued 1572
under this section shall pay the cost of the stay in the 1573
program. However, if the court determines that an offender who 1574
stays in an alcohol treatment program under an order issued 1575
under this section is unable to pay the cost of the stay in the 1576
program, the court may order that the cost be paid from the 1577
court's indigent drivers' alcohol treatment fund. 1578

(J) If a person whose driver's or commercial driver's 1579
license or permit or nonresident operating privilege is 1580
suspended under this section files an appeal regarding any 1581
aspect of the person's trial or sentence, the appeal itself does 1582
not stay the operation of the suspension. 1583

(K) Division (A) (1) (j) of this section does not apply to a 1584
person who operates a vehicle, streetcar, or trackless trolley 1585
while the person has a concentration of a listed controlled 1586
substance or a listed metabolite of a controlled substance in 1587
the person's whole blood, blood serum or plasma, or urine that 1588
equals or exceeds the amount specified in that division, if both 1589
of the following apply: 1590

(1) The person obtained the controlled substance pursuant 1591
to a prescription issued by a licensed health professional 1592
authorized to prescribe drugs. 1593

(2) The person injected, ingested, or inhaled the 1594
controlled substance in accordance with the health 1595
professional's directions. 1596

(L) The prohibited concentrations of a controlled 1597
substance or a metabolite of a controlled substance listed in 1598

division (A) (1) (j) of this section also apply in a prosecution 1599
of a violation of division (D) of section 2923.16 of the Revised 1600
Code in the same manner as if the offender is being prosecuted 1601
for a prohibited concentration of alcohol. 1602

(M) All terms defined in section 4510.01 of the Revised 1603
Code apply to this section. If the meaning of a term defined in 1604
section 4510.01 of the Revised Code conflicts with the meaning 1605
of the same term as defined in section 4501.01 or 4511.01 of the 1606
Revised Code, the term as defined in section 4510.01 of the 1607
Revised Code applies to this section. 1608

(N) (1) The Ohio Traffic Rules in effect on January 1, 1609
2004, as adopted by the supreme court under authority of section 1610
2937.46 of the Revised Code, do not apply to felony violations 1611
of this section. Subject to division (N) (2) of this section, the 1612
Rules of Criminal Procedure apply to felony violations of this 1613
section. 1614

(2) If, on or after January 1, 2004, the supreme court 1615
modifies the Ohio Traffic Rules to provide procedures to govern 1616
felony violations of this section, the modified rules shall 1617
apply to felony violations of this section. 1618

Section 2. That existing sections 1547.11, 3701.143, and 1619
4511.19 of the Revised Code are hereby repealed. 1620